CONTRACTING OUT—SUCCESSES AND FAILURES

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CIVIL SERVICE

OF THE

COMMITTEE ON
GOVERNMENT REFORM
AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

OCTOBER 1, 1997

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CONTENTS

	Page
Hearing held on October 1, 1997	1
Statement of:	
DeSeve, G. Edward, Acting Deputy Director for Management, Office of Management and Budget; John Goodman, Deputy Under Secretary of Defense, Industrial Affairs and Installations; and Samuel Kleinman, Center for Naval Analyses	63
Donnellan, Christopher M., legislative director, National Association of Government Employees; James Cunningham, national president, National Federation of Government Employees; and Patricia Armstrong, chapter president, Federal Managers Association, U.S. Marine Corps Air Station, Cherry Point, NC	22
Letters, statements, etc., submitted for the record by:	
Armstrong, Patricia, chapter president, Federal Managers Association, U.S Marine Corps Air Station, Cherry Point, NC, prepared statement of	44
Cummings, Hon. Elijah E., a Representative in Congress from the State of Maryland, prepared statement of	10
Cunningham, James, national president, National Federation of Government Employees, prepared statement of	35
DeSeve, G. Edward, Acting Deputy Director for Management, Office of Management and Budget, prepared statement of	66
Donnellan, Christopher M., legislative director, National Association of Government Employees, prepared statement of	24
Ford, Hon. Harold E., a Representative in Congress from the State of Tennessee, prepared statement of	19
Goodman, John, Deputy Under Secretary of Defense, Industrial Affairs and Installations, prepared statement of	79
Kleinman, Samuel, Center for Naval Analyses, prepared statement of	88
Mica, Hon. John L., a Representative in Congress from the State of Florida, prepared statement of	3
Morella, Hon. Constance A., a Representative in Congress from the State of Maryland, prepared statement of	16
Pappas, Hon. Michael, a Representative in Congress from the State of New Jersey, prepared statement of	21

CONTRACTING OUT—SUCCESSES AND FAILURES

WEDNESDAY, OCTOBER 1, 1997

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE CIVIL SERVICE,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:30 a.m., in room 2154, Rayburn House Office Building, Hon. John L. Mica (chairman of the subcommittee) presiding.

Present: Representatives Mica, Pappas, Morella, Cummings, Norton, and Ford.

Staff present: George Nesterczuk, staff director; Caroline Fiel, clerk; Ned Lynch, senior research director; Cedric Hendricks, minority counsel; Jean Gosa, minority staff deputy clerk; and Denise Wilson, minority counsel.

Mr. MICA. Good morning. I would like to call this meeting of the House Civil Service Subcommittee to order and welcome our guests. Today we are conducting a hearing entitled "Contracting Out—Successes and Failures." I am going to open with a brief opening statement, yield to the ranking member and then any other Members who join us, for their statements. Then we will get right into the two panels we have scheduled this morning.

Today's hearing will again focus on the issue of contracting out in the Federal Government. Previous information obtained through prior hearings indicates that contracting for commercial services has been a useful tool in many instances for restraining cost inflation of government operations in certain circumstances. However, opponents of contracting in this manner have maintained that the cost savings due to contracting are only temporary and that contracting may compromise program efficiency and effectiveness.

I believe that to examine these issues properly, Federal employer organizations should have a fair opportunity to present their side of this very important issue. Some Federal employer organizations have charged that contracts are inadequately monitored, that contractors fail to deliver the quality required for effective operations, and that when contractors fail, Federal employees must pick up the pieces, apparently under tight deadlines. In this hearing we hope to examine those charges and hopefully get the facts about what is really happening in contracting.

In the last Congress, our hearing on Government contracting focused on the potential benefits from contracting out more commercial services. Since that hearing, a number of employer organizations have requested that they be given an opportunity to challenge

the cost saving claims of contracting's proponents. Today I am hoping that this hearing provides a fair opportunity to present those facts and that information.

Since our last hearing, there have also been a number of changes that affect the contracting environment. In 1996, the Office of Management and Budget published a revision of Circular A–76, the rule book that governs cost competitions within the Federal sector. These revisions enable Federal agencies to comply with the changes in Government accounting and management practices embodied in statutes such as the Chief Financial Officers Act, the Federal Acquisition Streamlining Act, and the Government Performance and Results Act.

The operating environment has also been affected. Budgets have been cut and the work force reduced, but often, workloads remain the same. We have heard frequent speculation that agencies have resorted to increased contracting to cope with workloads. According to OMB, however, Federal agencies awarded $111.7 billion in service contracts in 1996. That represents a decline in contracting of $2.4 billion from 1995 levels.

We have a responsibility to take a close look and discover what is actually taking place with Federal contracting for services. Are we contracting out more or less than in prior years? Are taxpayers getting value out of contracting or are we, in fact, wasting money? These and many more important questions need accurate answers if we are to conduct the business of Government in a responsible manner.

Our panelists today will give us their views on these questions. In addition to employer organizations, we will hear from the Office of Management and Budget. OMB will report on the role that contracting has played in implementing National Performance Review recommendations and other administration management initiatives. We will also hear from witnesses who have reviewed the contracting programs of the Department of Defense. With the help of several years of contracting data, hopefully, they will provide an assessment of the costs and benefits of contracting for Federal agencies.

I am pleased to open with those comments, but also must apologize. I made the commitment to hold this hearing at least by late summer, and because of conflicting schedules of the full committee and other business before the subcommittee, we have been delayed until now in holding it. I am pleased that we are looking at this issue and will continue to look at it and get a fair appraisal during my tenure as chair of this subcommittee.

[The prepared statement of Hon. John L. Mica follows:]

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Opening Remarks of the Honorable John L. Mica
Chairman, Civil Service Subcommittee
Hearing on Contracting Out: Successes and Failures
October 1, 1997

Today's hearing will again focus on the issue of contracting out in the federal government. Previous information obtained through prior hearings indicate that contracting for commercial services has been a useful tool for restraining cost inflation of government operations in certain instances. However, Opponents of contracting in this manner have maintained that the cost savings due to contracting are only temporary and that contracting may compromise program efficiency and effectiveness.

I believe that to examine these issues properly, Federal employee organizations should have the opportunity to present their side of this important issue. Some federal employee organizations have charged that contracts are inadequately monitored, that contractors fail to deliver the quality required for effective operations, and that when contractors fail, federal employees must pick up the pieces, apparently under tight deadlines. In this hearing we hope to examine those charges.

In the last Congress, our hearing on government contracting, focussed on the potential benefits from contracting out more commercial services. Since that hearing, a number of employee organizations have requested that they be given an opportunity to challenge the cost-saving claims of contracting's proponents. Today, we are providing that opportunity.

Since our last hearing there have also been a number of changes that affect the contracting environment. In 1996, the Office of Management and Budget published a revision of Circular A-76, the rule book that governs cost competitions within the federal sector. These revisions enable federal agencies to comply with the changes in government accounting and management practices embodied in statutes such as the Chief Financial Officers Act, the Federal Acquisition Streamlining Act, and the Government Performance and Results Act.

The operating environment has also been affected. Budgets have been cut and the workforce reduced, but the workloads remain. We have heard frequent speculation that agencies have resorted to increased contracting to cope with the workloads. According to OMB, however, federal agencies awarded $111.7 billion in service contracts in 1996. That represents a decline in contracting of $2.4 billion from 1995 levels.

We have a responsibility to discover what is actually taking place with federal contracting for services. Are we contracting out more or less than in prior years? Are taxpayers getting value out of contracting or are we wasting money? These and many more questions need accurate answers if we are to conduct the business of government in a responsible manner.

Our panels today will give us their views on these questions. In addition to employee organizations, we will hear from the Office of Management and Budget. OMB will report on the role that contracting has played in implementing National Performance Review recommendations and other Administration management initiatives. We will also hear from witnesses who have reviewed the contracting programs of the Department of Defense. With the help of several years of contracting data, they will provide an assessment of the costs and benefits of contracting for federal agencies.

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September 26, 1997

TO: Members, Civil Service Subcommittee

FROM: John L. Mica
Chairman

SUBJECT: Background Paper -- Contracting Out: Successes and Failures

The Civil Service Subcommittee will conduct a hearing to gather additional information about federal agencies' practices contracting for commercial goods and services. This hearing will be held on Wednesday, October 1, 1997, in Room 2154 of the Rayburn House Office Building, beginning at 10:30 a.m. This hearing will provide an opportunity to hear employee organization's concerns about contracting activities and enable the Subcommittee to receive more recent information about current contracting practices.

This Subcommittee's most recent hearings on the subject were conducted on March 29 and April 4, 1995. At those hearings, both the Office of Management and Budget and the General Accounting Office acknowledged several difficulties involved in evaluating the effects of agencies' decisions to procure goods and services through contracts rather than produce them internally. If agencies had been performing the functions internally, people whose work is converted to contract usually take on different responsibilities, and agencies often redesign work procedures in addition to shifting some functions to contract. As a result, no one has strict "before and after" examples to provide a precise basis of comparison. GAO also noted that the contracts that it reviews are rarely a random sample of all contracts that any agency awards. Most frequently, GAO responds to claims that contracts were awarded improperly (through bid protest procedures) or conducts inquiries at the request of Members of Congress who have heard complaints from constituents. Thus, although OMB has estimated that the procedures for conducting competition have resulted in net savings averaging about 30 percent,[1] neither GAO nor OMB have reliable data to support the estimates. These hearings also provided opportunities for employee organizations to report their concerns about contracting, and allowed the

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[1] Savings from competition would occur if either a contract was awarded to a private provider that delivered the goods and services at a lower cost or if the government agency, competing to retain the function in-house, improved its work procedures so that it operated more efficiently.

Subcommittee to hear from organizations representing federal contractors who described the benefits that they associate with their operations. Both the contractors' representatives and OMB conceded that opportunities for contracting had been restricted because the Congress enacted laws that prohibited conversion to contract or, in some cases, even prohibited conducting studies to assess the costs and benefits of potential contracts.

After those hearings, OMB forwarded to the Subcommittee a list of legislative provisions that impeded contracting, and the National Performance Review concluded that the list of such restrictions (commonly riders to appropriations bills) was reduced during the 104th Congress. During 1995, OMB completed the first revision of Circular A-76 since 1983. This Circular, which describes the rules and procedures for agencies conducting cost comparisons, required revision to bring it into alignment with accounting requirements and managerial standards developed in the Chief Financial Officers Act of 1990, the Federal Acquisition Streamlining Act of 1994, and through the National Performance Review. Federal employee organizations have requested this hearing to address a variety of issues.

Size of the Contractor Workforce

Although the reductions of the federal workforce authorized by the Federal Workforce Reduction Act of 1994 have been borne disproportionately by the Department of Defense, employee organizations have alleged that agencies are continuing to contract functions once performed by federal employees. Employee organizations have contended that downsizing is merely a vehicle for shifting work to private employees, who allegedly receive less in pay and benefits than the federal employees whom they replace. In effect, a contractor workforce of equal or greater size is alleged to have replaced federal employees. Neither OMB nor any other agency has been able to provide the Subcommittee with an accurate count of the contractor workforce, so data that might be used to evaluate whether contractors are increasing or decreasing is unavailable. Data supplied by the Department of Labor's Office of Federal Contract Compliance indicate that firms that provide goods and services under contract with federal agencies employ a total of 22 million persons, but those data include all of the firms' employees, most of whom do not work on federal projects.

OMB still does not have data on the number of employees working for contractors performing functions for federal agencies. However, OMB has provided data indicating that the amount of contracting done by federal agencies has declined in the last few years. In its August, 1997, special contracting issue, ***Government Executive*** reported that federal procurement has dropped nearly 30 percent in constant dollars since 1986. Most of the reduction has come from the Department of Defense, where contracts account for nearly $150 billion out of the total $178 billion that federal agencies spent on contracts in 1996. OMB has informed Subcommittee staff that federal spending on all service contracts (primarily research and development, architecture and engineering, construction, and automated data processing installation and maintenance) has held steady in constant dollars in recent years, but declined when adjusted for inflation and as a portion of the federal budget. Federal agencies spent $105.2 billion on these contracts in 1992

and $111.7 billion in 1996. The 1996 figure reflected a drop from $114.1 billion in 1995. In short, spending on service contracts does not appear to have increased during the workforce reductions under this Administration.

Quality of the Contractors' Work

Employee organizations have frequently claimed that contractors do not perform work at the same level of quality as federal employees. Some of the organizations have alleged that when contractors fail to perform adequately, federal employees have been left to complete tasks late in the process and after considerable expense. Employee organizations have been requested to provide specific examples of such experiences.

Cost Overruns

Employees' organizations have alleged that contractors underbid on original submissions, hoping to take advantage of task order modifications and other subsequent changes in the terms of contracts to escalate their profit margins. Thus, even if the initial estimates and bid information make it appear that contracts are cheaper than federal employees, post-contract costs would conflict with the initial conditions. Again, employee organizations have been requested to provide specific examples to support such allegations. The Center for Naval Analysis and the Administration witnesses have been invited to provide the Subcommittee information about the methods of tracking these costs used (primarily within the Department of Defense).

Lack of Monitoring

Employees' organizations have also alleged that contracts are not adequately monitored to ensure that the government gets what it pays for from the contractors. As a result, these groups allege, federal agencies don't have the same controls over contractors that they have over in-house workforces, and this omission results in lesser quality being provided under contracts. Both panels have been requested to address issues related to monitoring.

Changes Resulting from Modifications of Circular A-76

The Administration has been asked to provide an assessment of changes that it has seen in the first year following the revision of Circular A-76. This version of the cost competition guide required stricter cost accounting (notably, forcing agencies to include long-term costs of pension benefits in estimating in-house expenses) that comply with the Chief Financial Officers Act and provide a more level playing field in evaluating in-house estimates and contractors' bids. The revised Circular A-76 retained protections for employees (especially the "right of first refusal" to positions with the contractor if functions are converted to contract), but also expanded the ability of federal managers to convert functions to contract without competition if the function is performed by fewer than 10 FTE, or if the function is a commercial operation that the agency head decides will no longer be a government function. The latter rationale was used to

support the conversion of the Office of Personnel Management's conversion of its investigations workforce into an employee stock ownership program.

Costs of Contracting and Federal Pay Raises

Each year since he has been in office, President Clinton has argued that The Federal Employees Pay Comparability Act (FEPCA) established a flawed mechanism to set locality pay adjustments and annual adjustments for federal employees. District of Columbia Delegate Eleanor Holmes Norton has introduced legislation (H.R. 886) that would reduce federal contract spending by $5.7 billion to provide full funding for FEPCA. The Administration has been asked to assess the impact of such a measure on agencies.

Mr. MICA. I am pleased to recognize now the ranking member, the distinguished gentleman from Maryland, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I commend you for agreeing to hold a hearing that examines how contracting programs affect Federal employees. I join in welcoming our witnesses and I appreciate the time they have taken to be with us so that we may learn from them. I anxiously await your observations, suggestions, and recommendations.

I would like to state at the beginning of this hearing that the functions of the Federal Government need to be performed efficiently and effectively. Whether this can best be done by career Federal employees or by contractors and their employees is the issue that we must have a clear policy and a fair procedure to address.

I would like to see proof that contracting out for goods and services saves taxpayers money. It does not make sense to hire hundreds of thousands of contract employees while at the same time we downsize more than 250,000 Federal employees. Do we really have a Government that works better and costs less, or do we have a Government that looks like some contractor's dream world?

I have a host of concerns that I feel need to be answered before I can embrace the notion that contracting out is good for the Federal Government and that, consequently, it should be increased. I am interested in the process by which we determine the Government services to be contracted out. I would like to see the cost comparison, the savings, if any, and the cost benefit analysis used in deciding that it is indeed necessary and justifiable to outsource Federal services. Otherwise, our Government employees are forced out of jobs and those who remain do more with fewer resources.

The Federal Government spends more than $114 billion a year on service contracts. For that kind of money, we need to have systems in place to ensure that we get exactly what we pay for, that is to say, that we have received quality, timely, and cost effective products or services.

To that end, I am prepared to introduce legislation suggested by the Federal Managers Association that would require Federal agencies to annually review the costs of all service contracts in order to determine whether the costs have exceeded the contract price. A 1994 Government Accounting Office report found that contracting work out is not necessarily cheaper, and an Office of Management and Budget study done that same year found that cost comparisons are not routinely done.

To that end, Representative Eleanor Holmes Norton must be recognized and hailed for legislation she has introduced that would bring needed reform and accountability to the contracting process. The enactment of her bills is critical if we are to acquire basic and sorely needed data on contracting costs and the size of contracting work force. This information is essential if we are to have the means to properly manage the Federal Government's procurement of services and its work force.

Thank you very much.

Mr. MICA. I thank the gentleman.

[The prepared statement of Hon. Elijah E. Cummings follows:]

STATEMENT BY THE HON. ELIJAH E. CUMMINGS
OCTOBER 1, 1997
SUBCOMMITTEE ON CIVIL SERVICE: CONTRACTING OUT

Thank you Mr. Chairman.

I commend you for agreeing to hold a hearing that examines how contracting programs impact and affect Federal employees. I join in welcoming our witnesses and I appreciate the time they have taken to be here with us so that we may learn from them. I anxiously await your observations, suggestions and recommendations.

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I would like to see proof that contracting out for goods and services saves taxpayers' money. It does not make sense to hire hundreds of thousands of "contract employees" while at the same time we downsize by more than 250,000 Federal employees. Do we really have a government that works better and costs less or do we have a government that looks like some contractor's dream world.

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increased. I am interested in the process by which we determine the government services to contract out. I would like to see, the cost comparison, the savings, and the cost benefit analysis used in deciding that it is indeed necessary and justifiable to outsource Federal services. Otherwise, our government employees are forced out of jobs and those who remain do more with fewer resources.

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contracting workforce. This information is essential if we are to have the means to properly manage the Federal government's procurement of services and its workforce.

Thank you.

Mr. MICA. I now recognize the lady from the District, Ms. Norton.

Ms. NORTON. Thank you very much, Mr. Chairman. I thank the ranking member for his words about my bills.

We have just gone through a period of deep scrutiny of virtually everything in our budget, Mr. Chairman, and have succeeded in crafting a budget reconciliation bill that requires deficit reduction over the next 5 years. Every part of the Federal Government has been made accountable, save one, and that is the fastest growing part of the Federal Government, the service contracting area.

Of the $200 billion that the Federal Government spends every year on outside contracts, we are now at the point where $114 billion is spent on service contracts, up from $105 billion in 1992. Contractors doing business with the Government have risen between 1989 and 1992 from 62,819 to 82,472.

When you have that kind of growth, it is irresponsible not to begin to look closely at it. That kind of money and that kind of growth always contain a certain amount of waste and a certain amount that needs to be corrected. Maybe it is a little and maybe it is a lot, but what is totally unacceptable is to simply let it grow like topsy and to know almost nothing about it.

That is where we are in service contracts. The administration recognizes this and has begun to move forward. I think the administration deserves credit for the new performance-based standards for existing service contracts. But this does not go to the question of growth. In effect when we look at service contracts, we are looking at a very different kind of contract than we find, for example, in the defense sector. We are looking at contracts that essentially mean that we have two work forces. There is our civil service work force, and then we have got another work force out there. That work force, of course, is employed by private contractors.

This growth in service contracts has taken place on one and only one assumption. No one says that we know that service contractors do the work better. The assumption is that they do the work cheaper, and cheaper and cheaper alone is what has driven this growth. I think that the Congress has come to the point where it must say "prove it." We can't continue to spend this kind of money without coming forward to demonstrate either that the assumption is correct or that the assumption is not correct.

My four bills would move us in that direction. First there is a bill that would require that cost comparisons be done. It will come as a shock to most Americans to know that cost comparisons are not routinely done before work is contracted out and the reason for that is that it is assumed, or presumed, what has turned out to be an irrebuttable presumption, that the work will be done cheaper.

Well, should not the agency be made to demonstrate that that is the case, particularly after a 1994 GAO study that proved just the opposite in a number of contracts that they investigated? The GAO, in several cases they analyzed, found that agencies could have saved as much as 50 percent by keeping the work in-house. This is an instance where information may not be power, but it sure would be money if we did the cost comparisons before we farmed the work out.

The Congress recognized this in 1988 when a bill required that agencies cut service contracts significantly. The GAO reported back to the Congress that it could not tell whether service contracts had been cut significantly because there was no system in place to measure that. Therefore, one of my bills would require that the size of contracting work forces be measured and that the size and the amounts be reported to the OMB, so that the OMB might develop a Governmentwide system for determining how many non-Federal employees are engaged in service contracts.

Recognizing that there is nothing in the private sector to bring contractors into the sphere of sacrifices that Federal employees are undergoing, I have a bill that would cut $5.7 billion in Federal agency contractors in order to allow Federal employees to get their statutory raise each year. We haven't reneged on the promise to the Federal employees that they will get a specific statutory raise calculated by a formula. We just don't do it and we haven't done it for years. Meanwhile, as far as we know, people doing the same work as service contractors get their raises every year, and I can tell you that almost never in the private sector do people not get raises that they are promised every year. It seems to me that that would bring some equity and save us some money.

Finally, I have a bill that would plug a hole in buyout legislation that we have done. This was landmark legislation, the first across-the-board legislation, and we were at great pains to make sure that civil servants did not in fact take advantage of us in this legislation. So we said if you were bought out with cash, then you couldn't come back, and that such folks could not be replaced with new hires.

There is now evidence that instead of replacing Federal employees with new hires, the agencies are using contract service employees to do the same work. If the point was deficit reduction, if the point was to reduce the Federal work force, we cannot allow a phantom work force to grow, paid 100 percent with Federal funds, while patting ourselves on the back that we have cut our civil service work force.

Mr. Chairman, I hope that this year in addition to these hearings that we can get some motion on at least some of these bills. I have myself testified in favor of these bills. I believe these bills have great bipartisan potential, and I hope that we are seeing the beginning, with these hearings, that we are seeing the beginning of a process that will take some or all of these bills to the floor.

Thank you, Mr. Chairman.

Mr. MICA. I thank the gentlelady.

I would like to recognize Mrs. Morella from Maryland.

Mrs. MORELLA. Thank you, Mr. Chairman. I want to thank you for holding today's hearing on contracting out the Federal work force. I have concerns about contracting out. I think it is critical that we closely examine the issue today and that we continue to closely monitor the manner in which we contract out for functions of our Federal work force.

I can vividly remember this subcommittee's hearings on the subject during the spring of 1995. During those hearings, we posed important questions. How many Federal contractors performing functions for Federal agencies are there? How much are we paying

them? Does contracting out save money as it is purported to do? How do we measure their performance? Who monitors their work? Must they re-bid in the out years?

We didn't have any solid answers then and, more disturbing, we still don't have the answers today. I do have, however, several files of letters from Federal employees and Federal managers who are concerned about the results of contracting out the functions of Federal agencies. Every time Federal employee groups come to see me, concerns about the issue top their agenda.

I think we need clarification; we need to know. So I hope that by the end of today's hearing, the questions that I have posed will be answered, or that we have obtained a firm commitment to find the answers to these critical questions.

Thank you, Mr. Chairman.

Mr. MICA. I want to thank the gentlelady.

[The prepared statement of Hon. Constance A. Morella follows:]

The Honorable Constance A. Morella
Subcommittee on Civil Service
Contracting Out -- Successes and Failures
October 1, 1997

Mr. Chairman, I want to thank you for holding today's hearing on Contracting Out the Federal Workforce. I am very concerned about contracting out. It is critical that we closely examine this issue today, and that we continue to closely monitor the manner in which we contract out the functions of our federal workforce.

I vividly remember this subcommittee's hearings on this subject during the spring of 1995. During those hearings we posed important questions. How many federal contractors performing functions for federal agencies are there? How much are we paying them? Does contracting out save money as is purported? How do we measure their performance? Who monitors their work? Must they re-bid in the out years?

We did not have solid answers then. More disturbing, we still don't have answers today. I do have, however, several files of letters from federal employees and federal managers who are concerned about the results of contracting out the functions of federal agencies. And every time federal employee groups come to see me, concerns about this issue top their agenda.

By the end of today's hearing, I expect that the questions I posed earlier will have been answered, or that we will have obtained a firm commitment to find answers to these answers.

Mr. MICA. There being no further opening statements at this time, I would like to introduce our first panel, which consists of Christopher M. Donnellan, legislative director of the National Association of Government Employees; James Cunningham, national president, National Federation of Federal Employees; Patricia Armstrong, chapter president of the Federal Managers Association, U.S. Marine Corps Air Station, from Cherry Point, NC.

