

Alert!

Chapter 52
National Treasury
Employees Union

January, 2004

Omnibus Appropriations Bill Federal Pay Raise

Excerpts from a Memorandum by Colleen Kelley

On January 22, 2004, the Senate passed an Omnibus Appropriations bill that, over White House objections, includes a provision giving most federal workers a 4.1% pay raise for 2004. Thanks to labor legislative action, this increase will also cover wage grade employees as well as those on the GS scale. **The Omnibus bill includes language making the pay raise retroactive to the first pay period in January.** Despite the fact that the White House fought this pay raise at every opportunity, because they were able to bully Congress to drop several other pro-worker provisions including appeal rights for federal employees in contracting out decisions and overtime pay protection, I expect President Bush will sign the Omnibus Appropriations bill. I will be asking OPM and agency heads to do all in their power to see that these retroactive pay raises are quickly and accurately transmitted to federal employees.

However, for NTEU leaders there will be no rest for the weary. NTEU is already engaged in the effort for a fair pay raise for fiscal year 2005. Yesterday, a bipartisan group of ten members of Congress sent a letter to President Bush urging him to support pay parity in his FY2005 budget plan. It will be essential that we engage our membership as never before in this year's pay raise effort.

We also need to continue to work to stop the Administration's plan to take away the right to overtime pay from 8 million white-collar workers in the private and federal sectors. The White House can still withdraw or modify this dangerous proposal before the final regulations are issued in March. I urge you to continue to make your views known to your lawmakers.

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Pay Raise to Take Effect but Changes Lie Ahead

Fedweek January 7, 2004

A pay raise averaging 2 percent for general schedule employees takes effect at the start of the first full pay period of the calendar year, which for most employees is January 11. The 2 percent raise is occurring by default because Congress failed to legislate a figure during last year's budget process; the raise is divided as 1.5 percent across the board and the remainder parceled out as locality pay, producing raises ranging from 1.94 percent in the "rest of the U.S." catchall locality for employees not in one of the metropolitan area locality pay zones to 2.46 percent in the San Francisco-Oakland-San Jose area. The 2 percent raise likely will be overridden in late January by a vote on a catchall spending bill (HR-2673) that contains a 4.1 percent average raise, likely to be split as 2.7 percent across the board and 1.4 percent for locality pay. That raise, if approved, would be retroactive to the start of the first full pay period of the year.

Pay Gap Averages 17.5 Percent

FedWeek January 7, 2004

According to a recent report by the President's Pay Agent, as of March 2003 the pay gap between private sector and federal general schedule pay--a gap that the GS locality pay system was to have virtually closed by now--averaged 17.48 percent. That included a range of from 28.31 percent in the San Francisco-Oakland-San Jose locality to 13.36 percent in the catchall "rest of U.S." locality that covers areas outside metropolitan statistical zones. In other words, only 44 percent of the "target" disparity has been closed on average. The numbers don't include the effect of 2004 raises. The group estimated that closing the gaps would cost an additional \$8 billion over the current baseline of spending on federal pay. The price tag is a main reason why the federal pay law has not been implemented as originally designed, although members of both parties also have questioned the methods used to compute the gap.

Next Budget Cycle Starts Soon

FedWeek January 13, 2004

One reason Congress wants to wrap up leftover work on the budget promptly is that the next budget cycle is due to get underway February 2, with the release of the White House's fiscal 2005 proposals. This being an election year, Congress will try to get finished more quickly this time, hoping to wrap up work for the year around early October in order to have time for campaigning. One federal employment issue that could become prominent in the campaigns is contracting-out. Employee organizations and supportive members of Congress are working to build on the partial successes they scored last year in curtailing the administration's initiatives to consider federal jobs for private sector performance. The budget process is expected to be one front in that battle. Issues relating to the new personnel systems at the Defense and Homeland Security departments--particularly relating to union rights and employee protections--also could garner national attention.

Contracting Reform Bill Reintroduced

FedWeek January 13, 2004

Meanwhile, a union-backed measure to increase accountability in the contracting-out process has been reintroduced (HR-3462) by Rep. Albert Wynn, D-Md. The measure would require agencies to follow up on issued contracts to determine whether they are saving the amounts that were projected, impose new scrutiny on contractor performance and bars the use of personnel ceilings on the federal employee side of the equation. However, unlike similar bills introduced in prior Congresses, the bill would not freeze existing contracts to determine if they are cost-effective.

