



**NATIONAL VETERANS  
AFFAIRS COUNCIL**  
American Federation of Government Employees  
AFFILIATED WITH THE AFL-CIO

**ALMA L. LEE**  
**President**

February 18, 2021

Hon. Denis R. McDonough  
Secretary  
U.S. Department of Veterans Affairs  
[Denis.McDonough@va.gov](mailto:Denis.McDonough@va.gov)

**RE: Renegotiation of 2011 VA/AFGE Master Agreement and Title 38 Official Time**

Dear Secretary McDonough:

On behalf of the 265,000 unionized employees represented by the American Federation of Government Employees, AFL-CIO, National Veterans Affairs Council (AFGE/NVAC), I first want to congratulate you on your confirmation as the 11<sup>th</sup> Secretary of Veterans Affairs. I was encouraged by the testimony you provided during your confirmation hearing, specifically your commitment to “being a true partner with the men and women of the VA—dedicated, highly-skilled professionals, many veterans themselves, veterans serving veterans—who deserve our profound respect and support.” I could not agree with you more.

The previous administration ushered in the most hostile, anti-employee agenda that I have seen in my more than 30 years as President of AFGE/NVAC. I am a proud retiree of the VA, where I worked at the Salem, Virginia VA Medical Center for more than 35 years. As the President of AFGE/NVAC, I have tirelessly represented the VA workforce under the leadership of all 11 VA Secretaries since the position was first created in 1989. During this time, the VA has changed in many ways, but the commitment of its employees to provide world-class healthcare and services to our nation’s Veterans is stronger than ever, especially in the wake of the COVID-19 pandemic.

By now, I trust that you are aware of the previous administration’s decision to reopen and renegotiate our collective bargaining agreement. Since December 2017, we have been faced with a years-long campaign to destroy our contract and denigrate the Union’s role in the lives of the VA workforce. VA negotiators selected by political appointees from the former administration have exhibited bad faith and anti-union sentiment from the start. Our 2011 Master Agreement covers the largest number of unionized employees at any executive department in the federal government. It took more than 7 years to renegotiate (2003-2011) the prior version, the 1997 Master Agreement. It serves as a model for partnership and collaboration between labor and management officials. It provides much-needed protections for VA employees to ensure that they have a safe, healthy work environment centered on

the dignity, fairness, and respect we all deserve. During the renegotiation of a new contract, the 2011 Master Agreement remains in effect.

Then, on April 26, 2019, the Department took an unprecedented step to undermine the power of the federal unions by prohibiting Title 38 employees from using official time to represent and defend VA workers. Under the former Secretary's leadership, the Department took the untenable position that official time for Title 38 employees was suddenly a matter arising out of professional conduct or competence, and therefore, was excluded from collective bargaining pursuant to 38 U.S.C. §7422(d) and in repudiation of the 2011 Master Agreement. This abuse of authority stripped Title 38 union representatives of their right to official time, which is secured by our contract, for the first time since these employees gained collective bargaining rights in 1991. There is no explanation for the decision other than union-busting. It is contrary to the agency head review conducted by two former Secretaries in 1997 and 2011. As a result, for the last two years, these employees have been forced to perform their union duties on their own time or during periods of approved leave. I strongly urge you to correct this abuse of authority and rescind the April 26, 2019 §7422(d) determination so that Title 38 employees can perform their representational duties and receive the negotiated, agreed-upon rights set forth in the 2011 Master Agreement.

On January 22, 2021, President Biden issued Executive Order 14003: *Protecting the Federal Workforce*, which reset the Biden-Harris Administration's approach to employee rights, labor unions, and collective bargaining. Specifically, President Biden endeavored to "protect, empower, and rebuild the career Federal workforce" and "encourage union organizing and collective bargaining." Further, Executive Order 14003 revoked three disastrous executive actions taken by former President Trump on May 25, 2018 that were designed to undermine federal sector unions and dismantle collective bargaining rights: Executive Orders 13836, 13837, and 13839. VA negotiators relied heavily on these orders to justify their bargaining position and to support their proposals before the most anti-union Federal Service Impasses Panel in history, the members of which have since been dismissed by President Biden. While President Biden ordered executive agencies to "suspend, revise, or rescind" actions related to or arising from Executive Orders 13836, 13837, and 13839 more than three weeks ago, the Department continues to enforce them.

I write to you today with a specific request that the Department rescind the following: (1) its renegotiation notice dated December 15, 2017 and (2) its §7422 determination dated April 26, 2019. As to the first matter, this would result in the continuation of our current contract, which was negotiated by senior leaders and career labor relations officials from both Republican and Democratic administrations and later approved by former Secretary Eric Shinseki in March 2011. It would further allow the Department, under your leadership, to reevaluate its labor-management priorities and determine whether it is necessary to renegotiate the 2011 Master Agreement. If the Department later chooses to reopen and renegotiate, it is free to do so. Coming off the most tumultuous years in the Department's history, this "rollover" would provide a steady foundation of consistency and fairness for the VA workforce, and further, it would follow through on your commitment to be "a true partner with the men and women of the VA." In the past few weeks, other federal agencies, like the Small Business Administration, have taken similar steps to cease renegotiating contracts that were reopened during the former administration and to agree to a "rollover" of previously-agreed-to contracts. It is with urgency, and in the spirit of partnership, that I ask you to do the same. As to the second matter, this would restore the collectively-bargained rights of Title 38 employees to use official time to perform representational duties, as agreed to by the Parties in our 2011 Master Agreement. This action is necessary because a "rollover" of the contract would not, on its own, restore Title 38 official time.

Further action is necessary. President Biden's January 22 commitment to "protect, empower, and rebuild the career Federal workforce" must extend equally to all employees in the Department, and these Title 38 frontline healthcare workers can be no exception. We must come together to respect the rights of all workers.

Again, I congratulate you on your confirmation as Secretary. I hope we can find time to meet in the near future and look forward to your response. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Alma L. Lee".

Alma L. Lee  
President  
National Veterans Affairs Council, #53  
American Federation of Government Employees, AFL-CIO

CC: Chris Diaz, Acting Chief of Staff