Before I recognize you, Mr. Ford has returned. Mr. Ford, did you have any opening comment?

Mr. FORD. Just very briefly, Mr. Chairman.

Mr. MICA. Go right ahead. You are recognized.

Mr. FORD. I thank the chairman, I certainly thank the panelists and my ranking member.

I join my colleagues in associating myself with really what both sides have said this morning. I certainly view today's hearing, and I say to our panelists, as an opportunity to address an issue that has become increasingly important as the Federal Government continues to downsize. I think it speaks to a fundamental issue.

We talk about the cost efficiency and we talk about cost savings rather than efficiency, and they certainly should be the core principles guiding us in this process, but I would also hope that the whole notion of accountability would remain important to those of us on this committee and certainly to those of us in this Congress. I think it really sort of speaks to the fundamental question of the role or helps to speak to the fundamental question of the role of government, and particularly the Federal Government, in today's society. So I look forward to hearing from our panelists.

I will not belabor the point. I am a strong believer that we invite panelists and we ought to listen to them, and hopefully they will be able to shed some light for all of us. I thank my chairman and I look forward to the testimony of our panelists.

Mr. MICA. Thank you, Mr. Ford.

[The prepared statement of Hon. Harold E. Ford, Jr., follows:]

HAROLD E. FORD, JR.
9TH DISTRICT, TENNESSEE

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SUBCOMMITTEES:
POSTSECONDARY EDUCATION, TRAINING AND LIFE-LONG LEARNING
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Opening Remarks of Congressman Harold E. Ford, Jr.
Civil Service Subcommittee Hearing
Contracting Out: Successes and Failures
October 1, 1997

Thank you Mr. Chairman and my ranking member Mr. Cummings. To the panelists, let me say that I look forward to your testimony.

Today's hearing provides this Subcommittee with an important opportunity to address an issue that has become increasing important as the federal government continues to downsize. In fact, many of my colleagues, particularly those on the other side of the aisle, believe that much of what the government does can be contracted-out to the private sector in a cost-efficient manner. In my mind, however, can and should are two different matters.

Although cost-savings and efficiency are core principles that should guide the way in which the federal government does business, in my mind, accountability is an equally important concern. And when the federal government contracts-out services to the private sector in hopes of saving money, we also lose much of our oversight ability. In turn, the government and this Committee in particular cannot ensure that the billions taxpayer dollars pouring into our "shadow government" each year are being spent wisely and efficiently.

In closing, let me say that I find it somewhat ironic that at the same time that many Republicans are criticizing the Department of Education for failing to be able to account for how federal funds are used, that this body seriously would be considering expanding private sector contracting.

Mr. MICA. I recognize now the vice chairman of the panel, Mr. Pappas.

Mr. PAPPAS. Thank you, Mr. Chairman. I am glad to be here. I apologize for being late. I have a written statement that I would like to enter into the record.

Mr. MICA. Without objection, so ordered.

[The prepared statement of Hon. Michael Pappas follows:]

Opening Statement of the Honorable Michael Pappas
Vice Chairman, Civil Service Subcommittee
Hearing on Contracting Out: Successes and Failures
October 1, 1997

Mr. Chairman - This morning the Civil Service Subcommittee has gathered to further examine the issue of contracting out services from the government to the private sector. I applaud this committee's past work on the subject and I am pleased to be here today with my colleagues to learn more about the successes and failures of contracting out to the private sector.

I am committed to helping reduce the size of the federal bureaucracy if it leads to efficient government. I look forward to hearing the testimony from the committee's witnesses today. The key, however, is efficiency. The federal government must not simply replace federal workers with private contracts if there is no improvement in cost, experience, and/or quality.

Both sides of this issue raise good points and I look forward to hearing the testimony toaday.

Mr. MICA. We will begin with our first panel. As you may know, this is an investigations and oversight subcommittee and committee of Congress, and we do swear in our witnesses. If you would please stand.

[Witnesses sworn.]

Mr. MICA. The witnesses answered in the affirmative.

I would like to welcome our panelists and thank them for their contribution to our hearing today, and just point out that if you have written statements, we will be glad to make them part of the record. We like to try to get your oral comments down to about 5 minutes. We do also welcome other comments for the record and we will keep the record open.

With that, I would like to recognize Christopher Donnellan, the legislative director of the National Association of Government Employees. Welcome, and you are recognized, sir.

STATEMENTS OF CHRISTOPHER M. DONNELLAN, LEGISLATIVE DIRECTOR, NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES; JAMES CUNNINGHAM, NATIONAL PRESIDENT, NATIONAL FEDERATION OF GOVERNMENT EMPLOYEES; AND PATRICIA ARMSTRONG, CHAPTER PRESIDENT, FEDERAL MANAGERS ASSOCIATION, U.S. MARINE CORPS AIR STATION, CHERRY POINT, NC

Mr. DONNELLAN. Mr. Chairman, Representative Cummings, members of the subcommittee, my name is Christopher Donnellan and I am the legislative director of the National Association of Government Employees. NAGE is an affiliate of the Service Employees International Union, the third largest union in the AFL–CIO. On behalf of the President of NAGE, Kenneth T. Lyons, and the 120,000 employees represented by NAGE, I want to thank you for this opportunity to testify today on the issue of Federal contracting out of commercial services.

It should not surprise anyone on this committee that our organization has long opposed wasteful, costly, and inappropriate contracting out of government functions. We once again reiterate that the explosion in contracting out of services has cost the American taxpayers millions of dollars, diminished Government's expertise in key areas, and reduced its ability to address the problems of the future. In a March 1994 report, the GAO found that the Federal Government could save millions of dollars by performing functions directly rather than farming the work out to private contractors.

The contracting out of services is frequently a mask for a reduction in the level of services which often may not be accomplished legislatively. Contractors are able to present the agency with a seductive package of cost reductions by reducing the level of services. Inadequate investigations of the statement of work by the agency allows the contractor to achieve this result. In the interwoven environment of a Federal installation, any reduction in support or related services will have a domino effect on the agency's capacity to perform.

I would like to share with the subcommittee one example of the flaws in contracting out. Recently our office received a letter from our national rep at Fort Leonard Wood, MO. On March 1, 1997, a

new contractor took over the operation of the post laundry facility at the fort. NAGE represents the employees of the contractor.

The predecessor contractor, I.G.I.T., Inc., failed to pay all employees a final biweekly check for work performed, totaling approximately $23,000. I.G.I.T. took a Federal payment and ran. The payment due to the contractor from the Government because of past utility bills for that period only came to $16,000. Now I.G.I.T. has assigned all contracting income to a bank as collateral, and the bank has kept the money and welshed on employee payroll checks.

Furthermore, for a period covering several months, the contractor deducted Federal and State income tax and Social Security from the employees and never deposited such taxes with the Internal Revenue Service, Social Security Administration, or the State of Missouri. Moreover, I.G.I.T. owes $11,000 in accrued vacation pay and $41,000 in severance pay to members that lost jobs. The approximate amount I.G.I.T. owes employees totals $74,000.

I.G.I.T. has since declared bankruptcy. The Department of Labor has intervened and will make available only $16,000 owed to the employees, 22 cents on the $1 that they are owed. So much for efficiency in the private sector.

I.G.I.T. is not the only private sector company that has ripped off the Federal Government, taxpayers, and Federal employees. Seven different contractors since the early 1970's have provided laundry service at Fort Leonard Wood. The workers have suffered nonpayment of wages and/or benefits under four contractors.

Mr. Chairman, the entire membership of NAGE is pleased that several pieces of legislation introduced by Congresswoman Eleanor Holmes Norton will begin to take a look at this so-called shadow Government of service contractors. NAGE strongly endorses all four of these bills as a start to finding out exactly who and what the Government is getting to do their work.

This administration and others have repeatedly praised their efforts in creating the smallest Federal work force since the Kennedy administration. But as we know, much of that work that used to be performed by Federal employees has simply been transferred to the private sector.

Mr. Chairman, the members of the National Association of Government Employees are proud of the work they do for the American taxpayer. They look forward to competition that allows the employee to be maintained on the basis of their performance, not through some arbitrary ceilings on full time employees imposed as part of the government desire to downsize.

This concludes my written statement. I'd be happy to answer any questions you may have.

Mr. MICA. Thank you, Mr. Donnellan. We will withhold questions until we finish the panel.

[The prepared statement of Mr. Donnellan follows:]

MR. CHAIRMAN, REPRESENTATIVE CUMMINGS, MEMBERS OF THE SUBCOMMITTEE, MY NAME IS CHRISTOPHER DONNELLAN AND I AM THE LEGISLATIVE DIRECTOR OF THE NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES (NAGE). NAGE IS AN AFFILIATE OF THE SERVICE EMPLOYEES INTERNATIONAL UNION, THE THIRD LARGEST UNION IN THE AFL-CIO. ON BEHALF OF THE PRESIDENT OF NAGE, KENNETH T. LYONS, AND THE 120,000 EMPLOYEES REPRESENTED BY NAGE I WANT TO THANK YOU FOR THIS OPPORTUNITY TO TESTIFY TODAY ON THE ISSUE OF FEDERAL CONTRACTING OUT OF COMMERCIAL SERVICES.

THE NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES IS PROUD OF ITS MEMBERS WORKING ON BEHALF OF THE AMERICAN PEOPLE. THEY ARE SOME OF THE MOST HARDWORKING, COMPETENT AND LOYAL WORKERS THIS COUNTRY HAS. EVERY DAY THESE FEDERAL EMPLOYEES GO TO WORK ANXIOUS TO ENSURE THAT THE GOVERNMENT OPERATES AS EFFICIENTLY AND EFFECTIVELY AS POSSIBLE.

BEFORE I BEGIN MY TESTIMONY ON TODAY'S TOPIC I MUST COMMENT BRIEFLY ON A HEARING HELD THIS MONDAY ON HR 716, "FREEDOM FROM GOVERNMENT COMPETITION ACT OF 1997." THIS IS A BILL THAT WOULD REQUIRE THAT THE FEDERAL GOVERNMENT PROCURE FROM THE PRIVATE SECTOR THE GOODS AND SERVICES NECESSARY FOR THE OPERATIONS AND MANAGEMENT OF CERTAIN GOVERNMENT AGENCIES, AND FOR OTHER PURPOSES. WHILE WE AGREE THAT GOVERNMENT CAN ALWAYS IMPROVE ON THE WAY SERVICES ARE PROVIDED, WE DO NOT BELIEVE THAT PRIVATE INDUSTRY IS ALWAYS THE MOST EFFICIENT AND PRODUCTIVE COURSE. THE GAO SUPPORTED THIS POSITION IN A MARCH, 1995 REPORT WHICH CONCLUDED THAT AFTER

SPENDING BILLIONS AND BILLIONS OF DOLLARS IN CONTRACTING OUT SERVICES, IT COULD NOT "CONVINCINGLY PROVE NOR DISPROVE THAT THE RESULT OF FEDERAL AGENCIES CONTRACTING-OUT DECISIONS HAVE BEEN BENEFICIAL AND COST-EFFECTIVE." GAO/T-GGD-95-131. IT IS FOR THIS REASON AND OTHERS THAT NAGE IS OPPOSED TO HR 716.

TODAY, THE FEDERAL GOVERNMENT IS ENGAGED IN THE LARGEST PRIVATIZATION AND OUTSOURCING EFFORT IN ITS HISTORY. OVER 40,000 FULL TIME EMPLOYEE (FTE) POSITIONS ARE BEING EXAMINED FOR CONTRACTING, AND MANY MORE ARE BEING IDENTIFIED FOR OUTRIGHT PRIVATIZATION. IN FISCAL YEAR 1996, THE FEDERAL GOVERNMENT SPENT OVER $114 BILLION ON COMMERCIAL SUPPORT SERVICE CONTRACTS, INCLUDING CUSTODIAL, WAREHOUSING, BUILDING MAINTENANCE, TRANSPORTATION AND COMPUTER SUPPORT SERVICES. THIS COMPARES TO THE $ 80 BILLION PAYROLL FOR IN-HOUSE EMPLOYEES. SERVICE CONTRACTING CONSTITUTES THE FASTEST GROWING AREA OF FEDERAL PROCUREMENT, ACCOUNTING FOR OVER HALF OF THE $200 BILLION SPENT EACH YEAR ON OUTSIDE CONTRACTS. BETWEEN FISCAL YEAR 1989 AND FISCAL YEAR 1992, THE NUMBER OF CONTRACTORS DOING BUSINESS WITH THE GOVERNMENT ROSE FROM 62,819 TO 82,472.

IT SHOULD NOT SURPRISE ANYONE ON THIS COMMITTEE THAT OUR ORGANIZATION HAS LONG OPPOSED WASTEFUL, COSTLY AND INAPPROPRIATE CONTRACTING OUT OF GOVERNMENT FUNCTIONS. WE ONCE AGAIN REITERATE THAT THE EXPLOSION IN CONTRACTING OUT OF SERVICES HAS COST THE AMERICAN TAXPAYER MILLIONS OF DOLLARS, DIMINISHED GOVERNMENT'S EXPERTISE IN KEY AREAS, AND REDUCED ITS ABILITY TO ADDRESS THE PROBLEMS OF THE FUTURE. IN A MARCH, 1994 REPORT, THE GAO FOUND THAT THE FEDERAL GOVERNMENT COULD SAVE MILLIONS OF DOLLARS BY

PERFORMING FUNCTIONS DIRECTLY RATHER THAN FARMING THE WORK OUT TO PRIVATE CONTRACTORS. THE GAO SURVEYED NINE STUDIES OF SERVICE CONTRACTING AND JUDGED THAT IN EACH CASE, SUBSTANTIAL SAVINGS WOULD HAVE RESULTED IF THE WORK WAS LEFT IN-HOUSE.

IN ADDITION TO QUESTIONS OF COST EFFECTIVENESS, CONTRACTING OUT HAS RAISED QUESTIONS AS TO ITS IMPACT ON THE ABILITY OF GOVERNMENT TO ACCOMPLISH ITS MISSION, AND IMPACT ON GOVERNMENT GOALS SUCH AS AFFIRMATIVE ACTION, AND VETERAN PREFERENCE. DESPITE REPEATED EXPRESSIONS BY SOME MEMBERS OF CONGRESS THAT CONTRACTING OUT HAS "GONE TO FAR," SOME MEMBERS OF THIS ADMINISTRATION HAVE BEEN FIRM IN THEIR RESOLVE TO TURN AS MUCH OF GOVERNMENT OVER TO THE PRIVATE INDUSTRY AS POSSIBLE, IRRESPECTIVE OF COSTS OR IMPACT ON MISSION. CONGRESS MUST ENACT LEGISLATION ESTABLISHING A NATIONAL POLICY ON CONTRACTING OUT WHICH WILL ENSURE A FAIR COST COMPARISON, RETAIN INHERENTLY GOVERNMENTAL FUNCTIONS IN HOUSE, ENSURE A FULL AND FAIR APPEAL MECHANISM AND REQUIRE COMPLETE RECORD KEEPING ON THE FULL COST OF CONTRACTING OUT.

THE CONTRACTING OUT OF SERVICES IS FREQUENTLY A MASK FOR A REDUCTION IN THE LEVEL OF SERVICES, WHICH OFTEN MAY NOT BE ACCOMPLISHED LEGISLATIVELY. CONTRACTORS ARE ABLE TO PRESENT THE AGENCY WITH A SEDUCTIVE PACKAGE OF COST REDUCTIONS BY REDUCING THE LEVEL OF SERVICES. INADEQUATE INVESTIGATIONS OF THE STATEMENT OF WORK BY THE AGENCY ALLOWS THE CONTRACTOR TO ACHIEVE THIS RESULT. IN THE INTERWOVEN ENVIRONMENT OF A FEDERAL INSTALLATION, ANY REDUCTION IN SUPPORT OR RELATED SERVICES WILL HAVE A DOMINO EFFECT ON THE AGENCY'S CAPACITY TO PERFORM.

MR. CHAIRMAN, COSTS OVERRUNS AND SHODDY WORK PERFORMANCES BY

CONTRACTORS ARE THE BY PRODUCTS OF CARELESS STATEMENTS OF WORK AND INADEQUATE ENFORCEMENT OF EXISTING CONTRACTS.

RECENTLY OUR OFFICE RECEIVED A LETTER FROM OUR NATIONAL REPRESENTATIVE AT FORT LEONARD WOOD, MISSOURI. ON MARCH 1, 1997, A NEW CONTRACTOR TOOK OVER THE OPERATION OF THE POST LAUNDRY FACILITY AT THE FORT. NAGE REPRESENTS THE EMPLOYEES OF THE CONTRACTOR.

THE PREDECESSOR CONTRACTOR, I.G.I.T., INC., FAILED TO PAY ALL EMPLOYEES A FINAL BI-WEEKLY CHECK FOR WORK PERFORMED, TOTALLING APPROXIMATELY $ 23,000. I.G.I.T. TOOK A FEDERAL PAYMENT AND RAN. THE PAYMENT DUE TO THE CONTRACTOR FROM THE GOVERNMENT, BECAUSE OF PAST UTILITY BILLS, FOR THAT PERIOD ONLY CAME TO $16,000. NOW, I.G.I.T. HAS ASSIGNED ALL CONTRACT INCOME TO A BANK AS COLLATERAL AND THE BANK HAS KEPT THE MONEY AND WELSHED ON EMPLOYEE PAYROLL CHECKS.

FURTHERMORE, FOR A PERIOD COVERING SEVERAL MONTHS, THE CONTRACTOR DEDUCTED FEDERAL AND STATE INCOME TAX AND SOCIAL SECURITY FROM THE EMPLOYEES AND NEVER DEPOSITED SUCH TAXES WITH THE INTERNAL REVENUE SERVICE, SOCIAL SECURITY ADMINISTRATION, OR THE STATE OF MISSOURI. MOREOVER, I.G.I.T. OWES $ 11,000 IN ACCRUED VACATION PAY AND $ 41,000 IN SEVERANCE PAY TO MEMBERS THAT LOST JOBS. THE APPROXIMATE AMOUNT I.G.I.T. OWES EMPLOYEES TOTALS $ 74,000. I.G.I.T. HAS SINCE DECLARED BANKRUPTCY.

THE DEPARTMENT OF LABOR HAS INTERVENED AND WILL MAKE AVAILABLE ONLY $ 16,000 OWED TO THE EMPLOYEES; 22 CENTS ON THE DOLLAR THAT THEY ARE OWED. SO MUCH FOR EFFICIENCY IN THE PRIVATE SECTOR.

I.G.I.T. IS NOT THE ONLY PRIVATE SECTOR COMPANY THAT HAS

RIPPED OFF THE FEDERAL GOVERNMENT, TAXPAYERS AND FEDERAL EMPLOYEES. SEVEN DIFFERENT CONTRACTORS SINCE THE EARLY 1970's HAVE PROVIDED LAUNDRY SERVICE AT FORT LEONARD WOOD. THE WORKERS HAVE SUFFERED NON-PAYMENT OF WAGES AND/OR BENEFITS UNDER FOUR CONTRACTORS. THE EMPLOYEES BLAME THE GOVERNMENT AND THE CONTRACTORS. SEVERAL EMPLOYEES WERE NOT HIRED BY THE SUCCESSOR CONTRACTOR. THIS IS A PRIME EXAMPLE OF WHY CONTRACTING OUT DOES NOT WORK. THE GOVERNMENT GETS SUB-STANDARD WORK, AND GOVERNMENT EMPLOYEES LOSE THEIR JOBS.

ONE FINAL EXAMPLE FROM FT. LEONARD WOOD CONCERNS THE DIRECTORATE OF LOGISTICS, MAINTENANCE. IN 1994, AFTER BEING CONTRACTED OUT FOR SIX YEARS, THE ARMY AT FT. LEONARD WOOD TOOK THE LOGISTIC MAINTENANCE CONTRACT BACK IN HOUSE, SAVING THE TAXPAYERS $ 1.6 MILLION ANNUALLY. IT WAS THE LARGEST GOVERNMENT SERVICE CONTRACT TO RETURN TO AN IN-HOUSE OPERATION AFTER BEING CONTRACTED. NOW, THE DEPARTMENT OF DEFENSE IS MANDATING THAT THIS FUNCTION BE STUDIED AGAIN. THE LATEST STUDY INVOLVES ALL BASE MAINTENANCE IN ALL TRADOC BASES GOING UNDER ONE CONTRACT. IT WILL NOT MATTER THAT THE EMPLOYEES AT FT. LEONARD WOOD SAVED $ 1.6 MILLION ANNUALLY.

MR. CHAIRMAN, THE ENTIRE MEMBERSHIP OF NAGE IS PLEASED THAT SEVERAL PIECES OF LEGISLATION INTRODUCED BY CONGRESSWOMAN ELEANOR HOLMES NORTON WOULD BEGIN TO TAKE A LOOK AT THIS SO CALLED "SHADOW GOVERNMENT" OF SERVICE CONTRACTORS. HR 885 WOULD REQUIRE AGENCIES TO MAKE COST COMPARISONS AND PROHIBIT AGENCIES FROM CONTRACTING OUT IF THE SERVICES COULD BE PERFORMED AT A LOWER COST BY AGENCY EMPLOYEES. HR 886 WOULD CUT $5.7 BILLION FROM AGENCY SERVICE CONTRACTING FUNDS AND MAKE THE MONEY AVAILABLE FOR PAY RAISES THAT ARE DUE FEDERAL EMPLOYEES IN 1998. HR 887 WOULD REQUIRE OMB TO

DEVELOP A GOVERNMENT WIDE SYSTEM FOR DETERMINING AND REPORTING THE NUMBER OF NON-FEDERAL EMPLOYEES ENGAGED IN SERVICE CONTRACTS. SHAMEFULLY, NO STATISTICS ARE AVAILABLE ON THE NUMBER OF PEOPLE WORKING FOR CONTRACTORS. FINALLY, HR 888 WOULD PROHIBIT FEDERAL AGENCIES FROM REPLACING FEDERAL EMPLOYEES WHO RECEIVED BUYOUTS WITH FEDERAL CONTRACTORS. NAGE STRONGLY ENDORSES ALL OF THESE BILLS AS A START TO FINDING OUT EXACTLY WHO AND WHAT THE GOVERNMENT IS GETTING TO DO THEIR WORK.

THIS ADMINISTRATION AND OTHERS HAVE REPEATEDLY PRAISED THEIR EFFORTS IN CREATING THE SMALLEST FEDERAL WORKFORCE SINCE THE KENNEDY ADMINISTRATION. BUT, AS WE KNOW, MUCH OF THE WORK THAT USED TO BE PERFORMED BY FEDERAL EMPLOYEES HAS SIMPLY BEEN TRANSFERRED TO THE PRIVATE SECTOR.

MR. CHAIRMAN, THE MEMBERS OF THE NATIONAL ASSOCIATION OF GOVERNMENT ARE PROUD OF THE WORK THEY DO FOR THE AMERICAN TAXPAYER. THEY LOOK FORWARD TO COMPETITION THAT ALLOWS THE EMPLOYEE TO BE RETAINED ON THE BASIS OF THEIR PERFORMANCE NOT FROM SOME ARBITRARY CEILINGS ON FULL-TIME-EMPLOYEES IMPOSED AS PART OF THE GOVERNMENT DESIRE TO DOWNSIZE. THIS CONCLUDED MY WRITTEN STATEMENT. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

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HOUSE RULE XI, CLAUSE 2(g)

NAGE HAS RECEIVED NO GRANTS OR CONTRACTS FROM THE FEDERAL GOVERNEMNT IN THE LAST THREE FISCAL YEARS.

Mr. MICA. I would like to now recognize James Cunningham, who is the national president of the National Federation of Federal Employees.

Mr. CUNNINGHAM. Thank you, Mr. Chairman. Mr. Chairman and the distinguished members of this subcommittee, my name is James D. Cunningham, Sr. I am the president of the National Federation of Federal Employees, and on behalf of the 150,000 Federal employees our union represents, I appreciate this opportunity to testify before this subcommittee today and offer you our views of NFFE's membership concerning Federal contracting for commercial services.

Last May, NFFE members had the opportunity to testify at our union's forum on contracting out which was held before a panel consisting of myself, Mr. John Koskinen, formerly of OMB, and Mr. James King, formerly of OPM. During that forum our members had the chance to relate firsthand stories of contracting out. NFFE members told about the very real and, most often, very negative impact of contracting out.