IRS Estimates 2,400 Employees May Be Laid Off; NTEU Vows to Fight

FedManager, January 13, 2004

As part of a restructuring plan announced last week, the Internal Revenue Service (IRS) estimates that it may lay off as many as 2,400 employees early next year. Citing the need to create operational efficiencies, the agency said that it plans to: (1) close Memphis tax return processing operations in October 2005 because of a significant increase in e-filing and corresponding drop in paper tax returns; (2) consolidate back-office processing for exam, collection, and insolvency cases from 92 different locations to 4, starting in 2005; and (3) reduce agency overhead in internal support functions, particularly through new technology gains in the human resource area, beginning in 2005. The IRS says that the money saved will allow it to add 2,200 enforcement positions.

The National Treasury Employees Union (NTEU), however, has vowed to fight the restructuring plans and layoffs. "Most of the employees targeted by these actions are women and minorities who have probably worked for the IRS for most of their careers," said NTEU President Colleen M. Kelley. Calling the plans to consolidate a "bad business decision," Kelley added, "it is premature to start talking about eliminating workers that taxpayers depend upon to process their tax payments and tax returns in a timely manner. We will take all necessary and appropriate steps to protect the rights of our members and the interests of American taxpayers."

IRS Plan to Privatize Tax Collection Risky, Costly and Unnecessary, Says NTEU President Kelley

WASHINGTON, D.C. —January 14, 2004 — National Treasury Employees Union (NTEU) President Colleen M. Kelley called "risky, costly, and unnecessary" the Treasury Department's proposal to allow the IRS to use private collection agencies to collect federal income taxes. The proposal was included in the Treasury Department's fiscal year 2005 budget proposals, which were announced yesterday. "This proposal would risk exposing sensitive taxpayer information, would subject taxpayers to the abusive tactics of private debt collectors, and would cost U.S. citizens much more money than if IRS employees did the job," Kelley said.

The FY '05 budget plan is not the first time the federal government has considered privatizing federal income tax collection. President Bush first proposed using private debt collectors about a year ago, but Congress reviewed and rejected the idea several years ago. "The federal government has already tested this idea ... and it failed miserably," Kelley said. Kelley was referring to two pilot projects authorized by Congress in 1996 and 1997. The 1996 program resulted in such egregious abuses by private debt collectors that the 1997 program was cancelled. According to an IRS Internal Audit Report (Ref. No. 080805, 12/19/97), the private debt collectors under contract to the federal government committed hundreds of violations of the Fair Debt Collection Practices Act – including calling a taxpayer at 4:19 a.m.

"IRS employees are – by far – the safest, most cost-effective means for collecting federal income taxes," said Kelley. IRS employees can collect outstanding debt more cheaply than contractors. With an appropriation of \$296 million for compliance, the IRS could collect an additional \$9.47 billion in revenue per year. That's a \$31 return per dollar spent, compared to only \$3 revenue per dollar spent for private collection agencies. Private debt collectors are already the most complained-about industry in America, inspiring more than 25,000 complaints to the Federal Trade Commission in 2002 alone. NTEU believes that current federal government proposals allowing private debt collectors to keep 25 percent of what they collect would only encourage abusive behavior. IRS employees, on the other hand, are prohibited from being evaluated on the basis of revenue collected.

Even more disturbing than the potential for abusive treatment from debt collectors, Kelley said, is the very real risk of exposing sensitive taxpayer information. "In this era of identity theft, I do not believe the federal government should engage in practices that could needlessly expose confidential taxpayer information," said Kelley.

A February 2003 Treasury Inspector General for Taxpayer Administration (TIGTA) report faulted the IRS for failing to conduct background checks on more than 2,100 contract employees working in offices in Maryland who had access to sensitive information. While the IRS is liable for damages caused by an IRS employee's misuse of sensitive taxpayer information, taxpayers would not have proper redress with the federal government for misuse of their confidential information by contractors. Instead, taxpayers would be left to seek damages against the private collection agency.

