

September 29, 2023

Senator Jeanne Shaheen
506 Hart Senate Office Building
Office Building
Washington, D.C. 20510

Re: Concerns with DoD's Overseas Military Banking Program

Dear Senator Shaheen:

We respectfully ask your office to inquire why the Department of Defense (DoD) recently awarded a contract to Navy Federal Credit Union of Virginia to act as a "community bank" at DoD facilities in a manner inconsistent with DoD regulations as well as inconsistent with the Federal Credit Union Act and National Credit Union Administration (NCUA) rules. We believe the contract and the DoD process used to issue it are defective. As such, the award should be rescinded, contractual terms should be rewritten to accommodate all legal hurdles, and a new bidding process should ensue.

DoD formally announced Navy Federal Credit Union of Virginia as the winner of DoD's Overseas Military Banking Facility contract. This contract has a 10-year term and is a "cost plus fixed fee" contract with a sizable profit margin. Service Federal Credit Union, in addition to every other military credit union serving overseas military bases, did not submit a bid since there are several legal and regulatory restrictions which prevent a credit union from bidding on this contract to act as a "community bank".

Traditionally, each DoD facility has been served by one FDIC-insurance bank and one NCUA-insured credit union. Section 231.10 of DoD regulations (32 C.F.R. § 231.10) provides that each military base shall in general have "no more than one banking institution and one credit union", and most credit unions operating under this rule, including Service Federal Credit Union, have longstanding DoD-assigned "geographic franchises" to serve specific DoD facilities but do not receive the "cost plus fixed fee" that DoD will provide Navy Federal Credit Union under the "community bank" contract. Under the plain language of Section 231.10, a "credit union" cannot be considered a "banking institution" because the rule defines these terms separately.

Credit unions are also subject to "field of membership" restrictions that, in most cases, limit credit unions' service to individuals who are members of the credit union or at least eligible to join it, meaning Navy Federal cannot legally act as a "community bank" because of restrictions in the Federal Credit Union Act and NCUA rules. Federal credit unions which do not have a "low-income-designation"—including Navy Federal—are legally prohibited by Section 107 of the Federal Credit Union Act from providing financial services to non-members except for international remittance transfers and similar one-off electronic payments, check cashing, and short-term loans, but even this limited suite of services can only be provided to individuals who are eligible to join the credit union but have not yet done so. *See* 12 U.S.C. § 1757(12). In other words, Navy Federal can only legally serve individuals who are either Navy Federal Credit Union members or who are eligible to become members.

Apart from DoD lacking the legal authority to offer the "community bank" contract to a credit union, DoD is still required by regulation to ensure federal deposit insurance is included in the offer. Yet, the NCUA has repeatedly told both the DoD and Navy Federal there is no statutory authority to extend credit union share insurance to non-members except in the case of "low-income-designated credit unions", i.e. those primarily serving low-income individuals. Navy Federal, however, does not have a low-income designation and currently holds \$0 in non-member deposits because it is legally prohibited from accepting them.

In fact, share insurance cannot be extended to foreign nationals who would be able to access the Military Banking Facility per the terms of the contract even if Navy Federal were legally authorized to provide banking services to non-members who are not even eligible to join the credit union. Deposit insurance is critical for guaranteeing both consumer protection and confidence in the financial services sector. Thus, executing an overseas banking contract without deposit insurance is alarming given recent bank failures such as Silicon Valley Bank and Signature Bank. Plus, it threatens the financial readiness of our military who serve in harm's way.

DoD has not relaxed these legal restrictions or rewritten the contract. Even if the contractual terms could be perfected, these material changes would be after-the-fact and selectively designed to accommodate Navy Federal's bid. This is not only unfair in terms of the contract source selection process, but it also has an adverse impact on all other credit unions.

The award of this contract to Navy Federal means that the world's largest credit union, with assets over \$156 billion, will now enjoy government-subsidized costs for capital, significantly improving their lending and investing ability with an additional \$44 million in subsidized loans. Plus, Navy Federal is now granted access to all military bases overseas in a manner that clearly violates Section 231.10 of DoD regulations' limit of "no more than one banking institution and one credit union" per facility.

Meanwhile, Service FCU and other credit unions will face one more competitive disadvantage since we must provide financial services at our own expense while competing for members on the same installation. Additionally, a credit union as the lowest bidder will likely price their products and services below what we could sustain. Since this is a cost-plus-fixed-fee contract, Navy Federal does not have to worry about losing any money since all costs are reimbursed while a guaranteed profit is paid each year.

We ask for your support in asking these important questions not only on behalf of Service Federal Credit Union, but also to protect servicemembers and their families stationed overseas. Thank you for the opportunity to bring these matters to your attention. Should you have any questions or desire additional information, please do not hesitate to contact me or by phone at 603-822-4305 or by email at daraujo@servicecu.org.

Sincerely,

A handwritten signature in black ink, appearing to read "David Aratjo". The signature is fluid and cursive, written over a white background.

David Aratjo
President and CEO
Service Federal Credit Union