The experiences of these front line workers are a call to support legislation that would begin to put a stop to senseless contracting out. NFFE supports legislation that would help to ensure that service contracting will occur only when it is absolutely necessary. That is, contracting out for services should be done only if it can be positively shown by the agency that there will be: One, no decline in the quality of work; two, a significant cost savings which would be realized over the life of the contract; three, acceptable monitoring of the service contractor to prevent abusive service contracting practices; and, four, certainty that the procedures set forth in A–76 have been followed.

NFFE has heard claims that there has been a reduction in contracting out. The experiences of our members do not match these claims that there has been a decrease in contracting out. We believe that the opposite is true. While fully dedicated to performing their jobs, our members must be ever vigilant and focus their attention to saving their jobs.

In fact, during the past year, our members' requests for training and assistance in A–76 procedures have increased tenfold. In May, at our national training session, there was standing room only for all of our training sessions on A–76 procedures. Our members' requests for assistance in this area are in direct response to announced competition for their jobs, particularly within the Department of Defense. Keep in mind that such competition means that Federal employees' jobs are up for grabs to the private sector. This is the reality which clearly contradicts reports of decreased contracting out.

The difference in quality of contractors' work as compared to Federal employees' work can best be explained by the fact that service contractors and their employees work only to the specifications of the contract, while Federal employees work until the job is done. That difference in orientation that Federal employees have is what makes Federal employees' work far superior.

Consider the case of maintenance work done on airplanes at NAVAIR in Jacksonville, FL. One aspect of maintenance on the planes is removing rust from bolts as they corrode. To the best of

our information, the service contractors in this particular situation are living up to the specifications set forth in the service contract.

The service contract assumes only a certain amount of rust build-up on the bolts will exist. Under the contract, the service contractor is required to remove only x amount of rust and no more. Therefore, even if a greater amount of rust has formed on these bolts, affecting safety and operation of the airplanes, the service contract itself limits the quality of work because the service contractor is not required to finish the job.

The result is that oftentimes the work of the service contractor does not pass quality inspections. Planes are returned back to Federal employees to finish the job. The contractor may be living up to his contract by following the contract to the letter but the contractor is not getting the job done.

NFFE contends that service contractors must be required to provide additional information on true contract cost and size of service contract work force. The reality is that the front line Federal employees do not have access to all of the information they need in order to determine the extent of cost overruns by service contractors.

Federal employees do observe practices by service contractors which do not look right to them. Our members report evidence that post-contract costs conflict with the initial bid which only makes it look like it is cheaper to contract out. It is an absolute necessity that Federal employees, specifically, and American taxpayers, ultimately, be provided with a more accurate and complete picture of cost of service of contracting.

Although NFFE could provide many anecdotes where Federal employees believe contract costs skyrocket, those stories would be limited in effect. What we can testify to is that no one has sufficient information on the size of the contracting work force, either generally or by agency. OMB still does not have the data on the number of employees working for contractors performing functions for Federal agencies. Estimates, guesses, and conjecture will not suffice, and they must be replaced with a requirement that service contractors report this information.

Without this information, reports on status of Federal spending on service contracts must be taken with a grain of salt. Information on size of the contractor work force would reveal true cost of Federal spending on service contracts. Federal employees are entitled to know that information, and with that information they will be able to show that they can perform the work at a lower cost than service contractors.

The American taxpayers deserve to know how money is being spent on service contractors, because they should be able to expect to receive a better bargain. Agencies should be required to meet the burden of showing in numbers and dollars that contracting out makes sense.

H.R. 885 requires agencies to make cost comparisons between the cost of doing work in-house and the cost of contracting the work out. Additionally, H.R. 887 requires OMB to develop a governmentwide system for determining and reporting the number of non-Federal employees engaged in service contracts. Together, H.R. 885 and 887 are designed to shift the burden to agencies to prove

that contracting out makes sense. If the agency cannot show that contracting out these jobs makes sense, then Federal employees should be allowed to continue to perform the work that they have been doing so well for so long. It is that simple.

NFFE members have reported many instances of service contracting where the taxpayers are simply not getting what they have paid for. One of the main reasons is a lack of monitoring of the work performed by service contractors. Without adequate oversight, our members tell us that the days of the outrageously expensive screwdrivers and hammers are not quite over.

For example, at Fort Leonard Wood, as Chris was testifying to earlier, the lack of monitoring and oversight allowed a service contractor to bill for work not completed. The cost to the Government was not limited to dollars and cents. A group of employees in the Army's base dental arts building had become sick due to poor indoor air quality. Many were placed on workers' compensation.

A service contractor for the Department of Logistics and Maintenance was responsible for replacing HEPA air filters in the building. In this case, the air filters are critical to insuring a healthy work environment. Workers from the dental arts building who were concerned about their health checked to see whether the filters were in fact being replaced. The workers found out that the service contractor had failed to replace the filters as required under the service contract, billing the Army for work not yet completed.

But the cost was not strictly monetary, as I have stated, as personnel, civilian and military alike, were unnecessarily exposed to harm to their health due to unscrupulous practices by these contractors. This is the kind of story that is all too common when it comes to service contractors who lack supervision and accountability.

With regard to oversight of the contracting out process, keep in mind that there are alternatives to having OMB be solely responsible. For example, the Federal service labor management relations statute is extremely restrictive regarding a union's right to negotiate over the substance of contracting decisions. Presently a Federal union cannot negotiate contracting criteria nor enforce even A–76 criteria under the grievance or arbitration process.

If labor and management negotiated for the criteria for contracting as part of a collective bargaining agreement, then those provisions would be enforceable. This would remove the burden of enforcement and oversight from OMB. Furthermore, it would not obligate management to agree to any overly restrictive criteria, but it would allow for local management to set policies on contracting at the level where the contract is to be let.

NFFE looks forward to reviewing data provided by the administration assessing changes following the revisions of Circular A–76. We understand that the administration has been asked to provide an assessment of changes that it has seen in the first year following the revision of Circular A–76.

We believe that it may yet be too early to accurately assess what the changes mean. It has been only 18 months since the A–76 was revised. A–76 contemplates that the cost comparison competition will take up to 18 months in the case of single function studies and 36 months for multifunction studies.

In conclusion, the phrase reinventing Government has been an empty one in the context of slashing Federal employee jobs and replacing them with contract employees. In addressing this reality, I ask that legislation be moved forward that will give meaning to this phrase.

The term reinventing implies something better. It implies that the end result of the process will be something new and improved. In the context of reinventing Government, we are told that by slashing Federal employee jobs and contracting them out to the private sector, reinvention would result in increased efficiency, genuine cost savings, and better service, all with no negative impact. In the majority of cases, that is not what results from contracting out.

As I mentioned earlier, NFFE held a public forum on contracting last May. At that forum we collected statements from Federal employees concerning problems with the contracting process. Over the coming year, we will be holding similar forums throughout this country. We feel confident that we will collect hundreds of stories about abuse and inefficiency in the contracting system. We would like to take this opportunity to offer these transcripts of these forums to this subcommittee and interested officials at OMB. As a whole, the testimony will show that when given the chance and a level playing field, Federal employees do the best job every single time.

That concludes my testimony, Mr. Chairman. Thank you again for allowing me the opportunity to discuss with you the thoughts of NFFE membership on contracting out practices, and I would be happy to answer any questions that you may have.

Mr. MICA. Thank you, Mr. Cunningham.

[The prepared statement of Mr. Cunningham follows:]

National Federation of Federal Employees Testimony Before the Civil Service Subcommittee

INTRODUCTION

Mr. Chairman and members of the Subcommittee: My name is James D. Cunningham, Sr., and I am the National President of the National Federation of Federal Employees. On behalf of 150,000 Federal employees our union represents, I appreciate the opportunity to testify before the Subcommittee today and offer you the views of NFFE's membership concerning Federal contracting for commercial services.

Last May, NFFE members had the opportunity to testify at our union's Forum on Contracting Out, which was held before fellow union members and a panel consisting of myself, Mr. John Koskinen, formerly of OMB, and Mr. James King, formerly of OPM. During that forum, our members had the chance to relate stories of senseless contracting out. NFFE members told about the very real and most often very negative impact of contracting out on federal employees. The experiences of these front-line workers are a call to support legislation that would begin to put a stop to senseless contracting out. NFFE supports legislation that would help to ensure that service contracting will occur only when it is absolutely necessary. That is, contracting out for services should be done only if it can be positively shown by the agency that there would be (1) no decline in the quality of work; (2) a significant cost savings would be realized over the life of the contract; (3) acceptable monitoring of the service contractor to prevent abusive service contracting practices; and (4) certainty that the procedures set forth in A-76 have been followed. NFFE firmly believes that, in a majority of cases, the well-trained, dedicated federal employees provide the best value for the federal dollar, and will be able to keep work in-house. But, in a minority of cases, and only if all of these criteria are met at a minimum, can there be sound service contracting. Where these minimum criteria are not met, then there will be an example of senseless contracting out for services, and work that should remain with federal employees who are the best workers for the job.

NFFE members have not experienced a decrease in contracting out

First, I would like to state that, as a whole, the experiences of our members do not match claims that there has been a decrease in contracting out. The opposite is true. While fully dedicated to performing their jobs, our members

must be ever vigilant and focus their attention to saving their jobs. In fact, during the past year, our members' requests for training and assistance on A-76 procedures have increased tenfold. In May, at a National Training Session, there was standing room only for all of our training sessions on A-76 procedures. Our members' requests for assistance in this area are in direct response to announced competitions for their jobs, particularly within the Department of Defense. Keep in mind, such competitions mean that Federal employee jobs are up for grabs to the private sector. This is the reality which clearly contradicts reports of decreased contracting out.

1. Quality of the Contractors' Work

The difference in quality of contractors' work as compared to federal employees' work can best be explained by the fact that service contractors and their employees work only to the specifications of the contract, while federal employees work to get the job done. That difference in orientation that federal employees have is what makes federal employees' work superior. Consider the case of maintenance work done on airplanes down in NAVAIR, Jacksonville, Florida. One aspect of maintenance on the planes is removing rust from bolts as they corrode. To the best of our information, the service contractors in this particular situation are living up to the specifications set forth in the service contract. Significantly, the service contract assumes only a certain amount of rust buildup on the bolts will exist. Under the contract, they service contractor is required to remove only "x" amount of rust, and no more. Therefore, even if a greater amount of rust has formed on these bolts, impeding safety and operation of the airplanes, the service contract itself limits the quality of work because the service contractor is not required to finish the job. The result is that the work of the service contractor regularly does not pass quality inspections. Planes are returned for federal employees to finish the jobs. The contractor may be living up to his contract by following the contract to the letter, but the contractor is not getting the job done.

2. Service contractors must be required to provide additional information on true contract cost and size of service contract workforce

The reality is that front-line federal employees are able to make only limited observations on cost overruns by service contractors. Federal employees on the front line have a distinct lack of information needed to verify their experiences that, even if initial estimates and bid information make it appear that contracts are cheaper than federal employees, post-contract costs would conflict with the initial conditions.

It is an absolute requirement that federal employees specifically, and American taxpayers ultimately, be provided a more accurate and complete picture of costs of service contracting. Although NFFE could provide many anecdotes where federal employees believe contracting costs skyrocket, those stories would be limited in effect. What we can testify to is that no one has sufficient information on the size of the contracting workforce, either generally or by agency. OMB still does not have data on the number of employees working for contractors performing functions for federal agencies. Estimates, guesses and conjecture will not suffice, and they must be replaced with a requirement that service contractors report this information. Without this information, reports on status of federal spending on service contracts must be taken with a grain of salt. Information on size of contractor workforce would reveal true cost of federal spending on service contracts. Federal employees are entitled to know that information, and with that information, they will be able to show that they can perform work at a lower cost than service contractors. The general public, American taxpayers deserve to know how money is being spent on service contractors, because they should be able to expect to receive a better bargain.

In summary, agencies should be required to meet the burden of showing in numbers and dollars that contracting out makes sense. H.R. 885, requiring agencies to make cost comparisons between the cost of doing work in-house and the cost of contracting. Additionally, H.R. 887 requires the OMB to develop a government-wide system for determining and reporting the number of non-Federal employees engaged in service contracts. Together, H.R. 885 and 887 are designed to shift the burden to agencies to prove the contracting out makes sense. If the agency cannot show that contracting out these jobs makes sense, the federal employees should be allowed to continue

to perform the work that they have been doing well all along. It is that simple.

3. Lack of monitoring and oversight

NFFE members have reported many instances of service contracting where the taxpayers are simply not getting what they have paid for. One of the main reasons is a lack of monitoring of work performed by service contractors. Without adequate oversight, our members tell us that the days of the outrageously expensive hammer are not over.

For example, at Fort Leonard Wood, Missouri, a contractor for the department of logistics and maintenance was responsible for replacing HEPA air filters in the dental arts building. Employees had been out on workers' compensation due to poor indoor air quality. Workers who were concerned about their health checked and found out that the service contractor had failed to replace the filters as they had promised to do so under the service contract. It also came to light that the service contractor billed the fort for replacement of the filters at a cost hundreds of dollars each. But the cost was not strictly monetary, as personnel, civilian and military alike, were unnecessarily exposed to harm to their health due to unscrupulous practices by this contractor.
This is the kind of story that is all too common when it comes to service contractors who lack supervision and accountability.

4. NFFE looks forward to reviewing data provided by the Administration assessing changes following the revision of Circular A-76

We understand that the Administration has been asked to provide an assessment of changes that it has seen in the first year following the revision of Circular A-76. NFFE anticipates that the assessment will show the positive results that we have seen already. However, we also would caution that it may yet be too early to accurately assess changes. It has been only 18 months since the A-76 was revised. A-76 contemplates that the cost comparison completion will take 18 months in the case of single function studies and 36 months for multi-function studies.

CONCLUSION

The phrase, "reinventing government" has been an empty one in the context of slashing federal employee jobs and replacing them with contract employees. In addressing this reality, I ask that legislation be moved forward that will give meaning to this phrase.

The term "reinventing" implies something better. It implies that the end result of the process will be something new and improved. In the context of reinventing government, we are told that by slashing federal employee jobs and contracting them out to the private sector, "reinvention" would result in increased efficiency, genuine cost savings and better service, all with no negative impact. In the majority of cases, that's not what results from contracting out. What results is senseless contracting out.

Earlier today, I told you about NFFE's Forum on Contracting Out. The forum attendees, along with Mr. Koskinen of OMB, reached a consensus that, when given the chance and a level playing field, federal employees do the job best every time. And having that chance from the outset is critical. One final reality is that it is virtually impossible to contract back in. Once the work is contracted out, federal employee jobs and irreplaceable federal workers are eliminated. Unless senseless contracting out is halted from the start, taxpayers will be at the mercy of service contractors, which, at best, overcharge and, at worst, do not live up to the promises they have made.

That concludes my testimony. Thank you again, Mr. Chairman, for allowing me the opportunity to discuss with you the thoughts of NFFE's membership on contracting out practices. I would be happy to answer any questions.

STATEMENT OF DISCLOSURE:

Neither I, James D. Cunningham, Sr., nor the National Federation of Federal Employees, has received any federal grant, contract or subcontract during the current or the previous two fiscal years.

Mr. MICA. I now recognize Patricia Armstrong, chapter president of the Federal Managers Association, U.S. Marine Corps Air Station, Cherry Point, NC. Welcome, and you are recognized.

Ms. ARMSTRONG. Mr. Chairman and members of the subcommittee, my name is Patricia Armstrong and I'm chapter 21 president of the Federal Managers Association at Marine Corps Air Station, Cherry Point, NC. I work at the Naval Aviation Depot at Cherry Point. The military currently operates 21 major depots staffed by 76,000 Federal employees with $13 billion worth of defense work. For example, at Cherry Point we repair H–53, H–46 helicopters, AV–8 Harriers, F–4's and thousands of aircraft components. The Congress wants to contract out $1 billion of this work.

Thank you again for holding this very important hearing. My comments are in my capacity as an FMA chapter president and do not represent the official views of the Department of Defense, the Marine Corps, or the Navy.

On Capitol Hill it is felt that privatization itself produces savings. My experience says that this is not true. Contracting out is on the increase. OMB Circular A–76 is not the entire reason. The reason contracting out is on the increase is due to politically driven downsizing. The Revised Supplemental Handbook for OMB Circular A–76 is not designed to simply contract out, and there are certain pitfalls.

One such pitfall is the loss of the manager's flexibility in hiring to supplement functions. Now under the revised A–76, the entire function must be contracted out. At the depot and at many other depots, we are partnering with private industry with some success. At the depot where I work we are partnering with McDonnell Douglas in the case with the AV–8 remanufacture program. There are other examples across the country where depots are partnering successfully, such as in the cases where the depot has excess or additional facilities that they can do work to tradeoff to get part of the workload.

Currently there are about 40,000 full-time equivalents under A–76 review within DOD. Over the next 5 years the Navy plans to conduct outsourcing competitions on commercial activities involving 80,000 positions Navy-wide. Savings of about $1.4 billion are expected and have already been programmed into the budget cycle. What this means is that our ceilings, our personnel ceilings are being driven down due to budgets, so we are managing our workloads due to ceilings rather than the needs of the fleet.

DOD is famous for claiming big savings that never materialize. And GAO reports state that the Air Force turned over the Aerospace Guidance and Metrology Center to the private sector. The result is that this activity is now costing the taxpayers $13 to $23 million more a year to operate. Again, politically driven downsizing.

Contracting out is not a remedy for deficit reduction, nor is it a remedy for funding new weapons systems. DOD is unable to monitor and control contractor costs. DOD has reported that some contractors have retained overpayments, as much as $7.5 million, due to numerous errors. Taxpayers lost $5 million in interest due to the contractor holding onto overpayment for 8 years.

Consolidations in the private defense industry will monopolize the industry and drive up cost away from the deficit reduction and funding for new weapons systems that you are seeking. Depots that privatize in place do not save taxpayer money. GAO reports have stated that the Louisville, KY, Navy Depot that was privatized in place will cost the taxpayers an additional $48.6 million over the next 5 years.

Privatization within the Department of Defense is putting us on a course that will result in the elimination of valuable and irreplaceable national military assets and will negatively impact readiness. For example, one of the major pitfalls is the ability of the contractor to strike. Strike is something in the Department of Defense that you do to the enemy, not to your employer.

In June of last year, 6,700 workers from the St. Louis headquarters of McDonnell Douglas, one of DOD's largest contractors, went on strike. Ironically, the employees were protesting the practice of outsourcing work. The reasons for other defense industry strikes include negotiation for higher wages. Government workers cannot and will not strike.

It is important to remember during the Gulf war that civil servants were sent to the Gulf region and performed their mission. Contractors did not stay in the region. A civil servant's loyalty to the U.S. military should not be forgotten by the Congress. This loyalty goes beyond any contractual agreement that is made between a private contractor and the Government. The defense worker feels strongly about supporting the fleet's needs. Congress has a moral obligation to its citizens to ensure the maintenance of freedom in this country and therefore should preserve the corresponding loyalty of the civil servant.

Competition, rather than privatization, produces savings. Warner Robins' recent bid was $22 million less than the nearest bid to win the C–5 aircraft work. There are numerous examples where public depots have served the fleet's needs at less cost and at reduced turnaround time. GAO has stated that public depots win bids 67 percent of the time with 40 percent less cost than their private sector competitors.

Earlier this week there was a hearing on H.R. 716, the Freedom from Government Competition Act. This bill would only intensify the contracting out problem by requiring a statutory preference for contracting out.

In closing, FMA supports the following bills introduced by Congresswoman Norton, and we do appreciate, Congresswoman Norton, your attention to this: H.R. 885, 886, 887, and 888. H.R. 887 requires the Director of OMB to develop and implement a system for determining and reporting the number of contractors who were awarded contracts by executive branch agencies.

In addition, FMA would like for Congress to consider providing a mechanism for automatically reviewing contracts that have exceeded their initial projected cost to determine if the work could be performed more efficiently in-house. Contracting out in itself cannot guarantee a reduced deficit or more funding for new weapons systems. Competition, incorporation of better business practices in the Government, and a hard examination of all Government spending will.

Federal managers and supervisors across this country stand ready to ensure the delivery of high quality goods and services to America. I hope my comments will be helpful to you and your future efforts.

This concludes my prepared remarks. I will be happy to answer any questions.

Mr. MICA. Thank you, Ms. Armstrong.

[The prepared statement of Ms. Armstrong follows:]

Mr. Chairman, Ranking Minority Member Cummings and members of the Subcommittee:

My name is Patricia Armstrong and I am President of the Federal Managers Association (FMA) Chapter 21 at the Marine Corps Air Station, Cherry Point, North Carolina. On behalf of the 200,000 managers and supervisors throughout the Federal Government whose interests are represented by FMA, I would like to thank you for holding this important hearing and for allowing us to present our views and recommendations to the Civil Service Subcommittee on Federal contracting-out for services. I would particularly like to thank Congresswoman Eleanor Holmes Norton and Congresswoman Connie Morella for their outstanding leadership in drawing Congressional attention to the short-sightedness of Administration policies designed to create a shadow-government of contractors who are in many instances more expensive and less accountable to the American public.

Before I begin, I would like to make it clear that my remarks today are being made in my capacity as an FMA Chapter President and do not represent the official views of the Department of Defense, the Navy, or the United States Marine Corps.

INTRODUCTION

As tax-paying Americans first and civil servants second, FMA members have long been concerned about the consequences of shifting important governmental responsibilities to a shadow-government of contractors. In February of this year FMA's National President, Michael B. Styles, appeared before this Subcommittee to comment on the impact of the President's budget proposals on the Federal workforce. Mr. Styles took that opportunity to reiterate FMA's view that contracting-out is not and should not be viewed as a panacea for deficit reduction. At the same hearing, National Federation of Federal Employees President James D. Cunningham, Sr. quoted the following published remarks of former OMB Deputy Director for Management John Koskinnen:

> *Overall, Mr. Koskinnen acknowledged, the Government does not know how many private workers it is paying for.*
>
> *"You can use any number you want," he said, "but whatever it is it is a lot of people."*
>
> *He said, however, that he did not think the replacement of Federal workers with private workers was widespread.*
>
> 03/18/96, *New York Times*, p. A1

In March of this year FMA had the honor of being the first employee group to host a monthly meeting of the National Partnership Council at our 59th Annual National Convention in Tysons' Corner, VA. At one point during the meeting, John Koskinnen repeated his observation that Federal downsizing was not driving agencies to increase reliance on contractors. A very audible groan from the audience of 200 mid-level managers from around the country and from across Government told Mr. Koskinnen that his headquarters' perception did not jive with our reality at the operations level.

Today I hope to elaborate upon that groan by talking briefly about revisions to OMB Circular A-76, DOD efforts to contract-out military up-grade and repair workload, and the Freedom From Government Competition Act.

OVERVIEW: CONTRACTING-OUT IS NOT A PANACEA FOR DEFICIT REDUCTION

Mr. Chairman, in your March 29, 1995 opening statement you said, "in the next four years it should be possible to contract out more than fifty percent of the services and activities of the Federal Government." This has already come to pass. The Government's total payroll cost (including benefits) in 1996 was **$112 billion**. (*Analytical Perspectives: Budget of the United States Fiscal Year 1998, Table 10-4, p. 209.*) Former OMB Deputy Director John Koskinnen testified on June 18, 1997 before the Senate Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia that in Fiscal Year 1996 "we spent over **$114 billion** on commercial support service contracts."

Workforce downsizing is increasing the pressure on agencies to contract-out for services even when contractor performance may not be in the best interest of the Government and the taxpayers. According to a January 1994 OMB report, *Summary Report of Agencies' Service Contracting Practices*, service contracts are the "fastest growing area of government procurement." In testimony before this Subcommittee in 1995, GAO called personnel ceilings "an impediment to choosing the option of Federal performance when that is more cost-effective." (GAO/T-GGD-95-131)

Mr. Chairman, in your letter of invitation dated September 24, 1997, you state that "recent reports from OMB indicate that the amount of contracting has been reduced since our last hearings on this topic." (3/29/95 and 4/5/95) FMA finds this curious in light of former Director Koskinnen's observation in his June 1997 Senate testimony that, "the amount of outsourcing has increased moderately over the four years that the Government has downsized by 300,000 employees." Perhaps Mr. Koskinnen's successor, Mr. G. Edward DeSeve, will be able to shed some light on these apparently conflicting reports

POLITICALLY DRIVEN DOWNSIZING AND NOT A-76 IS INCREASING CONTRACTING

In March of 1996 OMB issued its Revised Supplemental Handbook for OMB Circular No. A-76. FMA agrees with and supports the principles enunciated in the new Supplement:

> *Circular A-76 is not designed to simply contract out. Rather, it is designed to: (1) balance the interests of the parties to a make or buy cost comparison, (2) provide a level playing field between public and private offerors to a competition, and (3) encourage competition and choice in the management and performance of commercial activities. It is designed to empower Federal managers to make sound and justifiable business decisions.*

For the most part, the new Supplement has brought welcome changes. While allowing the Government more flexibility to contract out, the Supplement ensures that employees have more involvement in the competitive process and it also allows work to be contracted-in when it is more cost-effective to do so.