In announcing the proposal, the Treasury Department indicated that the private collection agencies "would not have any enforcement power and would be carefully monitored to ensure that taxpayer rights are protected." However, the IRS has a poor track record of managing contractors. For instance, when serving as a contractor in the IRS "lock box" program, Mellon Bank lost 78,000 taxpayer checks worth more than \$1.2 billion in revenues for the Treasury.

Kelley described as "fantasy" the Treasury Department's assertion that the proposal would result in \$1.531 billion in revenue over 10 years. "The 1996 pilot program lost money," Kelley said.

The president's bid to privatize federal income tax collection may be considered by Congress before the FY '05 budget. Last March, Rep. Amo Houghton (R-N.Y.) introduced

legislation to allow the IRS to use contractors to collect federal income taxes. In September, Sen. Charles Grassley (R-Iowa) attached a provision permitting private tax collection to an unrelated international tax reform bill, the Jumpstart Our Business Strength, or JOBS, Act (S. 1637), which was reported favorably by the Senate Finance Committee and awaits action by the Senate. The JOBS Act has to be approved by Congress and signed into law before March in order to avoid World Trade Organization penalties for American corporations.

NTEU is not alone in opposing the administration's proposal. The Tax Executives Institute, the National Association of Enrolled Agents, the Tax Section of the American Bar Association, the Consumer Federation of America, Consumers Union, National Consumer Law Center and the National Consumers League have all voiced concerns about to the plan.

Right to Engage in Legislative Activity

*A memorandum by Colleen M. Kelly,
NTEU National President, January 20, 2004*

I have been hearing an increasing number of disturbing reports of management interference with entirely legitimate employee activities involving the legislative process. I am therefore sending out this memorandum to clarify employee rights in this area. I am also asking chapters to bring to my attention immediately any attempt by management to restrict employees' exercise of those rights. NTEU takes most seriously any interference with this core First Amendment activity and will take all steps necessary to protect employee rights.

Employees have a constitutional right to free speech and a right to petition Congress "for a redress of grievances." In addition, they have a statutory right to petition Congress, either individually or collectively. 5 U.S.C. 7211. The federal labor statute further provides that union representatives have the right "to present the views of the labor organization to ... the Congress." 5 U.S.C. 7102. Employees also have the basic right to engage in "representational" activity, which the Federal Labor Relations Authority (FLRA) has long interpreted to include such legislative activity as visiting, telephoning, or writing elected Members of Congress about matters pertaining to their conditions of employment.

This means that the IRS would act unlawfully if it attempted to prohibit employees from engaging in letter writing campaigns on nonwork time, holding lunch-and-learns on legislative issues, or speaking out against administration policies or congressional action. There are, of course, some permissible restrictions on the time and manner in which these rights can be exercised. The following advice should help employees understand their rights:

Political activity is subject to stricter rules.

Legislative activity and political activity are subject to different rules, and it is important to understand the difference between them.

Legislative activity is activity directed at the legislative process, or the passage or defeat of bills in Congress. It includes communications with Members of Congress regarding pending bills, as well as communications between NTEU and its members on legislative issues, including reports on the success of lobbying efforts at the national and the grassroots level.

Political activity, on the other hand, is aimed at the election or defeat of candidates for partisan political office, such as seats in Congress or the Presidency. It includes the solicitation of TEPAC contributions. Partisan political activity by federal employees is subject to the restrictions of the Hatch Act. While employees have the right to engage in many different types of political activity—and, indeed, are encouraged to do so (5 U.S.C. 7321)—they cannot exercise their political rights while on duty, in a federal building, in uniform or wearing federal insignia, or in a government vehicle.

The rights and principles that are the subject of this memorandum relate only to legislative activity. If you have any questions about your right to engage in particular forms of political activity, you should contact Jeff Mazur in the Legislation Department.

Employee lobbying activity may not involve the expenditure of appropriated funds.

There is a provision of law that prohibits the use of “appropriated funds” for lobbying Congress. 18 U.S.C. 1913. This means that employees cannot expend government resources in the course of their lobbying activity. It is NTEU’s view that this provision is not applicable when government resources are not actually depleted.

