



NATIONAL TREASURY EMPLOYEES UNION

Representation of Employees of the

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

On November 26, 2008 President George W. Bush signed an executive order exercising his statutory authority to exempt agencies or their subdivisions from coverage under the Federal Labor-Management Relations Program. Most of the agencies and subdivisions exempted from coverage had previously been exempted and the executive order merely updated the references to reflect reorganizations. However, the executive order also exempts for the first time bargaining unit positions of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) within the Justice Department. These employees have been represented by NTEU without cause for concern for decades.

The statutory reference cited by the President as authority for this executive order, 5 U.S.C. 7103(b)(1) provides in subsection (A) that a subdivision may be excluded if it “has as a primary function intelligence, counterintelligence, investigative, or national security work, and (B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.”

NTEU does not believe that the Bureau of Alcohol, Tobacco, Firearms and Explosives meets the first definition in subsection (A) above. We also strongly believe that the provisions of the labor-management relations chapter of Title 5 can be applied to ATF in a manner consistent with national security requirements and considerations, as it has been for approximately 30 years, including the last 7 years and 10 months of the current Bush Administration.

NTEU is the bargaining unit representative for professional and non-professional employees at ATF. Management officials, supervisors and confidential employees are excluded from the bargaining unit. There are 1,687 employees in the bargaining unit. NTEU has represented ATF since its creation as a Department of Justice bureau. It also represented its predecessor agency at the Treasury Department since its creation as a separate bureau from the IRS.

ATF includes Headquarters offices located in Washington, DC and Martinsburg, WV as well as four field regions (Eastern, Central, Southern and Western). Field employees do not work out of a central office but are located throughout the region.

Most ATF bargaining unit field employees are Industry Operations Investigators (IOIs), as are a portion of Headquarters employees. DOJ describes the major duties of IOIs as follows:

The incumbent conducts investigations and inspections designed to carry out the Federal government's regulatory responsibilities



pertaining to the firearms and explosives industries. Identifies evidence of falsification of records, inventories and document discrepancies through the analysis and examining of records, documents, and reports. Refers violations to criminal investigators for further action. Determines if persons desiring to enter business in the regulated industries meet established legal requirements for obtaining a federal permit or license. Conducts interviews, inspects buildings, and performs routine background investigations to determine suitability. Prepares reports detailing results of investigations and inspections, and recommends further action, when necessary. Utilizes knowledge of the Federal and State laws involving commerce in alcohol and tobacco, provides assistance to senior Industry Operations Investigators, who are working with criminal investigators on alcohol and tobacco diversion investigations. The incumbent as directed verifies inventories and utilizes intelligence data to analyze records and examine business operations. Participates in conferences and discussions with Bureau officials concerning investigations and inspections. May develop presentations for industry associations and the public.

The current ATF-Employee contract was implemented on April 7, 2008, having been negotiated and ratified by both parties. During the most recent contract negotiations, management did not raise a single issue regarding a need to exclude employees from the bargaining unit or any proposed provision of the contract that was a national security concern. NTEU has no recollection of any such matter raised by management at any time before or after contract negotiation.

With the current contract, both management and NTEU agreed that employee involvement in the "formulation and implementation of personnel policies and practices affecting their conditions of their employment" benefits the "effective administration of government."