From a line manager's perspective there are four significant differences between the old and new A-76 processes:

1. The average study time has been reduced from 18-60 months to between 12-18 months;
2. "How to" specifications have been replaced with proposals;
3. The emphasis on "low bid" has been changed to "best value"; and,
4. Instead of focusing on individual functions, studies now take a broader systems approach.

Currently there are more than 40,000 full-time equivalents under A-76 review within the Department of Defense.

What really creates anxiety and frustration among Federal managers, however, is the perception that downsizing and not obtaining best value are driving the increase in contracting-out. While the Administration expects to meet the Federal Workforce Restructuring Act (P.L. 103-226) goal of reducing the number of FTE's by 272,900 two years early, many FMA members have seen their agencies' workloads increase. (*Analytical Perspectives: Budget of the United States Fiscal Year 1998, Table 10-1, p. 205.*)

An excellent example of the shortcomings of politically driven contracting-out is our Government's experience with trying to privatize prisons. At the start of the current Administration, two political promises, one to reduce the size of the Federal bureaucracy and the other to increase the size of the Federal prison system, created a dilemma. The solution, it appeared, would be to privatize some Federal prison operations. Contractor guards wouldn't show up on Federal payrolls and the political leaders could take credit for increasing the number of prison beds. (11/24/95, *New York Times*, p. A1) The Justice Department, however, decided in June of last year to scrap this plan after coming to the conclusion that it could not minimize the impact of contractor strikes and inmate disturbances at contractor run facilities. (06/24/96, *Federal Times*, p. 8)

While the shortcomings of privatization were immediately obvious in the case of prisons, the negative long-term impact of privatizing military upgrade and repair work may only come to light after it is too late.

PUBLIC DEPOTS BALANCING PUBLIC-PRIVATE DEFENSE INDUSTRIAL WORKLOAD

Policies to deliberately shift more defense industrial maintenance work to private contractors pose serious consequences. Current law (10 U.S.C. 2466 - the 60/40 rule) requires that 60 percent of overhaul and repair work on military hardware be performed at public defense depots. This requirement was prudently established by Congress to retain a "core" industrial infrastructure and a skilled strike-free workforce capable of assuring absolute readiness and surge capacity in the event of war or national emergency.

Under this approach, the military services may contract with private industry to perform up to 40 percent of the remaining upgrade and repair work.

House and Senate leaders are expected to reach final agreement this week on the 1998 Department of Defense Authorization, H.R. 1119. As this testimony was being prepared, final agreement had not yet been reached on the contentious issue of depot workload. Senate conferees are expected to vote again this week on a tentative agreement reached between the House and Senate to replace the 60/40 rule for depot workload with a 50/50 formula after October 1, 1998. The agreement crafted by members of the House Depot Caucus, Reps. James Hansen (R-UT), Solomon Ortiz (D-TX), and Tillie Fowler (R-FL), would also effectively halt privatization-in-place of two large Air Logistics Centers at Kelly AFB in Texas and McClellan AFB in California. While this agreement could shift $1 billion worth of depot workload to the private sector it would also: bring new work into public depots; require contractor logistics support and interim contractor support to be subject to the statutory workload split; drop a Senate-passed provision to count contractors on government facilities toward the government share of workload; and strengthen the definition of core. While the Administration favors elimination of the 60/40 rule it has threatened to veto the legislation over the provisions affecting Kelly, AFB and McClellan, AFB.

The military currently operate 21 major depots staffed by 76,000 Federal employees. The number of depot employees has been reduced by 71,000 since fiscal year 1990, and the four base closure rounds will reduce the number of depots from 39 in 1988 to 19 by the year 2001. Highly skilled and dedicated FMA members work at nearly all of these facilities. These men and women insure that our Nation's 52,000 combat vehicles, 514,000 wheeled vehicles, 351 ships and 17,000 aircraft are in top working order to support military training and contingency requirements at home and abroad. Activities in support of this mission require trained technicians, engineers and managers to perform major overhauls of weapons systems and equipment, completely rebuild parts and end items, modify systems and equipment by applying new or improved components, and manufacturing parts unavailable from the private sector. While contractor employees are frequently trained to work only on their own company's equipment, public employees are typically trained to work on many different systems.

FMA is concerned that the Federal Government is developing an unjustified and short-sighted reliance upon privatization of public depots as a means of resolving budgetary issues. The Department of Defense is ignoring some of the ***pitfalls*** and ***myths*** of privatization as it embarks on a course that will result in the elimination of valuable and irreplaceable national military assets.

PITFALLS AND MYTHS OF PRIVATIZATION

PITFALL - CONTRACTOR STRIKES DISRUPT THEIR OPERATIONS: For Defense civilians, strike is something you do to the enemy not your employer. The same laws that make it illegal for Government workers to strike cannot be applied to the private sector.

In June of last year, 6,700 workers from the St. Louis headquarters of one of DOD's largest contractors, McDonnell Douglas, went on strike. These workers build the F-15 and the F-18 fighters, the Navy's T-45 training jet, part of the Air Force's C-17 cargo plane and are upgrading the Harrier strike aircraft. The

employees were protesting McDonnell Douglas's practice of outsourcing work. (06/05/96, *New York Times*, p. A18)

In negotiating higher wages, the private sector union chief at Sheppard AFB, Texas called the right to strike the union's "ace in the hole." When private sector flight-line maintenance workers for Sheppard's T-37 and T-38 trainer jets went on strike last Spring they brought the base's training mission to a screeching halt. The strike affected the training of 250 pilots. (08/25/97, *Federal Times*, p. 14)

PITFALL - DOD IS UNABLE TO MONITOR AND CONTROL CONTRACTOR COSTS: Claims of big DOD savings attributed to contracting-out ring hollow in light of the Department's spotty financial accounting systems. In our experience, current methods of cost accounting do not always provide sufficient management controls on contracting-out. "As of May 1996, DOD reported that its problem disbursements totaled about $18 billion. However, our preliminary work on DOD's reporting of problem disbursement data indicates that reported amounts are substantially understated. . . . We found that some contractors had retained overpayments. For example, in one case, a contractor was overpaid $7.5 million due to numerous errors. The overpayment remained outstanding for 8 years. We estimate that the government lost interest on the overpayment amounting to nearly $5 million." (*GAO/HR-97-4 Defense Contract Management. February 1997.*)

MYTH - PRIVATIZATION PRODUCES BIG SAVINGS: According to GAO, "privatizing depot maintenance workloads in the current environment, is not likely to achieve the savings DOD expects and may even be more costly." (*GAO/T-NSIAD-96-146, Defense Depot Maintenance: Privatization and the Debate Over the Public-Private Mix, 04/16/96.*)

This prediction has come true in the case of two depots that have been privatized. According to a recent GAO report, the Navy's decision to privatize-in-place gun-repair work performed at the closed Louisville, Kentucky Navy depot, as opposed to transferring that work to Government owned and operated facilities, will cost taxpayers an additional $48.6 million over the next five years. (*GAO/NSIAD-97-52 Navy Depot Maintenance, 07/31/97.)*

In December of 1995 the Air Force turned over the work performed by the Aerospace Guidance and Metrology Center, located on Newark AFB, OH, to the private sector. A recent analysis by GAO suggests that the Center, now run by Boeing, is 18 to 31 percent or $13.3 to $23.3 million more expensive to run than what it would have cost for the work to be performed by the former government operated facility. (*GAO-T/NSIAD-97-111, Defense Depot Maintenance: Uncertainties and Challenges DOD Faces in Restructuring Its Depot Maintenance Program, 03/18/97.)*

MYTH - THE PUBLIC SECTOR IS NOT COMPETITIVE: According to GAO, when public depots competed head-to-head with the private sector they were able to win 67% of the time with an average bid that was 40% less than their closest private sector competitor. GAO also found that 76% of current depot maintenance contracts were awarded sole-source, i.e. only one private-sector company bid on the work. GAO concluded that the savings DOD attributed to shifting work to the private sector were "the result of competition rather than privatization." (*GAO/T-NSIAD-96-146.*)

The first-hand experience of FMA members at the Jacksonville Naval Aviation Depot with public-private competition is typical of all public depots. In 1986, NADEP Jacksonville competed against Lockheed for the P-3 aircraft update III program for the P-3C Orion. The update contract included manufacturing necessary parts and installation. NADEP Jacksonville was able to execute the contract for $30 million, which was 40% below Lockheed's contract estimate of $50 million. In 1993, NADEP Jacksonville competed against a wide field of private sector competitors for a 5-year contract to maintain the J52 engine for the EA6B aircraft. NADEP Jacksonville won the contract by showing they could do the work at a cost that is 40% less than that of their nearest competitor.

Showing just how competitive Government can be, FMA members at the Air Logistics Center at Warner Robins AFB in Georgia rejoiced last month after winning a head-to-head competition with private sector companies to win a bid for $434 million worth of work over seven years for inspection, repair, overhaul and modification of the C-5 Galaxy transport aircraft. Warner Robins beat out defense giants Boeing and Lockheed Martin. The closest private sector bid was $22 million more than the one turned in by Warner Robins. (09/08/97, *Defense Week*, p. 3)

FREEDOM FROM GOVERNMENT COMPETITION

Mr. Chairman, as you know the Government Reform and Oversight Subcommittee on Information and Technology held a hearing earlier this week on H.R. 716, the Freedom from Government Competition Act. FMA believes that this bill is an unnecessary "solution" in search of a "problem." Government downsizing is already tying the hands of agency managers when it comes to making smart choices about contracting-out. This legislation would only exacerbate this problem by requiring a statutory preference for contracting-out.

FMA would like to briefly comment on some of the findings of H.R. 716:

- "Competitive private sector enterprises are the most productive, efficient, and effective sources of goods and services." - In the experience of FMA members we have not found this to be universally true. The Government can learn much from private industry and private industry can learn much from the public sector. Our best experiences with contracting-out are characterized by fewer headaches and noticeable cost savings. Our worst experiences with contracting-out involve having to go in and clean up the mess left by contractors who are unable or unwilling to perform the work.

- "Government competition with the private sector of the economy is detrimental to all businesses and the American economic system." No one who has any experience with contracting-out believes this. Competition and not privatization produce savings for the American taxpayer.

- "Reliance on the private sector is necessary and desirable for proper implementation of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226)." Not true. The FWRA goal of a 272,900 FTE reduction since 1993 has already been met.

RECOMMENDATIONS FOR IMPROVING CONTRACTING OUT

FMA supports the following bills introduced by Congresswoman Eleanor Holmes Norton (D-DC) as an excellent starting point for any serious debate on getting a handle on our Nation's shadow-Government of contractors:

- **H.R. 885**, to prevent any executive branch agency from entering into a contract if the services provided under that contract can be performed at a lower cost by employees of the agency.

- **H.R. 886**, to provide full funding for Federal employee pay adjustments through reductions in the $114 billion the Government spends annually to contract for services.

- **H.R. 887**, to require the director of OMB to develop and implement a system for determining and reporting the number of individuals employed by non-Federal government entities providing services under contracts awarded by executive branch agencies.

- **H.R. 889**, to amend current statutory buyout authority to provide that the duties performed by individuals separating from government service as a result of receiving a voluntary separation incentive payment may not be performed by any person under contract with the United States.

In addition, FMA would like for Congress to consider providing a mechanism for automatically reviewing contracts that have exceeded their initial projected costs to determine if the work could be performed more efficiently in-house.

CONCLUSION

I want to thank you again for inviting FMA to present our views on contracting-out to the Subcommittee. FMA looks forward to continuing to work with you to improve the ability of Federal managers and supervisors to insure the delivery of high quality goods and services to America. I hope the experiences and suggestions FMA has shared with you will be helpful in any future efforts you may undertake to reform the Government's practice of contracting-out for services.

This concludes my prepared remarks. I would be happy to answer any questions you may have.

FEDERAL GRANTS: FMA has not received any Federal grants or contracts within the last two years.

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Biography of

Patricia D. Armstrong

Federal Managers Association
President of Chapter 21
Marine Corps Air Station, Cherry Point, NC

Patricia Armstrong, born on March 17, 1959, is a native of New Bern, NC, and she currently resides there with her husband, Greg Armstrong, of New Bern, and daughter, Jennifer.

Upon graduation from New Bern High School in 1977, she obtained an Associate in Applied Science Degree in Executive Secretarial Science from Hardbarger Junior College of Business in Raleigh, NC. She began her Federal career in 1979 in Raleigh, NC, with the U.S. Department of Agriculture, Soil Conservation Service, and later with the Animal and Plant Health Inspection Service, as a Clerk-Steno. In 1981, she returned to her native New Bern upon receiving a transfer to the Supply Directorate and later the Civilian Personnel Department aboard the Marine Corps Air Station, Cherry Point, NC, as a Personnel Clerk. In 1982, she was promoted to the Apprentice Program at the Naval Aviation Depot at Cherry Point, and in 1986 was promoted to the journeyman level of the Aircraft Engine Repairer Trade and later the Pneudraulic Systems Mechanic Trade. In 1989, she was promoted to Production Assistant, and later to Management and Program Analyst in the Production Department Office. This current position in the Production Department at the depot demands her attention and involvement in a variety of issues and programs that directly affect the depot's mission, efficiency, and production.

Patricia is a member of the First Presbyterian Church in New Bern. She is past president of Cherry Point's Federally Employed Women and received a Distinguished Member Service Award from that organization in 1992 She has held numerous board positions in the NADEP Toastmasters Club and is an Able Toastmaster. She is a an active member of the Cherry Point Employees Association and has served on the board. In 1993, she received both the depot's EEO Runner-Up Employee Award and the EEO Woman of the Year Award. She served as Secretary of the Neuse Harbour Home Owners Association from 1993 to 1997. She has served as Vice President and is currently President of Chapter 21 of the Federal Managers Association, MCAS, Cherry Point, NC, an organization consisting of 320 members. In July, 1997, Patricia became the Federal Managers Association's voting representative on the Naval Air Systems Command's Labor-Management Partnership Council.

Mr. MICA. I am going to try to get a few questions in here before we vote.

In my opening comments, I cited statistics that were presented to us by OMB that contracting out for services has actually gone down $2.4 billion from 1995 to 1996. Do you consider these figures accurate, or do you see some masking or some inaccurate reporting by OMB, Mr. Donnellan?

Mr. DONNELLAN. Just by hearing our members from the field, we would have to question those figures, and look forward to OMB testimony.

Mr. MICA. Mr. Cunningham.

Mr. CUNNINGHAM. Yes, I have a question about that, Mr. Chairman. Since they have already conceded that they don't know how many folks they have, that $2.4——

Mr. MICA. This is dollars in contracting.

Mr. CUNNINGHAM. In contracting. I will look into that and get back with you, sir.

Mr. MICA. Just hard dollars. One of the problems that we have, and we asked the question of OMB, is about the number of contract employees which is almost impossible to determine. We asked OMB to provide their best information relating to the number of contract employees serving in Federal agencies. And we are also trying to determine the number, if you get a contract with *x* million dollars, what does that interpret into full-time equivalent employees?

The administration responded back that we really don't have any need for this type information. You see the dilemma we are in in trying to evaluate this? Do you agree with the administration and OMB's position on this, Mr. Cunningham?

Mr. CUNNINGHAM. No, sir, I don't agree with that, obviously. I think that it's—from my testimony, we need that information in order to level the playing field.

Mr. MICA. Mr. Donnellan, what is your position?

Mr. DONNELLAN. Mr. Chairman, it is ironic that the administration knows the exact number of jobs that have been downsized and the number of Federal employees, but they do not know the number of contractors out.

Mr. MICA. There was an estimate of, I think you may have testified to this, the jobs transferred to the private sector. Do you think that figures are being masked, or do you have any way that we could require an evaluation, get an accurate count as to how many folks? We could do an apples-and-apples comparison or an oranges-and-oranges comparison to what folks are required under a contract as opposed to how many folks that are employed, would be employed in the Federal work force to do a similar task. Mr. Donnellan.

Mr. DONNELLAN. Any legislative remedy would be helpful for us. I can tell by the panel that there is—we are left out in the dark with the number of contractors out there, and we're just seeking any solution or any remedy to find out exactly how many are out there.

Mr. CUNNINGHAM. I'm not sure if I understood the question, Mr. Chairman.

Mr. MICA. Again, trying get some mechanism to determine accurately how we compare *x* number of employees we are paying

under a contract versus how many folks it takes in the Federal work force to perform this duty, is there a model? Is there some specific recommendation?

Mr. CUNNINGHAM. I think the only group that can give us that information is OMB, the people who are ultimately responsible for paying the bills. That has been our dilemma the whole time, is trying to get a handle on exactly how to approach this problem. We feel that it's very unfair to point at Federal employees who are totally accountable. We know exactly how many Federal employees we have and exactly what the costs are. We know what the costs are for the total lot of contractors, but we don't know what it took that contractor to earn that money in terms of the human resources. That's a dilemma. That's a real problem.

Mr. MICA. One other thing. Maybe you've heard me speak on this. Where there is some privatization taking place, I have always felt that Federal employees should have the opportunity to have a shot at performing that duty, and I have supported also ESOPs, employee stock ownership plans. Do you think employees should have that option—where a specific long-term task or responsibility function can be accomplished by Federal employees, should one of the alternatives presented give the employees an opportunity to bid on that and become employee stock owners, create their own stock ownership and get first shot at the contract, Mr. Donnellan?

Mr. DONNELLAN. I think the employees would appreciate any option that they may have compared to the alternative.

Mr. MICA. Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Chairman, as we stated over and over, we are against privatization and contracting out. We've shown and studies have been done and it's been proven over and over that privatization actually costs more. If you're asking me, sir, if NFFE is looking out for our workers, in the result, if it turned out that the facility that they worked at had to be privatized, obviously we would like for our workers to have the first shot at those jobs. Because they're the best workers, sir.

Mr. MICA. Ms. Armstrong, did you want to comment?

Ms. ARMSTRONG. I agree with what he just said. I wanted to also add, Congresswoman Norton's bill H.R. 887 does require the Director of OMB to come up with that mechanism to measure the number of employees, so I would think it would come out of OMB to develop a mechanism, and that is an excellent starting point.

I'd like to thank Congressman Cummings for the bill that he is going to introduce, that has to do with providing a mechanism for automatically reviewing contracts to see if the cost savings are really there. So I think OMB would be an important place to monitor that.

Mr. MICA. Members have left to vote. We are going to depart to vote.

What we will do is, we will recess the panel for a few moments until after the end of the vote, and then we will reconvene. If the panel would still remain, I think there are additional questions. Thank you.

[Brief recess.]

Mr. MICA. I would like to call the subcommittee meeting back to order. I apologize. There was a procedural vote after the original

vote, and I am hoping Mr. Cummings and other members will be able to come back, and I do want to make this panel available to all those who have questions. Let me continue, if I may.

Ms. Norton, did you have anything at this point? I will yield to you.

Ms. NORTON. Thank you, Mr. Chairman. I simply wanted further clarification from these witnesses on the practice that is growing in States and localities of competition between civil servants and contract or would-be contract employees, with the pressure even greater on cities, for example. There is an enormous amount of privatization and contracting out going on and many of them don't have any choice, don't have anything like the deep pockets or shall I say deeper pockets, at least, that the Federal Government has.

Because of respect for civil servants, and because many of these localities are not willing to simply assume that the work can be done either better or cheaper, some of them have begun to set up procedures which allow real competition. I recognize that some of this is coming forward now in the Federal sector, real competition between civil servants and private sector employees.

There have been instances where, I am not sure whether members saw the article on the mayor of, is it Indianapolis, who has perhaps the most thoroughgoing, the most thoroughgoing process whereby competition goes on almost routinely, and he has gotten the support of his union for that, of his workers for that, and apparently a considerable amount of the work has been kept in-house because the civil servants proved that they could do it, do it better and do it at least as cheaply. As I recall, the mayor of Indianapolis, I believe it was Indianapolis, when the civil service indicated that they would need some technical assistance in designing a proposal, that the city actually allowed that to happen and funded that and they then competed.

Since the Federal Government is likely to look to the States and the cities for any models of how to proceed with contracting out, I would like to know whether you have any indication from your membership regarding their willingness to compete with private sector employees, whether you have any experience with any of your own employees in doing this, and what your general view of this way of proceeding would be.

Mr. CUNNINGHAM. I don't have a lot of experience with this, Congresswoman Norton. But I know that one of our locals, for example, in Chambersburg, PA, Letterkenny Army Depot, actually went out and competed with the city of Chambersburg for fire service. The fire fighters there at the depot, my understanding was, and this has been several years ago, competed for and won the bid to do some of the fire fighting for the city. I'm sure that I can speak for the membership on this. We would—not only would we be willing to stand competition across the board in any area that we may be able to compete, but we would embrace that. We would encourage that. Absolutely.

Mr. DONNELLAN. Ms. Norton, our members have never shied away from competition from the public private sector as long as it is fair and equitable. We are going to look at that testimony by the mayor of Indianapolis. We're willing to compete, we want to com-

pete, but as we've said many numerous times, on a level playing field.

Ms. ARMSTRONG. Congresswoman Norton, contracting out sometimes does make sense. Our Federal Managers Association does recognize that contracting out sometimes is in the best interest of the taxpayer and we have cases where it has worked very well.

We just need to make sure that we allow managers the flexibility to contract out only when it makes sense and to make sure that we are able to compete. I believe there are cases where we are being left out, due to unsolicited bidding and such, where we are being left out of the loop and not able to compete.

And because of our downsizing in personnel, we are just simply forced to contract out when we have work that needs to be done. That's really the way we look at contracting out. Sometimes it works, and we just need to be flexible with it.

Ms. NORTON. I appreciate your responses. I think it is very important particularly that employee organizations look to practices that, as you said, Mr. Donnellan, level the playing field. Just say no probably won't work here any longer. We're talking about a $114 billion train that has left the station. Even those like myself who know up close that the Federal work force is the best in the country will not be able to make the case that some contracting out should not occur.

But the practices that are now only coming to light, which essentially create a preference for service contract workers, are nothing less than an abuse. And the way to respond, it seems to me, at least in part, is the way you have described. Let us in on this competition. Look not only, of course, to the costs of the work, and that will be looked at; look to your performance-based standards to see who does the work better.

As you know, States and cities, indeed the Federal Government, doesn't always accept the lowest bid. They look at who can do the work well. But at the same time this is all driven by cost and there is no way in which that is going to turn around.

I agree with you. I know what the Federal work force looks like. I chaired a Federal agency, and I saw the agency have a work force whose quality was driven by a desire for public service, or else these people definitely would not have been in the Federal Government, given the fact that so many of them could have commanded higher salaries in the private sector.

So I don't see any risk if the playing field is level, if in fact the Federal Government affords a way for people to write their own specs. I think, if anything, Federal employees might have an advantage, because they know the work, because they understand the quality that must be there to keep the agency from itself being criticized because of the quality of the work.

This is an overdue experiment here, and I think the States and cities are leading the way, and I think your responses show that Federal employees not only have nothing to fear but, in fact, fear nothing.

Thank you, Mr. Chairman.

Mr. MICA. Thank you. I would now like to recognize Mrs. Morella.

Mrs. MORELLA. Thank you. I want to thank you for testifying. This is very important to us, to hear from you in terms of what is happening. I loved some of the statements that were in your testimony.

For instance, one of the testimonies that I listened to and read talked about the fact that we can contract out but it is almost impossible to contract back in, and I think that part of what this hearing is all about is how do you remedy it? Once you do it, is it something that's inviolable?

I like the concept of partnering out, you absolutely have to, using that kind of concept. But just one question to all of you, I wondered what you would suggest that we ask GAO, or what could GAO and OMB do to measure the quality of contracted functions that were formerly performed by Federal employees? How do they measure the quality of it? Any suggestions that you have from your experiences? Whoever wants to answer. Ms. Armstrong.

Ms. ARMSTRONG. I know at the depot there have been occasions where we have brought in contractors to perform aircraft maintenance, and internally we have our own quality that we've reviewed for our work that we do. I know that sometimes the contractors did make errors and we had to go back and correct it.