To illustrate: the use of government premises, such as the cafeteria, for a union-sponsored letter writing campaign at lunch time does not involve the expenditure of appropriated funds. Similarly, the use of agency computers or e-mail systems to spread information within the workplace about legislative activity does not result in any actual cost to the government. In neither of these instances does the government incur any added expense through the use of its property.

By contrast, it would be improper to use government-franked envelopes for the letter writing campaign. It would also be improper to incur long-distance telephone charges for calls to members of Congress. In each of those instances, appropriated funds would be expended for lobbying.

The use of the agency e-mail system for legislative activity is usually appropriate.

Whether an agency e-mail system can be used for legislative activity depends on whether the agency has agreed to permit its use for general representational purposes or for personal, non-work related communications. An agency cannot discriminate against legislative communications by imposing more stringent restrictions on the use of e-mail for this purpose than it applies to other types of communications.

Our collective bargaining agreement with the IRS permits the use of the agency e-mail system for representational purposes. See Article 11, Sec. 14(B). “Representational” activity includes educating our members concerning important legislative issues. It is, therefore, NTEU’s view that it is entirely proper to distribute throughout the workplace the NTEU chapter presidents’ memoranda relating to legislative matters.

The IRS generally agrees with NTEU regarding the use of its e-mail system to distribute legislative information. It has, however, raised objections to the e-mail distribution of one type of chapter presidents' memoranda: those that call on employees to write or call their members of Congress about a piece of pending legislation and/or attach sample letters. The IRS has stated that in its view the use of agency e-mail to urge employees to write their congressmen constitutes an expenditure of appropriated funds for lobbying, in violation of 18 U.S.C. 1913. NTEU disagrees with this interpretation because, as discussed above, the use of an existing e-mail system does not have a measurable cost to the government. Until we can resolve this issue, however, NTEU will not include, in its chapter presidents' memoranda, the language that causes concern to the IRS. NTEU and the IRS agree that employees should not use agency e-mail to send messages to members of Congress. We expose both NTEU and the IRS to hostile criticism from Congress if agency e-mail is used in this fashion.

The use of official time for lobbying depends on the terms of the collective bargaining agreement.

As discussed above, the FLRA has held that legislative activity—including contacting members of Congress about matters that affect conditions of employment of bargaining unit members—is representational activity. We have the right, under the federal labor statute, to negotiate official time for legislative activity. 5 U.S.C. 7131. Any agreements reached are incorporated in the collective bargaining agreement or in side agreements.

At the IRS, there is a side agreement, signed on February 7, 2002, that permits the use of official time for "training to promote an understanding of the legislative process." This means that IRS chapter leaders may carry out educational activities related to legislative matters on official time. We have, however, agreed that they may not use official time for face-to-face meetings with individual members of Congress.

Please let our Legislation Department know of any attempted interference with your right to engage in legislative activity. Our Office of General Counsel will take whatever legal steps are appropriate to defend the exercise of these rights.

"We are appreciative that our own employees brought this issue to our attention, and this reflects the overwhelming commitment of our employees to maintain faith and integrity in our tax system," Everson said. "We are also grateful for the important assistance provided to us by TIGTA."

"I'm extremely disappointed that any of our employees would file erroneous income tax returns to avoid paying their taxes," stated Treasury Secretary Snow. "This is behavior that simply cannot be tolerated. I heartily applaud the IRS employees who brought this issue to the surface and Commissioner Everson for taking quick action. Working with the vast majority of IRS employees who follow the rules, we will continue our efforts to ensure that all Americans comply with the tax laws and pay what they owe."



THE FUNDS – TSP Rates of Return

Rates of Return were updated on **January 5, 2004**.

