

# CONTRACTING OUT OUR WORKFORCE

## BACKGROUND

In 1966, the Office of Management and Budget (OMB) issued OMB Circular No. A-76, setting forth the general policy of the federal government “to rely on commercial sources to supply products and services the Government needs.” A-76 has been revised several times over the years. In 1998, Congress passed the Federal Activities Inventory Reform Act (FAIR Act). The FAIR Act codified much of the A-76 policy and is used in conjunction with A-76 studies. In short, the FAIR Act directs all federal agencies to submit an annual inventory, or list, of commercial activities performed by federal employees. Departments and agencies use the inventories to determine which activities can be opened to a public-private competition or direct conversion to the private sector over time. Any job that does not appear in the inventory is deemed “inherently governmental,” and, according to the FAIR Act, must be performed by federal employees.

The Administration has committed itself to contracting out one-half of the Full-Time Equivalent (FTE’s) identified in the annual FAIR Act inventories by 2006. To implement the President’s agenda, the OMB issued performance measures for FY 2002 that require agencies to complete public-private competitions or direct conversions on not less than five percent of the FTE’s listed in the FAIR Act inventory as performing commercial work. For FY 2003, agencies will be required to complete an additional 10 percent of the FAIR Act inventory.

Following is a description of the FAA’s approach to the President’s agenda for Airway Facilities, Flight Standards and MIDO:

## THE PROBLEM

Unless there is a change in the Administration’s direction, the President’s commitment to decrease the size of the federal workforce will lead to contracting out the inherently governmental work performed by Systems Specialists and Aviation Safety Inspectors.

### *Airway Facilities—Systems Specialists*

Until this year, the FAA’s FAIR Act inventories have identified close to 4,200 FTE’s in Airway Facilities as performing “commercial activities” in their FAIR Act inventory with less than 300 of them listed as being open to a public-private competition or direct conversion to the private sector over time. The vast majority of the positions (approximately 3,600) were determined to be “core mission activities” that “must remain in house.” The remaining positions, according to the FAA’s inventory, were not open to contracting out because a cost comparison had already been performed and the activity was determined to be more economical to retain in-house.

However, this year FAA management has made a drastic change in policy and recently informed PASS that the work of up to 3,500 Systems Specialists (FV-2101) in AF is now eligible for contracting out. Furthermore, the FAA has been unwilling/unable to tell PASS what changed in the last year that would open up the work of Systems Specialists to contracting out, especially since those positions have always been listed as activities that “must remain in house.” The numbers simply do not add up.

PASS has also become aware that the FAA is planning to conduct A-76 cost comparisons on virtually all new systems in the NAS, even though A-76 guidelines say that these studies were to be done before procurement of a system. Ironically, many of the systems the FAA plans to conduct studies on are already well under development or have already been deployed. When PASS became aware of the FAA's plan to conduct these studies we requested a briefing from the Agency. At the briefing the FAA stated that they were committed to contracting out up to 15 percent of the commercial FTE's by the end of FY 2003, and at least 50 percent over the next five years. The FAA also stated that, "while functional areas are unknown, Airway Facilities has a large number of activities to meet this goal." (Translation: more work will be contracted out.)

When reminded of the PASS/FAA agreement that guarantees employment for the AF workforce, the FAA informed PASS that "we will proceed as though we intend to honor the agreement." Based on the FAA's prior history of failing to comply with contractual obligations, PASS believes that the FAA will move down the path of contracting out the work Systems Specialists perform, regardless of our agreement.