I would assume the agency that has the work, that has the contractors in-house, should be able to develop and maintain the same type of information for contractors that they would for their own employees. And that should be reported back up to whoever, GAO or OMB.

Mrs. MORELLA. You feel they're not doing that at this time?

Ms. ARMSTRONG. I do not believe they're doing that.

Mrs. MORELLA. Mr. Cunningham, any comment about that?

Mr. CUNNINGHAM. I think more employee participation. These decisions to contract, to contract out or to try to—the problem with that is it's never considered very often to contract back in. But I think, both, if you contract the work out, if an agency is considering contracting out, or to contract the work back in, I think it's absolutely essential that the employees as represented by their unions get involved in that process, get to the heart of the problem. The statute that we live under, 5 U.S.C. that I mentioned in my testimony, excludes unions from that process, excludes employee groups, and I think that for sake of accountability and to insure the integrity of that decision, that the employees absolutely should be brought in.

Mrs. MORELLA. So they are excluded?

Mr. CUNNINGHAM. Yes, ma'am.

Mrs. MORELLA. That is interesting. Would you like to comment on that, Mr. Donnellan?

Mr. DONNELLAN. When you mentioned about contracting back, in my testimony I didn't read it but I submitted another example from Fort Leonard Wood: The employees took the logistics maintenance contract back in-house, saving the taxpayers $1.6 million annually. But now the latest study involves all base maintenance in all TRADOC bases going under one contract, so they will lose that $1.6 million annually when the contract is looked at basewide. That's just another example. I think Mr. Cunningham was also correct in saying employee participation is needed badly.

Mrs. MORELLA. How can we better monitor the work performed through that very process, including the employees and A–B union representative in establishing those standards which may or may not be evident? Is that basically it? Are there any other suggestions?

Mr. CUNNINGHAM. Part of the concept of contracting work out, anyway, has to do with monitoring performance, and that's been considered as inherently governmental and that type of work can't be contracted out. But my understanding is that that's happening more all the time. You know, like the old saying, the fox guarding the chickens. We think that more effort needs to be made in not only establishing a good quality assurance program but staffing it adequately and having them in the process throughout, to ensure that the contractors are performing per the work order and that we're getting the best bang for the buck.

Mrs. MORELLA. That's exactly what we want to do, is to make sure that we can make this a fair and even process and contracting out only, if it is absolutely imperative and cannot be done in-house. Incidentally, as you probably do know, I am a cosponsor of H.R. 885, 887, and 889 and hope we can move those forward. When we have our next panel, maybe we can ask some questions that could result in administratively bringing about some of the desired results. Thank you.

Thank you, Mr. Chairman.

Mr. MICA. I thank the gentlelady.

Yes, ma'am.

Ms. NORTON. Could I just make a suggestion for the record? I must say that I do not hear complaints about the productivity or the work of Federal employees, and I recognize that many Federal employees are, as it were, overqualified for the jobs they do. That's why we have been into locality pay. Many Federal employees perform work that is comparable to work in the private sector and are paid less for it. Of course, locality pay hasn't been forthcoming in the amounts that workers deserve and were promised. But we do have a situation where people, of course, who supervise and account for millions of dollars and billions would have counterparts that would earn much more in the private sector.

So I make this suggestion within that context but at a time when we are told, with good reason, that we want to promote competition everywhere because competition helps people improve. If you want to improve the productivity and the quality of a work force, our own work force, then one way to do it might be to make sure that no contract was let without giving the employees the opportunity to bid for it.

If competition promotes improved productivity and gets people to working at their best, then we want to make sure that Federal employees have the ability to show what they can do, and I would like to see a situation where they would have first refusal. Say, do you want to compete for it, and the people say no, they wouldn't want to compete for it, they wouldn't have to, of course, but I believe that we would probably see an already excellent work force fine tune its skills and its competitive edge even more if we were to assume that no contracts should be let without giving the employees

the opportunity to see if they wanted to compete for the work. Thank you very much, Mr. Chairman.

Mr. MICA. Thank you. I think you make some excellent points. Let me ask just a couple of final questions.

Was it you, Mr. Donnellan, who mentioned contractor fraud, some instances where folks who had received a contract were not performing? Do you feel that there is adequate oversight enforcement that contractors who get these functions and replace Federal employees, that there is some accountability and enforcement where they go astray?

Mr. DONNELLAN. Mr. Chairman, if you talk to the employees at Fort Leonard Wood, they would tell you that they're quite upset about this and they think there's no accountability and they would like some accountability, actually just like some justice about back pay and benefits that are due to them.

As I said in my statement, seven different contractors since the early 1970's have provided laundry service at Fort Leonard Wood, and four of those contractors, the workers have suffered nonpayment in wages and benefits.

Mr. MICA. Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Chairman, my response to that would be that Federal workers as a work force, as an identifiable work force, are the most uncorrupt, the most wholesome, able to show year after year after year the type of workers we are.

In contrast, all you have to do is watch the fleecing of America; usually it's always about contractor abuse, contractor fraud.

To answer your question, I don't think that there is nearly enough accountability or monitoring of the contractors that get these things and that we, as taxpayers, are stuck with in the long run.

Mr. MICA. Ms. Armstrong, in DOD they are increasing contracting out while they are decreasing civilians and other work force. Do you feel there are adequate mechanisms for oversight and accountability in this area that has experienced such rapid growth in contracting out?

Ms. ARMSTRONG. No, I do not. I know at the depot, one example of this is that we, a couple of years ago, were doing a mod on a CH–46, putting a mod on the aircraft. This particular modification and as we were doing the work—it was undergoing engineering changes daily; drawings were being changed—we went through a tremendous learning curve putting in this mod. During that time we had a great deal of workload, so we brought in some contractors to help us with the workload. They worked side by side in the hangar with the Federal employees.

As time went on and we became productive and just started to get our costs down where it needed to be, suddenly there was some decision made above us that this work should be contracted out, as field mod teams, where we competed with that same contractor to do this mod in-house. The contractor got the award and they are now doing that mod at New River.

As far as trying to monitor what they are expending on that modification and compare it with what we could do it for now, because our costs have come down greatly, it's hard to get—I cannot find out what the costs were. On the first aircraft they sold, they

were way over their bid. Since then, it is my understanding through word of mouth that they are now under their bid in turnaround time and cost.

I think that we can compete with that, but the problem is, they can spend 12 to 18 months to close their books on an aircraft. When they sell a bureau a number of aircraft, it could take as much as 12 to 18 months for them to close the books financially. It's very difficult to monitor, and I think that's something that really needs to be looked at, because internally where I work, we're now trying to close our financial books within 30 days once the aircraft is turned back over to the customer.

So we're doing a lot internally to speed up the processes so that we know as we go through the process what our costs are and we very quickly know what the cost was when we compare that to what our competitors are doing. They need to be held accountable in the same way that we are.

In regard to bidding, the Government is continually trying to get better at bidding now that we are in such a posture to have to compete. But our bidding process—in comparing it to the private sector, the private sector can bid based on their labor as separate business units; they do not have to include their overhead in their bid. For us within a depot or within a corporation, we have to include in our bid not only our labor cost but our overhead, general and administrative cost, our production overhead cost; and we now have the comp adjustments and surcharges. These are things we're trying to work with the corporation to get better at.

But I think we will get there and we want to compete and we think that we can bring down costs and win a good part of the bidding. But we really need to work on the cost accountability and getting everyone to close their books about the same time so that we can compare.

Mr. MICA. I would like to now recognize the ranking member, who has returned, for any questions.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Ms. Armstrong, how does this affect—you said you're partnering with, you mentioned one corporation you're doing that with.

Ms. ARMSTRONG. Yes, McDonnell Douglas.

Mr. CUMMINGS. How does that affect morale? They are working with folks who, I guess, have already taken some jobs away. I am just wondering, how does that affect the morale of the people who are still there?

Ms. ARMSTRONG. For our internal work force at the depot, it does impact morale when we bring in contractors to work side by side on the aircraft. Right now, we have no contractors working in the depot as far as working on the aircraft. We do have a lot of other contracts, as far as engineering, logistics support, a whole lot of contracts within the depot. But as far as on the shop floor, the production employees, it does impact them because of the mere uncertainty about the whole contracting-out issue.

They blend in well. In our particular area in eastern North Carolina, we have taken a lot of people who have retired from the depot that stayed in the community. We had the voluntary separation incentive pay in the last couple of years; a lot of those employees have stayed in the community and have gone to work with the con-

tractor. So when they come back into the depot, they are familiar faces and that does help with blending. I understand in other parts of the country when they try to go out and contract employees in, sometimes they have a difficult time getting people. It just depends on what part of the country you're in. For us, they have blended in fairly well. It impacts, but we've made it work.

Mr. CUMMINGS. Mr. Donnellan, when these contracts go out, are they rehiring people that used to, say, work at these places? And is there any—from what you have seen, or you, Mr. Cunningham, is there any difference in the pay and benefits and things of that nature? If they do hire them back, that is; the contractor I'm talking about.

Mr. DONNELLAN. Yes, some do hire. Some hire maybe at a reduced level. Some hire them back at reduced pay and benefits. It's a case-by-case study.

Mr. CUMMINGS. Do you find the same, Mr. Cunningham?

Mr. CUNNINGHAM. Yes, sir, I would say the same thing. It depends on the work that they're performing, at what level they're brought back in.

The last facility, where I'm still employed actually—Aviation Troop Command in St. Louis, MO—that is a higher level of pay for the folks.

I would just comment on something that Ms. Armstrong mentioned, and that is, the contract employees and the Federal employees are under two entirely different working conditions in terms of employee responsibilities; Federal employees, we're under the ethics code. We swear an oath of allegiance to our country.

I know—and I am sure that the contractors have their own ways of conducting themselves or their employees during the work, but, for example, I knew of contractors that would come out and sell Amway during the day or whatever it is.

It does make a difference whenever you're a Federal employee and you're sitting at a desk and you have to train people that you know are going to be coming in and taking your jobs eventually. And that's happening across this country at an alarming rate; it's having an effect.

Mr. CUMMINGS. In my other life, before I came to Congress, I used to represent a lot of small corporations and we used to prepare bids. It just seems to me, I was thinking about some of the things the chairman was talking about with the response from the witnesses that will be coming forward after you, getting the employees, the number of employees that we are actually hiring with these contracts. I find it incredible and unbelievable that a Federal agency would come in here and tell us that they basically determine it to be irrelevant and not important how many people we are employing. I mean, that's part of this work force that we have, I mean, assuming that these people are receiving Federal dollars. So I take it that you all, from your comments earlier, agree with that.

Mr. DONNELLAN. We're looking forward to the testimony.

Mr. CUMMINGS. Do you think that would be difficult? You don't think that would be difficult for them to do that, do you?

In the contracts that we had to do for the city of Baltimore, we literally had to say how many people they were employing, but the city wanted to know how many people were being employed. As a

matter of fact, it went even further than that. They wanted to know how many of those were city employees; they just wanted to know so they could keep their records straight. It was a little thing that we had to do.

Why do you think that they would consider that irrelevant? I know they're going to tell us, but I'm just wondering, since you're not going to get a chance to come back up here again, why would you think they would think that is so difficult and almost irrelevant according to their written testimony?

Come on, don't be shy.

Mr. CUNNINGHAM. That's a tough one for me. And I'm sure as soon as I leave this table and get in a cab, I'll think, man, I should have said this.

I think it's very relevant for us. For example, if it takes 100 Federal employees to move x number of widgets a day, and it's going to take this contractor 150 employees to do it, why? Why is that? Or if it takes less contractors to do the job, why does it take more for Federal workers? I would be interested in knowing that. And as a potential employer, if I were at OMB—I would certainly want to know that.

I cannot imagine—and I'm not Chris; I'm interested in hearing the testimony, also. I have no idea. This is a shadow government. There's no number. We don't know what it is. The frustrating part about this whole issue, Congressman, is, we don't know.

Mr. CUMMINGS. Let me ask you this. It appears that it is one way in and no way out, as far as Federal contracting is concerned. In other words, have you seen the trend of going backward and saying, OK, we really screwed up here and, boy, this is costing us too much and maybe we need to backtrack a little bit. Have you found any of that?

Mr. CUNNINGHAM. It is rare, but I have heard of it. I know that at Fort Leonard Wood, that they have contracted back in some of the work that they had previously contracted out, because they found that it was much more expensive to contract the work out. I'm not sure what that was, and I can get that information for you.

Mr. CUMMINGS. I would love to have that.

Mr. DONNELLAN. We would also like to send you some information regarding that.

Mr. CUMMINGS. Do you know whether your organizations had anything to do with that, as saying to the Federal Government, maybe in this instance, maybe you got some complaints from people and said to the Federal Government, in this instance, maybe you ought to take another look at this?

Mr. CUNNINGHAM. Absolutely. In the case at Fort Leonard Wood, again, I don't know the exact type of work that was brought back in, but I know for a fact that through the efforts of the employees, the businesses in the area, it was a concerted effort by a lot of folks to get the work back in; and they were successful. The national secretary-treasurer of NFFE was a union activist there at Fort Leonard Wood, and was also involved in that effort, and they were successful.

Mr. CUMMINGS. Let me ask you just two other questions.

When there is a contracting-out involved, I take it that—of course, if the unions are representing people who are Federal em-

ployees at that moment, you lose those employees, is that the way it usually works; and then you have to go in and try to get them unionized in the private company? How does that usually work? Would they come under another union?

Mr. CUNNINGHAM. NFFE has in its constitution that we only represent Federal employees, period. We do understand that there are other unions who represent Federal employees now, who are following the work. Our only concern is with the employees that we represent and with this wonderful country that we live in, to make sure that we have the very best folks available to do the job, and Federal employees provide that.

Mr. CUMMINGS. Do you find that as far as—I don't know whether you follow this—African-Americans and women? Do they fare any better or any worse with the contracting out?

Ms. ARMSTRONG. I'm sorry, what was the question?

Mr. CUMMINGS. Blacks and women, minorities, do you find that they fare any better or worse when we start contracting out? When we have contracting-out?

Ms. ARMSTRONG. Personally, I haven't seen any difference or any type of discrimination in that area. I think they mainly look at their qualifications.

Mr. CUNNINGHAM. I think clearly statistics show that the group that suffers the most through downsizing of any type, whether it results in contracting-out or not, is always women and minorities. The Federal Government, in many ways, at least attempts to be the model employer. It's too bad that because of the glass ceiling that we know still exists that women and minorities are on the lower end of this thing. They have the lowest seniority, so that whenever a tragedy like this happens, then they are clearly the ones that are affected the most.

Mr. CUMMINGS. Thank you very much.

Mr. MICA. I thank our panelists. I don't think we have any additional questions at this time, but what we would like to do—it sounds like NFFE is going to do additional field hearings and testimony from your employees, and other organizations may have information. First of all, we will keep the record open for at least 2 weeks here so that additional organizations who have not been able to testify can submit statements for the record. But also we would ask you to work with the committee so that we can get some concrete information on how to proceed and what elements of the legislative proposals would most effectively address the problems that we have heard outlined here today.

I would like to thank each of you for participating with us today and for your contribution and to dismiss the panel.

Our second panel is Edward DeSeve, who is Acting Deputy Director for the Office of Management and Budget. We also have the Honorable John Goodman, Deputy Under Secretary of Defense for Industrial Affairs and Installations. We also have Samuel Kleinman with the Center for Naval Analyses.

To our witnesses, I think you have also heard the terms, that we ask you to try to summarize your statements and we also will swear you in, if you would stand and raise your right hands.

[Witnesses sworn.]

Mr. MICA. The witnesses answered in the affirmative.

Welcome. We would like to go ahead and try to get your statements. There may be another vote in another 10 minutes or so here.

I will recognize first, from the Office of Management and Budget, Edward DeSeve. Sir, you are recognized.

STATEMENTS OF G. EDWARD DeSEVE, ACTING DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET; JOHN GOODMAN, DEPUTY UNDER SECRETARY OF DEFENSE, INDUSTRIAL AFFAIRS AND INSTALLATIONS; AND SAMUEL KLEINMAN, CENTER FOR NAVAL ANALYSES

Mr. DESEVE. Thank you very much, Mr. Chairman. Thank you for inviting me to appear before you today to discuss Federal practices related to the outsourcing of commercial services and their impact on Federal employees. As requested, my testimony will touch on the implications presented by the March 1996 revisions to the A–76 Supplemental Handbook and on contract oversight, as well.

Today we face a new challenge, the challenge of managing in a balanced budget environment. Our goal is to provide a Government that empowers its employees, seeks better business practices, and works better and costs less. To accomplish this goal, we are downsizing, consolidating and taking advantage of new technologies. We're incorporating competition into our budgets and into other management approaches to improve service delivery. Governmentwide acquisition reform, which this committee has been instrumental in assisting us with, is enabling us to take more effective advantage of competition between private sector offerers and to better leverage the government's buying power.

In March 1996, OMB issued its Revised A–76 Supplemental Handbook to improve the competitive playing field, respond to administrative concerns and reflect the other management reinvention initiatives being undertaken. The revision modifies the cost comparison requirements for recurring commercial activities; makes certain interagency agreements available to both public and private offerers; provides for enhanced employee participation; eases transition requirements to improve employee placement; maintains a level playing field for cost comparisons among Federal, interservice support agreement and private sector offers; and seeks to improve accountability and oversight.

The aggregate dollar volume of Federal service contracting has declined slightly from about $114 billion in fiscal 1995 to $112 billion in fiscal year 1996. When consideration is given to the effects of inflation, the decline is even more significant. Budget constraints, the effects of downsizing, technological improvements, efforts to achieve better economies of scale and other improved contracting techniques have contributed to this decline. At the same time, I would note that Federal civilian personnel compensation figures for the same years are also essentially flat.

Our goal is not, nor has it ever been, to simply contract out or to maintain a given level of Federal employment in a given place. Rather, it is to optimize the use of both public and private sector resources by selecting the most cost-effective source to meet current and future requirements. We have no evidence that suggests con-

tractors are reducing their costs or otherwise developing an unfair competitive advantage by reducing pay and benefits to their employees. The Service Contract Act requires Federal contractors to meet prevailing wage and fringe benefits for each job category. This creates incentives for Federal employees to develop new performance standards and reduce costs as they engage in the competitive process.

Your letter requested that we provide our best information regarding the number of contractor employees serving Federal agencies. To our knowledge, this information does not exist. While we need to know that the workload required is being undertaken, that contract prices are reasonable, and that the work is of appropriate quality, it is not important that we know the specific number of contract employees.

Ongoing governmentwide procurement reengineering efforts are also helping to dramatically improve our buying behavior. The Federal Acquisition Streamlining Act and the Clinger-Cohen Act, in conjunction with other reform initiatives that encourages the use of past performance and financial incentives, are enabling us to make better, more efficient use of the marketplace.

There are several bills currently before Congress that address outsourcing. On the one side, there is H.R. 716, the Freedom From Government Competition Act, on which I testified to on Monday before Mr. Horn in this very room. This bill would require the Federal Government to procure from the private sector the goods and services necessary for the operation and management of certain Government agencies and other purposes.

We are opposed to this legislation. H.R. 716 undermines the principle of competition on a level playing field. It does so by restricting the development of competitive public offers—that is, by Federal employees—by inserting provisions that affect the structure of that playing field.

On the other side is H.R. 885, a bill that would prohibit any executive branch agency from entering into any service contract if the services procured under the contract can be performed at a lower cost by employees of the agency. Specifically, the proposal would require Federal agencies to conduct A–76 cost comparisons before awarding any work to contract performance—even work that is currently contracted—if that work could be performed by Federal employees.

We also are opposed to this legislation because it is unnecessary and administratively burdensome. We simply do not have the resources necessary, nor are we prepared to assume that the competitive process under current Federal Acquisition Regulations is insufficient.

We are also opposed to H.R. 886, a bill that would provide funding for Federal employee pay adjustments and comparability pay through reductions in agency spending on service contracts. Specifically, it would require the redirection of $5.7 billion designated for service contracting to appropriate payroll accounts. Reducing contract dollars, without regard to the disruption-of-service requirements or the competitive cost of services, could lead to significant inefficiencies and would limit an agency's ability to respond to changing conditions, emergencies, and other requirements.

We share your concern that the Federal employee unions adversely affected by a decision to convert to contract performance be treated fairly. Federal employees adversely affected by a decision to convert to contract have the right of first refusal for jobs for which they are qualified. A standard clause is included in direct conversion and A–76 cost comparison solicitations notifying potential contractors of this requirement.

In your letter of invitation, you also specifically asked that I comment about the possibility of converting work from contract to in-house performance. We have a recent example of this with the iceman contract, where Agriculture Department employees banded together and bid against private sector providers for the provision of computer services to the FAA.

We have not had the ability to collect all of the information since the A–76 March revision, but we are trying to figure out a way with the agencies to begin, at least on a case-by-case basis, to make some of this information available to the committee. As the union representatives commented earlier, it may be too early to begin the indepth process of collecting that.

In conclusion, by improving management and creating incentives to change the way commercial activities are performed, by cutting out the waste and confusion caused by antiquated workload and financial systems and by improving our contract methods, we hope to achieve better performance.

Thank you very much, Mr. Chairman.

Mr. MICA. Thank you for your testimony.

[The prepared statement of Mr. DeSeve follows:]

STATEMENT OF G. EDWARD DESEVE
ACTING DEPUTY DIRECTOR FOR MANAGEMENT
OFFICE OF MANAGEMENT AND BUDGET

BEFORE THE
HOUSE SUBCOMMITTEE ON CIVIL SERVICE

HEARING ON
"FEDERAL CONTRACTING FOR COMMERCIAL SERVICES -- CHANGING CONDITIONS FACING THE FEDERAL WORKFORCE"

October 1, 1997

INTRODUCTION

Mr. Chairman thank you for giving me the opportunity to discuss with you Federal practices related to the outsourcing of commercial services and their impact on Federal employees. As requested, my testimony will touch on the implications presented by the March 1996 Revised A-76 Supplemental Handbook and the questions presented in your letter of September 24, 1997, including a review of pay issues, contractor performance and contract oversight. I will also briefly address our views with regard to several pieces of legislation, including H.R. 886, "a bill to provide funding for Federal employee pay adjustments and comparability payments through reductions in agency spending on service contracts."

The challenge of managing in a balanced budget environment is to provide a Government that empowers its employees, seeks out better business practices, works better and costs less. Our guiding principle for determining when the Government should engage in commercial activities or consider outsourcing, privatization or competition is to ensure that we get the best deal possible for the American taxpayer. We are downsizing, consolidating, and taking advantage of new technologies. We are incorporating competition into our budgets, into our financial and accounting systems and in our other management approaches to improved service delivery.

Government wide acquisition reform initiatives are enabling us to take more effective advantage of competition between private sector offerors and better leverage the Government's buying power. We are implementing the government-wide management improvements authorized by the Chief Financial Officers (CFOs) Act of 1990, the Government Performance and Results Act of 1993, the Government Management Reform Act, the Federal Acquisition Streamlining Act, the Debt Collection Improvement Act, the Clinger-Cohen Act (the Federal Acquisition Reform Act and the Information Technology Management Reform Act of 1996), to mention just a few.

OMB Circular A-76

In March of 1996, OMB issued its Revised A-76 Supplemental Handbook to improve the competitive playing field, respond to concerns for unnecessary administrative burdens and, reflect the other management reinvention initiatives being undertaken. The Revision modifies the cost comparison requirements for recurring commercial activities and makes certain interagency agreements that were not previously subject to competition available to both public and private offerors. The revision reduces reporting and other administrative burdens; provides for enhanced employee participation; eases transition requirements to facilitate employee placement; maintains a level playing field for cost comparisons between Federal, interservice support agreement and private sector offers, and seeks to improve accountability and oversight to ensure that the most cost effective decision is implemented.

Legislative mandates that require or restrict performance by in-house or contract employees are not helpful. Competition drives organizations to review and streamline their activities. We believe that the Revised A-76 Supplement increases the level of competition for Federal workload - not only to reduce cost but also to improve performance. For example, in testimony offered in June before the Senate Governmental Affairs Committee, Dr. Samual Kleinman, Center for Naval Analysis, noted that in over 2,100 competitions conducted by the DOD, involving over 80,000 Federal positions, savings of approximately 30 percent were achieved - savings that have translated into over $1.5 billion annually, without workload reductions and often with quality improvements. However, it was also noted in that testimony that in approximately 50 percent of those competitions the Federal Government was found to be the best value offeror.