	G Fund	F Fund	C Fund	S Fund	I Fund
December 2003	0.49%	1.01%	5.24%	2.04%	7.68%
Last 12 Months* (1/1/2003 - 12/31/2003)	4.11%	4.11%	28.54%	42.92%	37.94%

* The G, F, C, S, and I Fund returns for the last 12 months assume unchanging balances (time-weighting) from month to month, and assume that earnings are compounded on a monthly basis

Around the Office

By Alert! editor Mick Eskew

- The move to the new San Antonio Post of Duty has begun.
 - Phase 1: TPS/TAC, moved over the holiday weekend and opened its doors to awaiting crowd of taxpayers, at noon on Tuesday, January 20, 2004.
 - Phase 2, 3 and 4 have been put on hold. The following is an email received from Connie Jacobson, Senior Facilities Management Consultant Real Estate Management Section, "Due to unavoidable circumstances the scheduled move dates for your offices will be postponed. We have received word that the systems furniture delivery for the employee's and managers will not meet the schedule we have been planning for. Although I do not anticipate a prolonged postponement, I do not have the information at this time to give an accurate revision of the timeline for the moves. I will provide a detailed schedule of moves as soon as possible and will share the information with the committee at a later date. I apologize for any inconvenience this may cause and hope to have this resolved soon.
 - Facilities does not want to move anymore than they have to when the time comes. Therefore, before the move employees can throw out all the waste and old material that they no longer have a need for. Room 407 has been designated as the "Excess Supply Room". Please place unwanted items and material into the designated hampers or on one of the wire racks, each are labeled.
 - Rule of Thumb: If the condition of the item is such that you would not use it yourself, if you found it in the supply room, then throw it out. Also, if you haven't used something in the past year, you probably won't use it again. Take it to the excess supply room to be recycled or someone else may need it.
- It appears that all the guards at the post of duties, with the exception of Austin's Federal Building, may be a thing of the past. The decision was made at the National level but is being appealed by all the Division heads affected. We will try to keep you informed as the issue develops.

A Word from the Chapter President

Tom Jones

Happy New Year to All!

As we enter a new calendar year, it becomes extremely important that NTEU members get involved in your **UNION**. We as federal employees continue to face difficult challenges in the work force. The IRS is announcing RIF's that are hitting us left and right. Case Processing, Insolvency, and the Analysis areas are the latest to join Brookhaven Service Center in receiving RIF intent notices. Contracting out, downsizing, reorganizations, rent reductions are the issues we face today.

What can you do to help NTEU? First of all register to vote if you are not registered. Then vote in the primaries and general elections. Talk to your family and friends about voting – every vote counts. Contact your members of congress and tell them what you think and what **you** want them to do. Support candidates that support government workers, and your wallet.

Recruit new members to the union. Lose that, "federal employee apathy" label. Speak with a united voice to our representatives in D.C.

2004 can be the year we make a difference, but you need to step up to the challenge. Don't wait for someone else to take action. After all it is your job, career, health benefits, your pay, Your Life!

TOM'S HUMOR PAGE

Top 10 Funny Store Signs

1. Outside a muffler shop: "No appointment necessary, we hear you coming."
2. Outside a hotel: "Help! We need inn-experienced people."
3. On a desk in a reception room: "We shoot every 3rd salesman, and the 2nd one just left."
4. In a veterinarians waiting room: "Be back in 5 minutes, Sit ! Stay!"
5. At the electric company: "We would be de-lighted if you send in your bill. However, if you don't you will be."
6. On the door of a computer store: "Out for a quick byte."
7. In a restaurant window: "Don't stand there and be hungry, come on in and get fed up."
8. Inside a bowling alley: "Please be quiet, we need to hear a pin drop."
9. In the front yard of a funeral home: "Drive carefully, we'll wait."
10. In a counselors office: "Growing old is mandatory, growing wise is optional."



Chapter 52 *Alert!*, all the news that is fit to be copied!

This **Chapter 52 *Alert!*** along with all other ***Alerts!*** since January 2001, can be found on our Chapter Web Page at <http://www.nteu52.org/>

You can e-mail any Chapter officer, staff member or steward from the site.

Chapter 52 Board:

President, Tom Jones

Executive Vice President, Patricia Kelley

VP Area A & Chief Steward, Bill Grace

VP Area B & Asst. Chief Steward, Mick Eskew

VP of Finance & Recordation, Fran Dunagin

Send comments and/or articles to:
5835 Callaghan Rd. Stop 1700SANW
San Antonio, Texas 78228
fax 210-706-5376, attention Alert!
Editor/Compiler Mick Eskew