#### *Why PASS Is Opposed To Contracting Out In Airway Facilities*

- Control and oversight of the NAS are inherently governmental functions and should not be surrendered to the lowest bidder.
- America has the safest NAS in the world, PASS is not willing to trade aviation safety for corporate profit.
- The NAS is not just one piece of equipment, but rather it is a complex integrated system that includes thousands of different smaller systems, which interface with one another. Contractors do not understand how their equipment connects with the overall air traffic control system, threatening safety. Numerous outages and delays have compromised aviation safety because FAA contractors do not understand the intricacies of the NAS.
- Individual components of the NAS (e.g. a radar, a processor or a display subsystem) cannot be contracted out separately. It takes FAA Systems Specialists to maintain the individual components of the NAS to ensure that the interconnected systems are operating efficiently and safely. Safety depends on oversight of the entire system.
- Private contractors cannot provide the control, support, flexibility, and oversight of the NAS that FAA Systems Specialists do. Private industry is limited by the scope of the obligations specified in their contract. Any unforeseen or unanticipated requirements would need to be renegotiated. The FAA workforce allows for flexibility in meeting changing requirements that a contract workforce would never be able to provide.
- Other countries, with less complicated systems, have privatized their air traffic control systems with disastrous results. The U.K., for example, has had over a dozen outages that have caused a complete shutdown of their air traffic control systems since the beginning of 2002.

The FAA's drastic change in policy is very disturbing to PASS. Maintenance and repair of air traffic control systems, such as radar, navigation and communication systems, are inextricably intertwined with the certification functions performed by employees represented by PASS. Separating out activities deemed commercial to satisfy an arbitrary goal will further erode the envelope of aviation safety, which

already suffers as a result of inadequate staffing and training. Safety should never be sold to the lowest bidder.

### *Flight Standards & MIDO*

The FAA does not list Aviation Safety Inspectors in their FAIR Act inventory because the work they perform is considered “inherently governmental.” The OPM classifies Aviation Safety Inspectors as GS-1825 which falls under the “Investigation, Enforcement, Inspection and Compliance Group, GS-1800.” However, the OPM recently published a draft document that proposes the cancellation of the 1825 job series and reclassifies Aviation Safety Inspectors to a newly created GS-2155 job series, which places them in the “Transportation Group, GS-2100.” PASS believes that reclassifying inspectors from Investigative to Transportation will lead to a determination that their work is commercially competitive under the FAIR Act, and subject to A-76 review. This will ultimately lead to their jobs being contracted out.

### *Why PASS Is Opposed to Contracting Out In Flight Standards and MIDO*

PASS is opposed to contracting out the inherently governmental responsibilities and authority of Aviation Safety Inspectors. Doing so virtually ensures that the FAA will continue down a road that reduces the level of safety within the aviation industry.

- Aviation safety is dependent upon oversight of the entire system. Contracting out portions of the system precludes total safety oversight.
- Aviation Safety Inspectors are the keystone of what the FAA Administrator continuously calls the “safest aviation system in the world.” Contracting out the work of Aviation Safety Inspectors will undermine that keystone of safety.
- The events of September 11<sup>th</sup> highlighted the failure of using contract personnel for airport security. It also demonstrates the inherent weakness of allowing commercial and economic factors to override concerns for public safety.
- A Federal workforce, financed by the public and responsible to the public, is essential for aviation safety. Contracting out the work performed by Aviation Safety Inspectors means that they will be employed by private industry, whose primary motivation is profit.
- The work that Aviation Safety Inspectors perform provides federal oversight of private industry. This is an inherently governmental function.
- Federal workers are driven by public safety while history has shown that private industry is driven primarily by economic factors. Turning the safety responsibilities of the Aviation Safety Inspector workforce over to industry allows the aviation industry to regulate itself.

## **CONCLUSION**

While the process the Administration is taking to contract out jobs in Airway Facilities is different from the process they are taking to contract out jobs in Flight Standards and MIDO, our message must remain the same: the work performed by Systems Specialists and Aviation Safety Inspectors is inherently governmental and must not be sold to the lowest bidder. Doing so will compromise the safety of the flying public.

Regardless of the approach taken by the Administration, the real threat is contracting out the inherently governmental work Systems Specialists and Aviation Safety Inspectors perform. This is true regardless of the line of business you work in! If 2101's and 1825's are subject to A-76 and contracting out, who can argue the rest of the bargaining unit is safe? It is imperative that we act in a unified manner to confront this threat to our jobs. PASS will be proactive in dealing with this issue and any future versions of it by mobilizing the membership and utilizing grassroots lobbying to counter any attempts to reduce the level of aviation safety that our membership provides.