Current Efforts.

As noted in your letter, the aggregate dollar amount of Federal service contracting has recently declined, in real terms. When consideration is given to the effects of inflation and Service Contract Act wage increases, the decline is even more significant. Clearly, the budget constraints that agencies have faced under OBRA '93 and will face as we implement the Balanced Budget Agreement has contributed to this decline. Technological improvements, efforts to achieve better economies of scale, other improved contracting techniques and efforts to enhance the level of competition available have also had an effect.

Service Contracting
($ billions)

Year	Total Service Contracting	DOD Service Contracting	Percent DOD
FY 1992	$105.2	$60.9	57.9
FY 1993	$105.5	$62.0	58.8
FY 1994	$110.0	$65.3	59.4
FY 1995	$114.1	$66.9	58.6
FY 1996	$111.7	$68.8	61.6

Note: Source: The OFPP Federal Procurement Data System. These numbers include R&D, Construction, A&E, ADP services (including installation and maintenance) and other services.

At the same time, we are currently engaged in the largest privatization, outsourcing and competition effort ever undertaken by the Federal Government. We began with the National Performance Review. A consensus was developed to reorganize agencies, reinvent them, develop performance standards and to encourage competition and choice in the performance of commercial support activities. Today, over 30,000 FTE are currently under Circular A-76 review within the Department of Defense. To put this in context, I would note that total Federal civilian personnel compensation figures for the same years (1992-1996) are also essentially flat, but decline significantly in real terms.

Federal Civilian Personnel Compensation
($ billions)

Year	Fed. Civ. Compensation	DOD Fed. Civ. Compensation	Percent DOD
FY 1992	$107.3	$42.7	39.9
FY 1993	$110.9	$41.3	37.2
FY 1994	$111.1	$40.7	36.6
FY 1995	$111.2	$40.1	36.0
FY 1996	$112.3	$39.6	35.3

Note: Source: The Analytic Perspectives, FY 1998, 1997, 1996 Budget of the United

Federal Contracting

Our goal is not to contract-out or to maintain a given level of Federal employment. Rather, it is to optimize the use of both public and private sector resources by selecting the highest quality, most cost-effective source to meet current and future requirements. We are using best value techniques to evaluate both the public and the private sector offers. We are aware of no evidence that suggests that contractors are reducing their costs or are otherwise developing an unfair competitive advantage by reducing pay and benefits to their employees. The Service Contract Act (SCA) requires Federal contractors to meet "prevailing wages and fringe benefits" for each job category - not minimum wages or fringe benefits. On the Federal side, the Revised Supplement retains the opportunity for Federal employees to bid their Most Efficient Organization (MEO) and not their current organization or wage grades. We believe this is appropriate and creates incentives for employees to develop new performance standards, to reduce costs and engage in the competitive process.

Number of Contract Employees

Your letter requested that we provide our best information regarding the number of contractor employees serving Federal agencies and any information regarding recent changes in the size of that workforce.

To our knowledge, this information does not exist, but we don't really have any need for this type of information. While we need to know that the workload is required, that contract prices are reasonable, and that the work is of appropriate quality, it is not important that we know the specific number of contract employees. Again, the contractor is subject to the provisions of the Service Contract Act and other Federal Acquisition Regulations. While we note that H.R. 887 would require the Director of the Office of Management and Budget to develop these estimates, we are opposed to the requirement because the final product would require a considerable expenditure of resources and would be of questionable value

Getting Better Deal for the Government

Ongoing governmentwide procurement reengineering efforts are helping to dramatically change our buying behavior in ways that significantly reduce risk on the taxpayer and ensure that contractors are providing products and services with the best overall value for the dollars spent. The Federal Acquisition Streamlining Act and the Clinger-Cohen Act, in conjunction with other Administration reform initiatives to increase consideration of an offeror's past performance and provide appropriate financial incentives, are better enabling us to make more efficient and effective use of marketplace competition. This, in turn, is putting us in a stronger position to get better deals from our contractors. Consider the following:

- *We are increasingly buying commercial.* By eliminating barriers to entry and improving the source selection process, recent procurement reinvention efforts have helped agencies to position themselves better to take advantage of market driven innovations and commercial economies of scale. As a result, we are better able to reduce risk in our efforts to meet mission needs and obtain more value for taxpayer's dollars.

  Agencies are also in a better position to make use of proven commercial purchasing strategies. Many agencies, for instance, are better leveraging the government's buying power by using multiple award contract vehicles to provide their users as well as users at other agencies an efficient and competitive means for acquiring commercial products and services.

- *We are doing business with better-performing contractors that are committed to excellence and to meeting cost, schedule, and performance goals.* This achievement is the result of a concerted effort by contracting activities to increase their focus on the past performance of contractors when conducting competitions for work. It is also attributable to changes to Federal Acquisition Regulation Subpart 42.15 that currently require evaluation of contractor performance for all contract actions (with certain exceptions) in excess of $1,000,000, and beginning in January 1998, will require such evaluations for contracts of $100,000 or more. Because completed evaluations (along with contractor responses thereto and any additional agency review comments) are used to support future award decisions, contractors are motivated to excel in their performance.

- *We are making greater use of contracting methods that will help improve the likelihood of successful contract performance.* For the acquisition of services, we are using performance-based service contracts that include objective performance requirements and standards (which give contractors latitude to be innovative and adopt the latest, most cost effective management practices). Performance based service contracts (PBSC) are accompanied by a quality assurance plan that allows for the use of both positive and negative incentives. The contractor's payment is tied to the achievement of requirements and standards. Poor contractor performance may result in an immediate reduction in payment and would also be reflected in contractor past performance evaluations which could impact the contractor's future business opportunities. An ongoing Government-wide pilot project already has demonstrated that savings of 15 to 20 percent are common when using PBSC, and the agencies involved have expressed more satisfaction with contractor performance.

In addition, we are encouraging agencies to break their large procurement into smaller more manageable modules so they can better accommodate changing technology and agency priorities. A "modular contracting" approach allows agencies to attack risk incrementally, thereby making it easier to manage. Equally important, modular contracting strengthens and maintains end user enthusiasm for, and involvement in, the program by providing benefits early in the process. It also permits periodic evaluation to ensure projects continue to merit funding under current budget priorities.

We are also encouraging agencies to use a two-phase selection process where the first phase of competition is initiated without the submission of formal proposals and offerors are advised based on this information if they have a realistic chance for award. Those offerors choosing to participate in the second phase are able to contribute substantially to the development of requirements and evaluation criteria. This opportunity incentivizes them to invest more of their own resources to perform "due diligence" to learn about agency needs, to more effectively and efficiently develop high value solutions that can better fit with those needs, and to offer stronger proposals. This process facilitates the negotiation of firm performance objectives for which the contractor can be held accountable.

- *Agencies are taking steps to improve their management systems for major acquisitions.* They are working to develop realistic cost, schedule, and performance goals that establish clear accountability for project progress and support budget priorities. In this regard, we have been stressing to agencies the importance of creating performance-based management systems that will provide agency managers good visibility into the progress of their projects in achieving stated goals.

Use of the tools described above serves as an effective alternative mechanism to intrusive and costly oversight. However, in those cases where these tools are not effective, the government will continue to resort to appropriate oversight mechanisms (e.g., audits, inspections).

Related Legislation.

There are several bills before the House that address outsourcing and the performance of commercial activities. On the one side there is H.R. 716, "The Freedom from Government Competition Act," "a bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes." We are opposed to this legislation. H.R. 716 undermines the principle of competition on a level playing field. It does this by restricting the development of competitive public offers and by inserting provisions that effect the structure of that playing field. We are concerned that H.R. 716 would mandate specific cost comparison requirements

and would convert what are essentially management implementation decisions into statutory requirements subject to judicial review.

On the other side is H.R. 885, "a bill to prohibit any executive branch agency from entering into any service contract if the services procured under the contract can be performed at a lower cost by employees of the agency." Specifically, the proposal would require Federal agencies to conduct A-76 cost comparisons before awarding any work to contract performance - even work that is currently contracted - if that work could be performed by Federal employees. We are also opposed to this legislation, as unnecessary and administratively burdensome.

We seek to restore the public's faith in Government by managing our resources more effectively and by giving citizens and taxpayers more value for the dollar. H.R. 885 requires that we cost compare all existing contract workload as a matter or law. We simply do not have the resources necessary nor are we prepared to assume that the competitive process required under current Federal Acquisition Regulations is insufficient to establish appropriate prices and quality levels. The Revised A-76 Supplement permits agencies to submit bids and to compete for the conversion of work from contract to in-house performance at the agencies' discretion and where they believe that they can offer a cost-effective alternative to private sector performance. This is a major change over the previous, much more limited opportunity to convert to in-house performance that was provided for under the 1983 Supplement.

We are also opposed to H.R. 886, "a bill to provide funding for Federal employee pay adjustments and comparability payments through reductions in agency spending on service contracts." Specifically the provision would require the redirection of $5.7 billion dollars designated for service contracting to appropriate payroll accounts.

Agencies have been asked to reduce administrative costs and take further spending reductions in order to meet existing budget spending requirements. In order to achieve these savings, agencies should be encouraged to contract-out or contract-in functions depending upon the total cost to the Government. Reducing contract dollars, without regard to the disruptions to service requirements or the competitive costs of services, could lead to significant inefficiencies, and would severely limit an agency's ability to respond to changing conditions, emergencies and other requirements.

The Right of First Refusal

Federal employees and existing Federal support contract employees adversely affected by a decision to convert to contract or ISSA performance have the Right-of-First-Refusal for jobs for which they are qualified that are created by the award of the conversion. A standard clause is included in direct conversion and A-76 cost comparison solicitations notifying potential contractors of this requirement (see FAR 52.207-3). Executive Order 12933, "Non-Displacement of Qualified Workers Under Certain Contracts," dated October 20, 1994, also provides the Right-of-First-Refusal to contract employees (see FAR 7.305 (c)).

Information regarding the use of the Right-of-First Refusal does not exist, nor would we support a legislative mandate to collect such information. In general, however, we believe that agencies are doing their best to place employees without the need for invoking the Right-of-First Refusal. For example, personnel officers are: giving priority consideration for available positions within the agency; establishing a reemployment priority list and an effective placement program; paying reasonable costs for training and relocation that contribute directly to placement, and coordinating with the Office of Personnel Management (OPM) to ensure employees have access to placement programs, including the OPM-operated Displaced Employee Program and the Interagency Placement Assistance Program.

Related to the question of the Right-of-First-Refusal is the impact of contracting out on wages and pensions. Contract wages and fringe benefits - including pensions - are covered by the Service Contract Act and contractors must offer prevailing not minimum wages and benefits to adversely affected employees. With regard to pension portability - CSRS is not, in fact, portable. In contrast, FERS was specifically designed to give people a more portable benefit than was available under CSRS and to reflect private sector practice. By having both defined benefit (FERS basic) and defined contribution (TSP) elements, FERS spreads the risk of retirement planning between the employer and the employee.

Contracting -in

In your letter of invitation you specifically asked that I comment about the possibility of converting work from contract to in-house performance. As you know, this is permitted under the Circular A-76 and was made easier under the March 1996 Revision.

Unfortunately, while we know that this has happened, we have not had the opportunity to collect aggregate information on the number of employees performing work in-house that was once performed by contract. Collecting this information would require a significant level of work and a data call to all agencies. We have no need for this information, would be concerned by the validity of the information collected and are, frankly, more concerned that the work is being performed cost effectively.

Conclusion

In conclusion, by improving management and by creating the needed incentives to change the way commercial activities are performed, by cutting out the waste and confusion caused by antiquated workload and financial systems and by improving our contracting methods, agencies will achieve better performance at lower cost. More importantly, the taxpayer will be getting the most out of each tax dollar. The private sector is already an important partner in the provision of services to the Federal Government. By providing a fair and level playing field competitions between in-house and contract resources can be assured that their efforts will be rewarded appropriately. Taken together, this approach promises a reduction in unnecessary administrative support costs and will enable us to concentrate more on mission and mission delivery.

Mr. Chairman, that concludes my prepared statement. I will be pleased to answer any questions you may have.

Mr. MICA. I will now recognize the Deputy Under Secretary of Defense, John Goodman.

Mr. GOODMAN. Mr. Chairman, distinguished members of this committee, it's a pleasure to be here today to discuss the Department of Defense's plans and activities in the area of competition and outsourcing. With your permission, I ask that my full statement be entered in the record.

Mr. MICA. Without objection, so ordered.

Mr. GOODMAN. Mr. Chairman, I would like to make five points regarding competition and outsourcing at the Department of Defense.

First, as both Secretary Cohen and General Shalikashvili have stated, the Department of Defense has no choice but to improve the performance and reduce the cost of the support we provide to our warfighters. American military forces are the finest in the world. They have continuously demonstrated their ability to adapt and meet new and emerging strategic threats. But as the recently completed Quadrennial Defense Review concluded, future threats are likely to require a much more agile force. Meeting those threats and maintaining the kind of technological superiority that we demonstrated in the Gulf war will also require increasing our spending on weapons modernization.

These goals mean that our support activities will also have to become agile. Because our overall budget is not going to increase, any increased funding for modernization is going to have to come through increased internal efficiencies.

The second point I want to make is that to achieve this objective, we are seeking to improve our internal practices in a broad array of ways. One example of our effort can be seen in the Defense Logistics Agency Direct Vendor Program. DLA has completely revamped the way that we procure everyday items, ranging from pharmaceuticals to uniforms to groceries. In these areas, it used to be that the contractor, the supplier of the products, would send them to a Department of Defense warehouse and that we would then distribute them out to the field. It was lengthy and it was costly.

What the Defense Logistics Agency has done essentially is to enable the private sector, the suppliers, to send their goods directly and immediately to the base that needs it. In the case of pharmaceuticals, this has meant that we are now able to get pharmaceuticals to the DOD customer, to the warfighting bases 75 percent faster, within a 24-hour time, and 25 percent cheaper. That is not just doing the job cheaper; that is doing the job better, and it leads to significant improvements in the readiness of our forces.

As part of this process, we are also striving to increase efficiency through competition. I stress competition, not outsourcing. Competition drives organizations to streamline operations in order to improve quality, reduce costs, and better focus on their customer needs.

The third point I wish to make is that we are not engaged in wholesale outsourcing. Rather, we are following a clear and measured approach of introducing more competition into our support activities. We are only considering noninherently governmental activities, and we are only considering them when we know that the

private sector can perform that activity and, in the judgment of our military leadership, their performance will not hinder our warfighting mission. Any outsourcing decision finally must result in the best value for the Department of Defense and, therefore, for the American taxpayer.

Fourth, the record of our activities to date is very positive. Between 1978 and 1994, we conducted approximately 2,000 cost competitions under OMB Circular A–76, and that is now saving the Department of Defense about a billion and a half dollars a year. On average, these competitions reduced annual operating costs of the functions by about 30 percent, regardless of who won.

The reason I stress that last point is that half of these competitions did not result in outsourcing. They were won by our in-house, reengineered teams.

I wanted to add additional points that were not in my statement. First, a 1994 GAO study was cited. At an earlier hearing this year before the House National Security Committee, where I testified along with the GAO, the GAO reported on its recent report on base operations which was published in March 1997. In that report, the GAO notes that "outsourcing can be cost effective, because outsourcing competitions generate savings whether competitions are won by the government or by the private sector." We strongly concur in that finding.

A second issue that has arisen is the question of contracting in. The Fort Leonard Wood example was raised. I wanted to provide the committee with several other examples that have occurred recently. At Shaw Air Force Base in South Carolina, we have recently brought the family housing maintenance function in-house involving about 30 workers. We have also recently brought in-house the security police operations at Onizuka Air Force Base in California, involving approximately 60 workers.

Ed will be working to try to get this data for what's been happening since the new supplement was issued, but within the Department, all competitions conducted under the new supplement have in fact resulted in in-house teams winning the competitions, none of those competitions have resulted in contracting out. Over the past 15 months, the military departments have initiated A–76 cost comparisons for a very broad array of activities, encompassing a total of about 34,000 work years. We expect that these activities, and others which we expect to subject to competition, will literally save billions of dollars a year.

Fifth and finally, we have not lost sight of our ongoing partnership with our work force. The Department of Defense has a high quality, dedicated military and civilian work force. They have repeatedly demonstrated their ability to meet changes in our security environment; and the Department and its employees now confront additional challenges as we seek the right mix of forces and capabilities, supported by an efficient and responsive infrastructure, to meet the national security missions of the 21st century.

We recognize that some of our employees will face dislocation. We have and we will continue to use every tool available to assist in retaining, relocating, and retraining displaced employees. Programs such as our Priority Placement Program have been enormously successful. Since our downsizing began in 1989, our Priority

Placement has resulted in 60,000 Government workers finding new employment.

We are finding 800 jobs for displaced workers a month. We are very proud of that record. It is a record unmatched by any other agency, and for that matter, by any private sector firm.

Congressman Cummings had asked about the effect of some of these changes on women and minorities. I don't know the overall numbers for the Federal Government, but I know that the tools that we have used have enabled DOD to retain diversity in our work force despite our drawdown. The relative proportion of women has remained constant over the past 8 years while, in fact, the percentage of minorities has increased as a total percentage of our work force. So we are very attuned to the effects of this kind of broad change that has taken place in all components of our work force.

In conclusion, Mr. Chairman, we must make our support structure as agile and as efficient as possible. Unless we change the traditional approach to providing support activities, we run the risk of entering the next millennium unprepared for the global challenges we will face.

Thank you, sir.

Mr. MICA. Thank you.

[The prepared statement of Mr. Goodman follows:]

Introduction

Mr. Chairman and distinguished members of the committee, it is a pleasure to appear before you today to discuss the Department of Defense's initiatives to adopt better business practices and introduce competition in the provision of its commercial support activities.

American military forces are the finest in the world. They have repeatedly demonstrated their ability to meet changes in our security environment by incorporating new technologies, adopting new tactics, and creating new structures. The methods by which DoD supports its soldiers, sailors, airmen, marines and their families must also change. We simply cannot afford to do business in the traditional ways just because we are used to them. Unless we make this transition, we run the risk of entering the next millennium unprepared for the global challenges we will face.

We must make our support capabilities as agile and efficient as possible. In so doing, we will improve our service to the warfighters and generate the savings required to help fund our modernization goals. As the recently-completed Quadrennial Defense Review concluded, the Department of Defense must increase its spending on modernization by approximately 50 percent – to $60 billion/year – to maintain our battlefield dominance into the 21st century.

In order to achieve this critical goal, DoD is carefully examining its internal operations and support activities to determine where we can lower cost and improve performance. One key way to achieve these objectives is by drawing on the tools of outsourcing, privatization, and competition. My testimony today will highlight the Department's activities – planned and underway – to meet this objective.

In particular, I would like to focus on two key and related components of our effort. First, we are working to adopt best business practices in how we conduct and manage our support activities. Second, we are seeking to introduce more competition from the private sector in the delivery of goods and services.

Adopting Best Business Practices

The Department of Defense is taking a number of steps to find better and more efficient business practices in order to provide cost effective support. Many of these practices involve drawing on the private sector in new ways. They are commonplace in the private sector, and we are seeking to adapt them to our needs. These changes are working to improve both the quality of life we provide to our troops and their families, and the quality of support we provide to the warfighters.

Using Private Sector Capital to Revitalize Military Housing

Our military housing is old, in need of extensive repair and below contemporary standards. DoD owns and manages over 300,000 houses, two thirds of which require revitalization or replacement. We estimate that it would cost about $20 billion and require 30 years to do this work using our traditional funding and procurement approach. Attracting private capital to help speed this revitalization is imperative.

The National Defense Authorization Act for Fiscal Year 1996 provided the Department with new legislative authorities to achieve this objective. The authorities include direct loans and guarantees, leasing, investments, rental guarantees, differential lease payments, and conveyance or lease of properties and facilities. Using these new tools, we expect to be able to leverage military construction dollars significantly – by a factor of at least 3:1. Some of our current projects will enable us to do even better, resulting in nearly twenty times as much housing for the dollar. This approach will open the competition to members of the private sector who have been shut out of the traditional military construction market.

In our first year, we are off to a good start. We have two completed projects – a $9.5 million limited partnership project at the Naval Air Station Corpus Christi, Texas, for 404 units of enlisted personnel family housing, and a $6 million partnership project at Naval Station Everett, Washington, to construct 185 units for enlisted personnel. In addition, we are now in source selection for two additional projects – one involves 2,600 units at Fort Carson, Colorado providing housing for the entire base, and the other will provide 400 units at Lackland Air Force Base, Texas. All together, these projects will revitalize more than 4000 units.

We are now developing RFPs at a host of other sites including: Robins Air Force Base, Georgia; Marine Corps Base, Albany Georgia; and, Camp Pendleton, California. The Department is reviewing other sites to expand the program significantly in the coming year.

Reengineering to Improve Support

To reduce costs and enhance customer satisfaction, Defense Agencies and Military Departments are striving to ensure that we adopt best commercial practices in their operations. Some examples of this kind of reengineering include:

Materiel Management. The Defense Logistics Agency's (DLA) Direct Vendor Delivery and Prime Vendor programs illustrate the savings and improvements in readiness that DoD can achieve through business reengineering. Under these programs, suppliers deliver products directly to their DoD customers, rather than to a DoD warehouse for storage and subsequent distribution.

Let me give you an example of how this works. Under the old way of doing business, DLA would buy food for all of our dining facilities for an extended period – perhaps six months at a time for bulk items – because of our slow acquisition system. The food would be stored in warehouses, and then, using our own transportation system, we would deliver food daily from these warehouses to our dining facilities.

Today, we use basic ordering agreements with volume discounts for all food that our dining facilities need. Each evening, the cooks can call in their orders for breakfast based on the number of people expected to eat the next morning. The food is fresh, and I can tell you from my own discussions, the cooks and our uniformed personnel are both happier. We are also saving money, because we've eliminated warehousing, inventories and transportation.

Such programs make a tangible contribution to readiness – reducing the need for DoD's own warehousing and transportation allows DLA to provide supplies to warfighters cheaper and faster. For example, DoD pharmaceutical customers now receive their requested goods 75 to 90 percent faster (within 24 hours) and 25 to 35 percent cheaper. In other words, these programs not only save resources, but do the job better.

Government Purchase Card. DoD has initiated a robust campaign to increase use of the IMPAC purchasing card. The IMPAC is a VISA card issued by a commercial bank under a contract with the General Services Administration and is used throughout the Federal Government. Greater use of the card (which is permitted by the Federal Acquisition Streamlining Act) will reduce acquisition cycle time and the paperwork associated with making, and paying for, local level, small procurement actions – thus reducing costs and improving timeliness.

The Department now has over 85,000 cardholders making purchases totaling nearly $2 billion annually. Although this purchasing constitutes about half of the U.S. government total at or below $2,500, DoD believes that the use of the purchase card can be expanded to replace nearly all of the 9.9 million separate invoices paid by the Defense Finance and Accounting Service in FY 1996. Consequently, the Department is reengineering some of its internal processes so that it can make maximum use of the IMPAC card's potential for reducing costs.

Increasing Efficiency Through Competition

Competition drives organizations to streamline operations in order to improve quality, increase efficiency, and better focus on their customers' needs. For DoD, competition will not only reduce costs, but also lead to more rapid delivery of better products and services to the warfighter, thereby increasing readiness.

Competition, of course, is not new to the Department of Defense. Our own experience demonstrates that the organizational streamlining and competition associated with outsourcing studies has yielded significant savings. As a result of over 2,000 cost comparisons conducted between 1978 and 1994 (under OMB Circular A-76 – the Federal guidance on performance of commercial activities), the Department now saves about $1.5 billion a year. On average, these competitions – about half of which were won by government in-house organizations – have reduced annual operating costs of the functions involved by about 30 percent. This level of competition savings has been consistently achieved for over a decade and a half.

These savings were generated from A-76 studies covering about 82,000 workyears. By way of comparison, DoD's "commercial activities" inventory; i.e., those functions that are theoretically amenable to performance by private sector sources, consists of about 320,000 workyears. It is for this reason that DoD believes that billions of dollars per year can be saved by introducing greater competition into its support activities.

Some have argued that A-76 competitions do not save money because of eventual contract cost increases. We do not agree and believe that the overall track record is very positive. In a March 1997 report, GAO, for example, noted that many post-contract reviews indicated that savings from competitions continued over the life of the contracts. For example, a 1989 Army Audit Agency review found that 9 of 10 large contracts audited were still saving money after several years of operation. The scope of work on the 10th contract had changed so dramatically that comparative costs of in-house and contract operation could not be identified. Naval Audit Service reviews of selected contracts during the mid-1980s found that savings were realized over the life of the contracts, although not as much as initially projected. Other internal audits and reports to Congress we have identified savings and cost increases over time from outsourcing. For example, in 1985, we reported that from a sample of 20 functions contracted out, savings were realized on 17 functions.

Of course, out-of-scope additions to contracts can increase the cost of performance. It is important to recognize that these changes can increase the costs of contracts won by both the private sector and by an in-house Most Efficient Organization. We are following a three-pronged strategy to avoid such developments.

• First, Statements of Work must adequately characterize all the work that will be competed. To help ensure better performance, all of the Military Departments are now increasing training and sharing of lessons learned on the preparation of Statements of Work.

• Second, contracts and in-house performance is audited on an selected basis by the relevant Service audit agencies. Contractors are also subject to a Quality Assurance Surveillance Program and the many sanctions available under the FAR. We are also working to improve our data base of contract performance to analyze developments across the Department.

• Third, Military Departments and Defense Agencies can and do recompete contracts if performance, in terms of either cost or quality, is substandard.

DoD's Approach to Introducing Competition

The Department of Defense began developing its strategy for outsourcing and competition approximately two years ago. DoD established three broad criteria that must be met for activities to become *candidates* for outsourcing:

- First, private sector firms must be able to perform the activity and meet our warfighting mission. DoD will not consider outsourcing activities that constitute our core capabilities.

- Second, a competitive commercial market must exist for the activity. DoD will gain from outsourcing and competition when there is an incentive for continuous service improvement.

- Finally, outsourcing the activity must result in best value for the government and therefore the U.S. taxpayer. Activities will be considered for outsourcing only when the private sector can improve performance or lower costs in the context of long term competition.

Over the past 15 months, the Military Departments have initiated, or announced their intention to initiate, A-76 cost comparisons for a broad array of activities encompassing a total of over 34 thousand workyears. The following table compares the workyears comprised in these announcements with the total DoD "Commercial Activities" employment in 1996 for these functions:

COMMERCIAL ACTIVITIES
(Workyears In Thousands)

Major Functions (Example)	FY 1996 Total Population	Announced for Study
Social Services: (Chaplains, Morale, Welfare and Recreation)	25	2.3
Base Maintenance/Multi-function: (Grounds Maintenance and Vehicle Maintenance) *	1	*9.2
Maintenance & Repair (Intermediate/Direct/General) (Local repair of vehicles)	15	6.5
RDT&E Support: (Model Construction)	9	.7
Automatic Data Processing: (Development and Maintenance of software)	11	.7
Maintenance of Real Property: (Facility Painting)	18	5.2
Installation Services: (Motor Pool)	83	5.9
Subtotal Base Commercial Activities	*162*	*30.5*
Health Services: (Physical Therapy)	44	.3
Other Non-manufacturing: (Printing and Reproductions)	46	2.8
Education and Training: (Training development and support)	20	.6
Products Manufactured In-House: (Manufacturing of crates)	3	0
Maintenance & Repair (Modify/Convert/Overhaul): (Overhaul of vehicles)	46	0
Total	**321**	**34.2**

* Announced multi-function studies include workyears from other functions

In the aggregate– regardless of who wins the competitions, DoD anticipates steady state savings of over $2 billion annually commencing in FY 2003 from A-76 cost comparison studies to be conducted over the Future Years Defense Program (FYDP) period. These savings are based on conservative extrapolations of historical experience for savings from A-76 cost comparisons.

The Involvement Of Government Employees

DoD consults with unions and employee associations via its regular national consultation channels and the Defense Partnership Council. The Department works closely with its unions and employee associations to ensure that they are kept informed of potential changes affecting civilian employees. Information on privatization and competition has been shared through the Defense Partnership Council and meetings with unions with national consultation rights. We will continue to consult with employees, their unions, and professional associations at all levels to include notifying them during development, preparation, and review of performance work statements and management studies.

The Department of Defense has a high quality, dedicated workforce. Nevertheless, the Department and its employees now confront new challenges as we seek the right mix of forces and capabilities, supported by an efficient, but responsive, infrastructure, to meet the national security missions of the 21st century. We recognize that some employees will face dislocation. We will utilize every tool available to assist in retaining, relocating, and retraining displaced employees. Programs that support these efforts have been successful in the past. They are the reason that the Department has been able to hold involuntary separations to less than nine percent of the jobs eliminated over the past six years – we are proud of this record.

Conclusion

In conclusion, we must make our support structure as agile and efficient as possible. We are committed to seeking out and adopting the best business practices, streamlining our organizations, and introducing competition into the delivery of our support services, wherever it makes sense to do so.

I stand ready to answer any questions you may have.

Mr. MICA. I now recognize Samuel Kleinman, Center for Naval Analyses. You're recognized, sir.

Mr. KLEINMAN. Good afternoon, Mr. Chairman. Thank you for inviting me to testify before the subcommittee.

My name is Sam Kleinman, I am director of the Infrastructure and Readiness team at the Center for Naval Analyses. We are a federally funded research and development center. I will briefly discuss our examination of the Defense Department's competitions and outsourcing under OMB Circular A–76.

We believe that our results demonstrate more than anything else the value of competition, and this is what DOD has gained with its A–76 program. The program is built on the premise that all providers of service, both Government in-house teams and private contractors, should be able to demonstrate that they provide the best value to DOD and the Government.

As Mr. Goodman mentioned, we have examined 2,100 public-private DOD competitions that were conducted between 1978 and 1994. Those competitions covered 80,000 Government positions; 80 percent were held by civilians; 20 percent by military personnel. The savings, on average, were 30 percent. That includes a very wide range, going from 0 up to 70 percent. We find the savings across all the military services and across all different types of functions.

Half the competitions were won by Government in-house teams. The average savings when an in-house team won was about 20 percent. When an outside team won, it was 40 percent. The in-house savings appear low because when no bidder produces a savings, the competition is decided in favor of the in-house team, and those no-saving competitions are included in their average. When competitions with no savings are removed, the savings are very comparable between government and private teams. Overall, savings have come to $1.5 billion per year.

We believe that the source of savings is competition. It provides cost visibility and choice of suppliers. In many cases, for the first time, in-house teams had to construct the full cost of doing work internally and develop performance work statements of what they were required to do. The Government could then compare alternative sources for accomplishing the required work.

Winning teams, whether public or private, appear to reduce costs by using fewer people, not by paying less per person. They do this by moving people from one job to another, by giving employees a greater range of skills, and sometimes by using temporary workers, part timers, overtime and workers from other sites to meet peak workload demands.

When contractors win, they have to offer any new jobs to the affected Government workers. Most Federal workers prefer to continue employment with the Government. Only 3 percent of the affected workers actually joined the contractors. However, our case studies show that when a contractor loses a subsequent competition, most of the workers were rehired by the winning firm.

There is a cost to competing and monitoring contracts. We estimated that the one-time cost to compete is about 10 percent of the annual value of the contract. The costs to monitor these contracts

range from 3 to 10 percent of the contract cost, and the savings I reported to you earlier are net of those monitoring costs.

For about 30 competitions, we went back to the bases to learn about the quality and the subsequent cost. There were a couple of defaults, but in most cases costs were contained and quality maintained; the reason, we believe, is that when the contract ended, there were sufficient competitors out there to bid away the contract. So there are always competitive pressures controlling the contractors.

In one large competition, we were able to follow performance and labor productivity through two competitions. We found that performance and labor productivity continued to improve. We have started looking at persistence of savings for competitions that were won in-house by the public teams. Our preliminary observations are that savings persisted there, also.

In the past, the Department of Defense sometimes felt obligated to select low-cost bidders that they suspected could not perform. This contributed to some terminations for poor performance. Agencies and departments should use and are now more likely to use a selection process that allows them to pick the best value and not necessarily a sealed bid, low-cost alternative. They are allowed to weigh past performance, management, and financial solvency of the bidders; and by doing this, they should reduce the risk of poor performance.

In summary, competitions produced the best efforts in all participants and the best value for our agencies and departments. The end result would include more outsourcing, but more importantly, it would lead to a more efficient government.

That concludes my opening comments. I'll be happy to answer any questions.

[The prepared statement of Mr. Kleinman follows:]

Competition and Outsourcing:[1] Opportunities to Reduce Support Costs

Good morning, Mr. Chairman. Thank you for inviting me to testify before the subcommittee. My name is Sam Kleinman and I am the Director of the Infrastructure and Readiness Team at the Center for Naval Analyses, a nonprofit Federally Funded Research and Development Center. I will briefly discuss our examination of the Defense Department s competitions and outsourcing under OMB Circular A-76. We believe that our results demonstrate, more than anything else, the value of competition, and this is what DoD has gained when it introduced its outsourcing program. The program is built on the premise that all providers of services, both in-house teams and private contractors, should be able to demonstrate that they provide the best value to DoD and the government.

We looked at 2,100 public-private DoD competitions conducted between 1978 to 1994. These competitions covered 80,000 government positions, of which 80% were held by civilians and 20% by military personnel. Overall, savings were 30 percent, and half the competitions were won by the in-house teams. There were 20- percent savings when the in-house team won and 40-percent savings when a private firm won. The in-house savings appear low because, when no bidder produces savings, the competition is decided in favor of the in-house team, and those no-saving competitions are included in their average. We estimated an annual savings of $1.5 billion from these competitions.

We believe that the source of the savings is competition. It provides cost visibility and a choice of suppliers. In many cases, for the first

[1] The opinions are those of the author and do not necessarily represent those of the Department of the Navy.

time, in-house teams constructed the full cost of doing work internally and developed performance work statements of what they were required to do. The government could then compare alternative sources for accomplishing the required work.

Winning teams, whether public or private, appear to reduce costs by using fewer people, not by paying less per person. We believe that they do this by moving people from one job to another; by giving employees a greater range of skills; and by using more temporary workers, part-timers, overtime, and workers from other sites to meet peak workload demands.

For about thirty competitions, we went back to the bases to learn about the quality and subsequent costs. There were a couple of defaults, but in most cases, costs were contained and quality maintained. The reason, we believe, is that when the contract ended, there were sufficient competitors out there to bid away the contract. So, there were always competitive pressures controlling the contractors. In one large competition, we were able to follow performance and labor productivity through two recompetitions. We found that performance remained high and that labor productivity continued to improve. We have started looking at the persistence of savings for competitions won by public teams. Our preliminary observations are that the savings also persist there.

When contractors win, they have to offer any new jobs to the affected government workers. Only 3 percent of the affected workers joined the contractors. Most federal workers prefer to continue employment with the government. However, our case studies show that when a contractor loses a subsequent competition, most of the workers were rehired by the winning firm.

There is a cost to competing and monitoring contracts. We estimated that the one-time cost to compete is 10 percent of the annual value of the contract. The cost to monitor these contracts is 3 to 10 percent of

the contract cost. The savings I reported are net of the monitoring costs.

In the past, the Department of Defense sometimes felt obligated to select low-cost bidders that they suspected could not perform. This contributed to some terminations for poor performance. Agencies and departments should use a selection process that allows them to pick the best value and not necessarily a sealed-bid, low-cost alternative. They are allowed to weigh past performance, management, and financial solvency of the bidders. This should reduce the risk of poor performance.

In summary, competitions produce the best efforts in all participants and the best value for our agencies and departments. The end result would include more outsourcing, but more importantly, it will lead to more efficient government.

Mr. MICA. I thank each of the panelists for their testimony. In fairness, usually I start off with questions, but since Mr. DeSeve, on behalf of OMB, fired several broadsides at legislation proposed by Ms. Norton, I think I'm going to give her the opportunity to launch a counterattack and yield my time to you.

Mr. DESEVE. Could I have DOD defend me here, is that possible? Only in the national security sense.

Ms. NORTON. One good deed deserves another, Mr. DeSeve.

Would you describe in detail what actions OMB has taken to monitor the explosive growth of service contracts over the last decade?

Mr. DESEVE. I guess I'd like to start with the premise of explosive growth over the last decade. You'll see on page three of my testimony—hopefully your pagination is the same as mine—information from the Federal Procurement Data System.

In 1992, we believe that service contracting, Governmentwide, was $105.2 billion and in 1996 it was $111.7 billion.

Ms. NORTON. Would you consider that a decade, Mr. DeSeve?

Mr. DESEVE. Madam, I would be happy to go back——

Ms. NORTON. You are known for your mathematical abilities.

Mr. DESEVE. I would be happy to go back and add the additional years that would round out the decade. I do not have here the numbers going back to 1987.

Ms. NORTON. If you would supply for the record, the record in the 1980's when this growth really began—and this administration has continued it, perhaps not at the same rate but certainly has continued it.

When Mr. Panetta became Director of OMB, he said that the growth of these contracts was out of control and was one of the first things he began to look at. We now see that—I don't know, approximately $200 billion in the procurement program; perhaps that number is greater now because that's a 1992 number—the service part of that was growing faster than any other part of it.

So you then have taken on—you then, of course, have changed the subject because you now wanted to focus us on the number when I asked—the gravamen of my question is, what has OMB done to monitor the growth? Let's take explosive out of it and just leave growth in it.

Mr. DESEVE. We don't think there has been a growth, certainly not in the dollar volume. I do not have the statistics before me, and I don't know if they're available. But I'm questioning the premise of growth overall.

Ms. NORTON. You say there has been no growth, sir?

Mr. DESEVE. No, I think the statistics show that from 1992 to 1996, the dollar volume of growth, before you account for inflation, was approximately $6.5 billion. But if you account for inflation, my guess is that there would be negative growth.

Ms. NORTON. With great respect, you are evading my question. If you object to the word "growth" and you really want us to believe there has not been growth, then let's take out "growth" and see if I can get an answer to this question.

Mr. DESEVE. Are you asking what has OMB done to monitor the high level of service contracting?

Ms. NORTON. What has OMB done to monitor service contracts, particularly in the dollar amounts, in performance and in ways that would be comparable to the way you monitor the work of civil servants.

Mr. DESEVE. Thank you very much. That's a good question.

Ms. NORTON. I'm known for my good questions.

Mr. DESEVE. OMB does not, in fact, monitor the work of civil servants. We appropriately leave that to the agencies themselves. Similarly, we do not monitor service contracts. What we try to do is to work with the private sector employee groups, as well as the agencies, to create guidance.

Our 1996 revision to A–76 was the culmination of a 2- to 3-year effort with those groups that allowed for public comment, and comment from Members of Congress. We have tried to create a policy that provides a level playing field for those entities to move forward.

Had we seen any major changes or shifts from the aggregate data we do collect and publish, we certainly would have asked the agencies why those shifts occurred. In fact, I think Mr. Goodman has testified about the increase in DOD—and you can even see it in the testimony that I have given.

Ms. NORTON. Mr. DeSeve, thank you very much. I'm rushing because I know the Members are going to leave. The specific objection I have, of course, is that you are relying on aggregate data. And as long as all you have is aggregate data, you really don't have any information, you have aggregate data, whereas when the Office of Management and Budget in its summary report of agency service contracting practices looked beyond aggregate data, they concluded, and I quote, cost analyses and independent Government cost estimates are not performed by many agencies prior to the renewal, extension or recompetition of existing contracts.

And more seriously, let me quote this, "In some instances cost estimates are not prepared prior to entering into new contracts."

You think that that observation, that view from OPM is worthy of further investigation by OMB or anyone else in the Federal Government?

Mr. DESEVE. I'll be happy to look at it. I don't have that information before me. If you give me a copy, I would be happy to review it.

Ms. NORTON. I'm sorry, this is OMB, January 1994. I mislooked.

Mr. DESEVE. The January 1994, Office of Federal Procurement Policy Report, "Summary Report of Agencies Service Contracting Practices," summarized a review of our 17 largest agency service contracting programs and was designed to determine: First, if existing service contracts were accomplishing what was intended, second, whether they were cost effective and third, whether inherently governmental functions were being outsourced. Without exception it was found that existing contracts were accomplishing what was intended. While the report did not specifically address the question as to whether work should be performed by in-house or contract, the report found that agency contract administration is uneven and that contracting officers were not always preparing independent contract cost estimates prior to the renewal or award of some service contracts.

The independent government cost estimates, prepared in accordance with Federal Acquisitions Regulations [FAR], are used to determine contract price reasonableness and reflect the market and price history for similar types of work. They are not formal A–76 cost comparison estimates of what it would cost the Government to do the work in-house. Finally, in the very few cases where the agency reviews questioned whether inherently governmental functions had been converted to contract, actions were taken to convert that work back to in-house performance.

Ms. NORTON. So does that mean that every agency does a cost estimate before contracting or recontracting?

Mr. DESEVE. Based upon the guidance that has been issued as a part of the FAR and more recent guidance, including OFPP Policy Letter 93–1: "Management Oversight of Service Contractors," agencies should be developing estimates of reasonable contract costs before contracting or renewing existing contracts, but not every new or renewal contract is subjected to an OMB Circular A–76 cost comparison. When appropriate, and really at the agency's discretion, an agency may also submit an A–76 offer. When that A–76 offer, which reflects the full cost of in-house performance to the taxpayer, is compared on a level playing field with the prices/costs to the Government submitted by the private sector, the service may be returned to in-house performance.

Ms. NORTON. Mr. DeSeve, it is, of course, the case that agencies monitor their employees. Are you suggesting that agencies should in the same way, are in the same way the entities who should be monitoring service contractors; or is that your responsibility?

Mr. DESEVE. They should be monitoring the level of service contracts and the award of those service contracts, yes.

Ms. NORTON. But you don't have anything but aggregate data, so you don't know what they're doing?

Mr. DESEVE. I'll be happy to supply you with all the data we have. We have department-by-department data, and I would be happy to share that with you.

Ms. NORTON. We would be pleased to have that data.

Mr. DESEVE. Certainly.

[NOTE.—The information referred to may be found at the end of the hearing.]

Ms. NORTON. Mr. DeSeve, if you learned that a contractor had half as many employees doing a task that was—that in a prior period was assigned to civil servants or had twice as many employees as a unit that was previously assigned to civil servants, would you have no cause—would you have no curiosity about that?

Mr. DESEVE. I always have curiosity. What I would like to know is what it costs and what they're producing; that's what I care about. I don't care how many people there are in that unit. I care about what it costs the Government and what they are producing. Let me give you an example.

I recently became aware of a contract where there were 150 employees; it was a new undertaking for the Federal Government. These employees were failing to provide good service. We went down to the contractor and said——

Ms. NORTON. I'm sorry, what was the indication of that?

Mr. DESEVE. There was a backlog in the processing of this particular service. You could see that, month after month, things weren't getting processed.

We said to the contractor, "We'd like you to fix this problem." The contractor said, "The only way I can fix that problem is by using a new technique of getting information to do that." So we then asked how many people that would require. And the contractors said, "Well, it's not going to take people; in fact, I'm going to have to let some people go, because I'm going to get the information by magnetic tape directly from the information providers rather than getting it by paper form and having it keyed in.

So my point is that employment, as an indicator of cost or performance, is not helpful to us in making judgments under Federal law and regulation.

Ms. NORTON. Just let me suggest to you the kind of hypotheses that such numbers might suggest. If it was half as many as civil servants doing the same work, it might suggest that they're cutting corners. If there were twice as many, it might suggest that they were not terribly productive. If there is any concern about the quality of the work, it seems to me that the quality of work done, it does seem to me that that information would be useful.

I note in your testimony, Mr. DeSeve, that you said in response to H.R. 886, that would have funded for the first time in a millennium almost a statutory raise for Federal employees; you say, reducing contract dollars without regard to the disruptions to service requirements could lead to significant inefficiencies and would severely limit an agency's ability to respond to changing conditions.

Nobody said—when we reduced the FTE's and reduced the funds available to agencies, I didn't hear anybody from OMB say, doing that without regard to the disruption-to-service requirements could lead to significant inefficiencies; and as a result, we have people in Federal agencies doing the same work they were doing 5 years ago with, indeed, sometimes half as many employees as they had. OMB seemed totally unconcerned with that as long as the workers involved were civil servants, but seems to have greater concern for the service when it is done by contract workers.

Mr. DESEVE. I would like to respond by paraphrasing some testimony I gave before this committee on the ESOP and the downsizing at OPM.

The question before this committee was, Was there radical downsizing in OPM? I think the answer is yes.

What happened to the function of training? We eliminated it. Did that critically affect the way employees were trained in the Federal Government? We believe the answer was then, and is now, no. There are sufficient trainers in the private sector who picked up many of the Federal employees.

Even more telling is the indication of investigations. Investigations have been turned into an ESOP with what we believe are appropriate protections, and converting those employees from one status to another has continued the level of service to Federal agencies.

So on a continual basis, as we reduced employees, we asked that question. I've testified to that before this committee in the past.

Ms. NORTON. Of one section of one agency. The real question is, did you ask that question of all the units or even a representative sample of the units where there were reductions? One example does not a satisfactory response make.

The fact is, you say H.R. 885 requires that we cost-compare all existing contract workload as a matter of law. Would you favor H.R. 885 if it said that you do cost comparisons only on new contracts?

Mr. DESEVE. We would like to use the standards in A–76, which generally require that whenever there's a change in the way work is done, whether it is contracted in or contracted out, cost comparisons occur.

Mr. MICA. If you could let me interrupt, I would like to allow you to continue. Can I let you—are you sure? Because I was going to let you chair and grill these guys while we go vote. I can let you chair. The chairman can decide whatever he wants to do.

Mrs. Morella, go ahead and ask your questions.

Mrs. MORELLA. We have only about 5 minutes to go vote.

I would like to ask Mr. DeSeve if he would kindly develop and implement a system by determining and reporting the number of individuals employed by non-Federal Government entities providing service under contract, supported by executive branch agencies. That's H.R. 887. I don't know why we would do it legislatively when we can ask you to do it.

Would you try to do it?

Mr. DESEVE. We would apply the same standard we try to apply to things coming before us that, ask for Federal data collection. We would first ask, what is the burden on the businesses when we ask for that information? And, what is the burden to Federal agencies to collect it?

The second question we would ask is, what frequency of reporting is required? Is it every pay period, or semiannually?

We would also ask, how would we use that data? Once we had the data, what difference would it make in decisionmaking?

Finally, we would conduct a cost-benefit analysis to assess whether it was cost beneficial.

I have not yet been persuaded that the collection of the data would change behavior. If I knew how many people were working on a particular contract, it would be a variable allowed in bidding—or if allowed in bidding, it would be informative to us in making the bid award——

Mrs. MORELLA. I'm going to ask, can you get that to us in writing so we can scrutinize and monitor it? I have to go and vote. Maybe Ms. Norton could pick up on that.

Mr. DESEVE. We'll be happy to take whatever questions the committee submits and answer them.

[NOTE.—The information referred to may be found at the end of the hearing.]

Mrs. MORELLA. Mr. Goodman, I think your assistance in helping displaced employees is certainly outstanding. I wonder if you might share that kind of expertise with OPM.

And Mr. Kleinman was saying—I would ask the same of you two, that maybe you could do more pooling and sharing—partnering. Thank you.

Ms. NORTON [presiding]. Thank you very much.

Mr. DeSeve, you are at least partly responsible for the quick recovery of Philadelphia, your hometown, because of the way you worked with Mayor Edward Rendell to produce a more efficient and financially stable government. Mayor Rendell allowed some competition between civil servants and private employees seeking the same work.

Would you support a process by which, before any contract was let, the civil servants could have the option of competing for it?

Mr. DESEVE. We believe that system is currently in place under OMB Circular A–76.

Ms. NORTON. The employees certainly don't know about it. I'm asking about whether or not in each and every case, the employee should be made a formal offer—we just had them testify, whether in each and every case a formal offer should be made to the unit, you are hereby notified that you may compete for this contract.

We have heard what happens in DOD, when DOD was ahead of the rest of the Federal Government in buyouts and everything else, and they had such a lion's share of the employment, that they perhaps felt pushed. I'm talking about the non-DOD agencies now.

Mr. DESEVE. I don't understand the question. The option exists——

Ms. NORTON. The question is, would you support a process by which, in every case, employees were given the opportunity in the non-DOD agencies to compete for work being contracted out?

Mr. DESEVE. We believe that is now the case. I will be happy to look at Circular A–76, if there's a need for a clarification——

Ms. NORTON. You really do believe that in each Federal agency that the employees are approached?

Mr. DESEVE. Yes.

Ms. NORTON. And formally notified that?

Mr. DESEVE. I didn't say that.

Ms. NORTON. That they may now compete for this contract?

Mr. DESEVE. I didn't say that there was a formal notification, no.

Ms. NORTON. How are they going to know it? How are the employees going to compete if there is not some way to inform that, hey, the bell has started—the bell has rung; you now are in this competition if you desire?

Mr. DESEVE. The procurement process itself notifies all parties that a procurement——

Ms. NORTON. Who is the party you notify in unit *x* if their work is now being contracted out?

Mr. DESEVE. There is a general notification requirement, and the notification that goes out to the general public, and the contracting community is also available to the employee community. I know of no specific requirement to notify an employee group.

Ms. NORTON. Mr. Goodman, when employees are notified—I'm sorry, when competition takes place in the way you describe, how are employees notified that they may compete?

Mr. GOODMAN. Congresswoman, the A–76 process requires that you give the Government employees an opportunity to put together an MEO or, Most Efficient Organization. That is preliminary and structured into the procurement process of writing a performance work statement, writing the request for proposals and submitting

it. Then the MEO, the internal team, would bid for that. It is an integral part of our process. The management of the function knows this, and it is discussed with the work force.

Ms. NORTON. I'm suggesting to Mr. DeSeve, that process does not routinely occur, at least the employee organizations do not tell us that that process routinely occurs in the non-DOD agencies. To say, hey, it's in the rule someplace when you're dealing with a part of the work force that has not been largely involved in competition is not enough; and frankly, I don't think it's fair and does not level the playing field because it says, y'all better go and find out. If, in fact, it's done in DOD, we need to bring it over into the non-DOD agencies.

I want to ask Mr. DeSeve if he would be concerned if agencies are contracting out work to get around reductions in their FTE's or in their budgets.

Mr. DESEVE. If agencies are contracting out work to get around reductions in their budgets? For that, I would applaud them because they are then seeking to achieve savings. In terms of FTE limits, we have tried to be as clear as we can centrally—which is not to say that everyone always listens to OMB, believe it or not—in that the purpose of FTE limits is not to cause work to be contracted out.

Ms. NORTON. But is it not the purpose of the President to reduce the Federal work force in FTE's, as well as in money? And that is why the cheaper—you keep account of whether FTE's in fact are going up.

Mr. DESEVE. Congress actually adopted the Work Force Restructuring Act, which required a reduction of 272,000 FTE's, and that was then increased somewhat. So it is the law of the land. It's not just the President's intention, it's the law.

Ms. NORTON. Now why don't you answer my question?

Mr. DESEVE. I'm sorry, what was it?

Ms. NORTON. Was it not then the point to reduce the number of people, as well as reduce the amount of spending?

Mr. DESEVE. I would have to refer to the bill, which I don't have with me. My understanding is that the driving force was cost savings. In fact, those cost savings were used for other purposes, including crime reduction, most specifically. FTE is certainly an indicia of what things cost, but it's not the only indicia.

Mr. GOODMAN. Congresswoman, I'm hesitant to enter between my White House regulator and my own representative.

Mr. DESEVE. I'm not your regulator—your colleague, John, your colleague.

Mr. GOODMAN. My partner in Congress and my partner in the White House.

We're the largest agency; we've taken the largest drawdowns both in our military personnel and in our civilian personnel. That has come through a wide variety of processes. We have gone through four painful, but necessary, rounds of base closure. We've brought our force structure down significantly. We no longer have as many air wings or divisions or submarines as we used to. All of that brings down the work force.

But in our competition policy, in our use of A–76, the goal is not Federal work force reduction. Even if it were the goal, it would be

a very poor tool to achieve that end because when we enter into a competition, we don't know who's going to win. We do know that in-house teams win an awfully high percentage of those competitions. And that is our principal objective, to have the most efficient provider of that service.

But we do not use this as a form of personnel reduction.

Ms. NORTON. I'm not suggesting that you're using it as a form of personnel reduction. Everybody knows that the President—and, Mr. DeSeve, the Congress didn't say, let's find out how many people we can let go. I am suggesting that Congress keeps track of FTE's like it was at the race track, that FTE's really do matter. And if they matter, to see FTE's on Federal funds go up in one sector while they are coming down in another suggests that at least part of what we were after is not being accomplished.

Mr. DeSeve—and I am glad you said it for the record, tells me he doesn't care how many people it takes, and he regards even huge increases or huge reductions as irrelevant. I'm going to muse on that, because it does seem to me that, at some level, great differences above or under what the same folks were using in the Federal sector ought to say something to us.

I sympathize, and let me just say to Mr. DeSeve, I think—because he and I have worked and worked very well together, and he knows the enormous respect I have for him——

Mr. DESEVE. And I share the same respect for the Congresswoman.

Ms. NORTON [continuing]. That Mr. DeSeve knows what I think about excessive bureaucracy and excessive paperwork. That I think that many on my side of the aisle have killed the goose that laid the golden egg by simply asking for more data, wanting more bureaucracy, thinking that that is the functional equivalent of efficiency, assuming we could demonstrate that large variations were an indication that we want to check to make sure that at some point we didn't end up with a scandal or an exposé in a newspaper that we couldn't respond to.

And let me be clear, I don't think that the Congress or the President wants to wake up one day and say, well, they have certainly cut the cost, but somebody who contracted with the XYZ unit at HHS now has three times as many employees, we in the New York Times have found out.

Or to take what is more likely to be the case, they contracted out the data processing work at HHS for whatever, for the unit that did a certain job. And while they must be efficient, because they have one-tenth of the employees that they had when HHS was doing the work, I think that the bell that would ring is that somebody is cutting corners and that maybe on that contract, I would want to look at it. That is the predicate for this question.

Under some circumstances, would it be appropriate to spot-check contracts where the numbers may seem to the average analyst wildly beyond or below what one might expect? Given the experience we have with the Federal work force, if we spot-checked it, didn't build ourselves a whole data bureaucracy, would this be an appropriate way to perhaps respond to this concern?

Mr. DESEVE. That's a good question and Mr. Goodman may want to answer as well. When we award a contract, we try to put as

many performance factors into it as possible. We have the contractor describe how they intend to process x amount of transactions. So in terms of spot-checking, they describe the methodology they intend to use, whether it is, for example, to use a mainframe computer or network computers, or to have employees located in three different locations.

The spot-checking is part of the bid evaluation process. So each time a bid is awarded, the entity looks at the overall nature of the operation that's going to occur. The question is, do we focus on employees or do we focus on performance and cost?

We believe that we should focus on performance and cost. Rather than keeping a data system that continuously monitors how many people are working, we have a data system that monitors what it costs and what we're getting. That's our focus.

Ms. NORTON. It would be a red flag for you if the costs were greatly beneath?

Mr. DESEVE. Yes, ma'am. Beneath or above.

Ms. NORTON. Above, you wouldn't pay much attention to it if it was greatly above; but if it was greatly beneath, assuming you did any cost comparisons at all——

Mr. DESEVE. We had one of those the other day. An agency came in with a data processing contract now being done out-of-house. And they were using a new contracting vehicle to bring it in-house. The reduction in magnitude was from 20 to 4. They went from 20 to 4. In this case, it was in millions of dollars. We thought that was ridiculous; there was no way that could happen. So we asked them to go back and take a look at it again.

They demonstrated to us the change that was occurring, both in their requirements, because they had reengineered some of them, and in the methodology that was going to be used by the provider.

In that case, it came to our attention. It's not normal for OMB to learn of those things. They were just proud of themselves. They were telling us what a great job they did. We thought, how the heck could you do that, scratched our heads a little bit. But when we hear about something, we do try to go in and find out what's going on.

In the iceman contract, a case of contracting in to the Agriculture Department to which I referred earlier, all of the possible areas where bid protests might have occurred and all of the cost factors in that contract were clear, so that any protest would be done on good data. So we did try to help the folks at FAA there as well.

Ms. NORTON. Let me just say that I learned a considerable amount from listening to all three of you. In some cases, you made me assured, in others you raised questions for the committee.

Mr. DeSeve, I am a little troubled by the anecdotal nature of your responses, because I do think, and we can find an example here, they had to tell us anything. I do think that as the Government contracts out more work, it ought to protect itself from what might be exposure from others than the Congress or their own internal anecdotes from problems that could arise simply because the amount of money we're talking about is so colossal and there's so much of it to be had here.

Thank you very much for this very appropriate and elucidating testimony.

This hearing is now adjourned.

[Whereupon, at 1:30 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEPUTY DIRECTOR
FOR MANAGEMENT

FEB - 3 1998

Honorable John L. Mica
Chairman
Civil Service Subcommittee
Committee on Government Reform and Oversight
U.S. House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Thank you for your letter of November 12, 1997, regarding OMB's testimony of October 1, 1997, before the House Civil Service Subcommittee. The hearing focused on agency use of outsourcing and OMB Circular A-76. Your letter included several follow-up questions. Enclosed are detailed responses to these questions.

Again, thank you for your inquiries. Please let me know if I can be of any further assistance.

Sincerely,

G. Edward DeSeve
Acting Deputy Director
for Management

Enclosure

ENCLOSURE

Questions and Answers Regarding:
Outsourcing, OMB Circular A-76 and Related Contracting Issues
as submitted by
Chairman Mica, Committee on Government Reform and Oversight,
Subcommittee on Civil Service.

January 1998

1. THE NUMBER OF FEDERAL CONTRACT EMPLOYEES

Question: *"We believe that Congress should be able to know the number of employees who work for Federal contractors. This information would help us assess the recurrent claims that Federal employees' positions are simply being converted to contract, with little reinvention resulting from the transition."*

Response:

There is currently no system of reports that will identify or aggregate contract employees by contract type, location or contract number. Reasonable estimates of the number of Federal contract employees can be made based upon a range of economic assumptions and using reported contract dollar values.

Agencies need to know the scope of contracted workload, that contract prices are reasonable, that the work is of appropriate quality, and the dollars being spent. It is not, however, useful or important that an agency know the specific number of employees hired by a contractor on a full-time or part-time basis to meet the performance requirements of the contract. Collecting this kind of information would be arduous and costly to both the agencies and to the contractors themselves. It would be time sensitive and subject to significant distortions over time, by contract, by contract type, by location, by function, individually or in aggregation. To collect this information, OMB would be obligated, in accordance with the Federal Paperwork Reduction Act, to demonstrate the practical utility of the information requested and that the administrative burden associated with its collection was outweighed by the benefit of having access to the information on a recurring basis. We do not believe that this information is useful. It would have little or no impact on the conduct of individual A-76 cost comparisons and would contribute little to understanding the growth or decline in overall Federal employment levels.

2. THE GROWTH OF SERVICE CONTRACTING

Question: *"Please provide the level of service contracting done by Federal agencies for the past ten years."*

Response:

Federal service contracting has declined, in real terms, over the ten year period. Clearly, the budget constraints that agencies have faced under OBRA '93 and will face as we implement the Balanced Budget Agreement has contributed to this decline. Technological improvements, efforts to achieve better economies of scale, improved contracting techniques and efforts to enhance the level of competition available have also had an effect. The following provides a summary of service contracting by year, not adjusted for inflation.

Service Contracting
($ billions)

Year	Total Service Contracting	DOD Service Contracting	Percent DOD
FY 1986	$82.5	$53.7	65.1
FY 1987	$88.3	$58.8	66.6
FY 1988	$87 9	$57.2	65.1
FY 1989	$88 4	$55.3	62.6
FY 1990	$90 6	$57.7	63.7
FY 1991	$102.9	$61.8	60.0
FY 1992	$105.2	$60.9	57.9
FY 1993	$105.5	$62.0	58.8
FY 1994	$110.0	$65.3	59.4
FY 1995	$114.1	$66.9	58.6
FY 1996	$111.7	$68.8	61.6

Note: Source: The OFPP Federal Procurement Data System. These numbers include R&D, Construction, A&E, ADP services (including installation and maintenance) and other services.

After adjusting for inflation, average growth over the period is estimated at 3.1 percent per year, well within the compound inflation rate of 3.6 percent per year over the same period. Stated somewhat differently, when the DOD's estimated deflator[1] is used to estimate constant dollars, the $82.5 Billion in expenditures in FY 1986 is the equivalent of $112.8 Billion in 1996 dollars, again showing a slight decline in overall service contract spending.

[1] Appendix A: Estimating Savings by Function, "Outsourcing Opportunities for the Navy," Center for Naval Analysis, April 1996.

3. AGENCY COST COMPARISONS

Question: *"Please provide the Subcommittee with a listing, by agency, of the number of cost comparisons conducted for each of the past ten years, the number of positions retained in-house as a result of these competitions and the dollar value of the functions converted to contract through the Circular A-76 procedures."*

Response:

While the number of A-76 cost comparisons conducted by the Department of Defense is available, OMB has not generally monitored the number of individual cost comparisons conducted by the agencies. The number of cost comparisons may vary due to size and could include decisions to convert directly to or from in-house or contract without a formal cost comparison, as permitted by the Circular and its Supplement. Agencies, for example could have conducted 30 or 40 cost comparisons involving 10-15 FTE or, as in the case of the Air Force, one study involving over 800 FTE. FTE studied, FTE savings and dollar savings generated are more useful aggregate measures of agency competition efforts. The number of studies conducted by the DoD is shown below. The FTE studied, FTE savings and dollar savings generated, as reported by the agencies, is shown in attachments 1, 2 and 3, respectively.

DEPARTMENT of DEFENSE
COST COMPARISONS BY FISCAL YEAR:

FY	NO. OF STUDIES	TOTAL FTEs
86	261	8,164
87	232	10,187
88	192	12,000
89	109	6,100
90	53	6,989
91	64	1,243
92	14	496
93	8	441
94	10	1,623
95	18	2,128
96	64	5,241
97	344	25,255
Total	1,369	79,867

In reviewing the number of cost comparisons conducted within the Department of Defense, it is important to note that during the 1980s, legislation was introduced to end, delay, change or otherwise restrict the conduct of cost comparisons for the conversion of work from in-house to contract performance. There are several provisions of law that inhibited DoD's competition efforts. The first provision, contained in the National Defense Authorization Act for Fiscal Years 1988-89 (P.L. 100-180), authorized installation commanders to determine whether to study activities for potential outsourcing. Because of disruptions to their workforce, the cost of diverting local resources to conduct studies, and a desire for more direct control of their workforce, many commanders chose not to pursue competition as a reinvention tool. This law, which was known as the "Nichols Amendment" and codified at 10 U.S.C. 2468, was effective through September 30, 1995. Another provision contained in the Department of Defense Appropriations Act for Fiscal Year 1991 (P.L. 101-511) and subsequent DoD appropriations acts, prohibited funding for lengthy A-76 studies and required their cancellation in certain cases. Finally, the National Defense Authorization Acts for Fiscal Years 1993 and 1994 contained provisions that prohibited DoD from entering into contracts resulting from cost studies done under A-76 (conversions from in-house to contract performance). Taken in combination and over time, these provisions have limited DOD's ability to enter into competitions or to outsource commercial work without regard to cost or performance.

4. COMPETITIVE VERSUS NON-COMPETITIVE CONTRACTING

Question: *"The Subcommittee requests that you submit, for our records, copies of any reports or studies that endeavor to assess the comparative costs and benefits of competitive versus non-competitive contracts. In particular, we are interested in identifying whether any particular program of set-aside procurement has been disproportionately identified as a source of complaints about defective contracting, either by Inspector Generals or through other agency review procedures."*

Response:

As a general matter, competition has been long recognized as a key ingredient to reducing the cost and increasing the quality of the goods and services agencies buy in pursuit of their missions. Reaffirming the importance of competition in the mid-1980s -- in response to concerns that sole-source contracting was increasing and competition was becoming the exception rather than the rule -- Congress noted that competition both curbs cost growth and promotes innovation. See House Report No. 1157, 98th Cong., 2d Sess. 11 (1984), cited in attachment 4. With respect to costs, House and Senate Committees estimated the savings from competition at anywhere between 15 to 70 percent per procurement. See House Report No. 1157 at p. 14 and Senate Report No. 50, 98th Cong., 1st Sess. 3 (1983). Not surprisingly, major studies of our procurement system, such as the Report of the Acquisition Law Advisory Panel in 1993 (the "800 Panel") and the Report of the Vice President's National Performance Review (NPR) later

that same year, continue to view competition as a fundamental building block of our procurement process. (See attachment 4 for a brief excerpt from the 800 Panel Report describing how competition is viewed.) The NPR, in particular, has focused on ensuring that agencies can make efficient and effective use of competition.

As you are aware, the Small Business Administration (SBA) has oversight responsibility for Federal procurement set-aside programs. Among other things, SBA administers the 8(a) program, which authorizes the SBA to enter into all types of contracts, including competitive awards, for performance by eligible program participants. It is also tasked with administering the "Very Small Business Set-Aside" (VSBSA) program under which contracting activities and the SBA will seek to identify requirements which can be competed among firms that qualify as "very small businesses." (The Small Business Reauthorization Act of 1997 extended the authority for this program through fiscal year 2000.) SBA will also have responsibility for the HUBZone program, which was established by the Reauthorization Act to encourage the competitive award of Federal contracts to small businesses located in, and employing residents of, designated urban and rural communities to promote economic development. According to the SBA, none of the existing set-aside programs have resulted in a disproportionate number of complaints related to "defective contracting."

AGENCY A-76 COMPETITION EFFORTS

FTE Studied

AGENCY	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
USDA	36	19	257	79	0	146	[	-37-	]	12	3	0
DOC	248	594	1805	463	0	0	0	0	0	0	23	0
DOD	8164	10187	12000	6100	6989	1243	496	441	1623	2128	5241	25255
ED	0	0	0	0	0	0	0	0	0	0	0	0
ENERGY	171	0	159	23	133	267	[	-13-	]	216	0	0
EPA	0	0	0	0	0	0	0	0	0	0	0	0
GSA	517	464	840	714	841	271	[	-19-	]	30	0	0
HHS	311	97	133	97	0	20	[	-30-	]	0	0	0
HUD	0	0	0	0	0	0	0	0	0	0	0	0
DOI	25	10	259	0	28	0	[	-01-	]	0	0	0
DOJ	0	0	0	0	0	0	0	0	0	0	0	0
DOL	0	0	47	12	15	14	0	0	0	0	0	0
NASA	0	0	0	163	0	0	0	0	0	0	0	0
OPM	0	117	0	0	0	0	0	0	0	0	0	0
STATE	0	0	0	0	10	0	0	0	0	0	0	0
DOT	1089	1034	1193	354	548	0	0	0	0	0	0	0
TRES.	0	5	0	464	134	0	0	0	0	0	0	0
VA	0	258	556	0	859	65	[	-103-	]	0	0	0

* *Bracketed Numbers [ ] reflect agency dated submitted for a multi-year period*

AGENCY A-76 COMPETITION EFFORTS

FTE Savings

AGENCY	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
USDA	36	19	42	49	0	146	[	-37-		] 12	3	0
DOC	138	232	42	148	0	0	0	0	0	0	23	0
DOD	5506	6287	8867	4007	3365	732	203	0	4661	125	1207	1245
ED	0	0	0	0	0	0	0	0	0	0	0	0
ENERGY	43	22	54	8	28	53	[	-13-		]	216	0
EPA	0	0	0	0	0	0	0	0	0	0	0	0
GSA	409	289	370	304	403	164	[	-19-		]	30	0
HHS	124	4	97	97	0	20	[	-30-		]	0	0
HUD	0	0	0	0	0	0	0	0	0	0	0	0
DOI	2	1	255	0	28	0	0	0	0	0	0	0
DOJ	0	0	0	0	0	0	0	0	0	0	0	0
DOL	0	0	44	7	0	14	0	0	0	0	0	0
NASA	0	0	0	163	0	0	0	0	0	0	0	0
OPM	125	25	0	0	0	0	0	0	0	0	0	0
STATE 0	0	0	0	0	0	0	0	0	0	0	0	0
DOT	869	536	517	80	140	0	0	0	0	0	0	0
TRES.	0	0	0	0	0	0	0	0	0	0	0	0
VA	0	124	0	265	157	65	[	-103-		]	0	0

* *Bracketed Numbers [ ] reflect agency dated submitted for a multi-year period*

AGENCY A-76 COMPETITION EFFORTS

Estimated Dollar Savings
($000)

AGENCY	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
USDA	332	154	1054	8347	0	0	[	-370-		]	0	0
DOC	1683	2822	1674	2465	0	0	0	0	0	0	230	0
DOD	86500	77745	110000	53415	63000	32000	316000	324000	331000	328000	353000	412000
ED	0	0	0	0	0	0	0	0	0	0	0	0
ENERGY	228	104	589	204	347	1695	[	-130-		]	2167	0
EPA	0	0	0	0	0	0	0	0	0	0	0	0
GSA	9220	5485	824	7800	5905	3695	[	-190-		]	300	0
HHS	2458	38	99	2522	0	0	[	-300-		]	0	0
HUD	0	0	0	0	0	0	0	0	0	0	0	0
DOI	43	15	0	0	1833	0	0	0	0	0	0	0
DOJ	0	0	0	0	0	0	0	0	0	0	0	0
DOL	0	0	620	149	0	0	0	0	0	0	0	0
NASA	0	0	0	4238	0	0	0	0	0	0	0	0
OPM	0	0	0	0	0	0	0	0	0	0	0	0
STATE 0	0	0	0	0	0	0	0	0	0	0	0	0
DOT	5214	2355	11534	3665	2610	0	0	0	0	0	0	0
TRES.	440	13	0	0	0	0	0	0	0	0	0	0
VA	0	4773	3290	2290	111	0	[	-1030		]	0	0

* *Bracketed Numbers [ ] reflect agency dated submitted for a multi-year period.*

** *1992-1996 Dollar Savings are estimated at $10,000 per FTE studied, the historical average..*

ATTACHMENT 4

Excerpt from: *Report of the Acquisition Law Advisory Panel to the United States Congress* (January 1993)

* * *

1.0.1. Competition as a National Policy

Competition has been the foundation for the buyer-seller relationship in Government contract laws from the earliest days of the United States. In 1809, for example, Congress enacted

a law to provide that "all purchases and contracts for supplies and services shall be made by open purchase or by previously advertising for proposals."[5] This policy was reinforced and strengthened by numerous other laws in the ensuing years.[6]

The role of competition in the buyer-seller relationship was recognized by the Supreme Court in 1925 in *United States v. Purcell Envelope*.[7] In *Purcell*, the Court addressed a sealed bid procurement, the primary method for obtaining competition at that time, and observed that "the procedure for advertising for bids "gives the Government –

> . . . the benefit of the competition and each bidder is given the chance of a bargain. It is a provision therefore in the interest of both Government and bidder necessarily giving rights to both and placing obligations on both."[8]

More recently, in response to concerns that competition had become the exception and not the rule in Government contracts, the Congress established full and open competition as the guiding principle for all Government acquisitions. The Conference Report on the Competition in Contracting Act of 1984 explained this principle as follows:

> The conference substitute uses "full and open" competition as the required standard for awarding contracts in order to emphasize that all responsible sources are permitted to submit bids and proposals for a proposed procurement. The conferees strongly believe that the procurement process should be open to all capable contractors who want to do business with the Government.[9]

The Report of the House Government Operations Committee on CICA provided further support for competition stating:

> The Committee has long held the belief that any effort to reform Government procurement practices must start with a firm commitment to increase the use of competition in the Federal marketplace. Competition not only provides substantially reduced costs, but also ensures that new and innovative products are made available to the Government on a timely basis and that all interested offerors have an opportunity to sell to the Federal Government.[10]

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[5] 2 Stat. 536.
[6] *See generally* John Cibinic, Jr. and Ralph C. Nash, Jr., FORMATION OF GOVERNMENT CONTRACTS 216 (2d ed. 1986).
[7] 249 U.S. 313 (1919).
[8] *Id.* at 318-319.
[9] H.R. CONF. REP. NO. 861, 98th Cong., 2d Sess. 1442 (1984).
[10] H.R. REP. NO. 1157, 98th Cong., 2d Sess. 11 (1984).

The competition policy underlies all of the Panel's recommendations on contract formation. The Panel believes that its recommendations will improve and strengthen the competition process and enable DOD to gain a fuller measure of the benefits of competition.

Chairman Mica, Members of the Subcommittee, I am Robert Tobias, National President of the National Treasury Employees Union (NTEU). On behalf of the more than 150,000 federal employees represented by NTEU, I appreciate the opportunity to appear today as your Subcommittee examines critical issues associated with the federal government's contracting out practices.

As you know, federal agencies have been undergoing downsizing for several years now. Over 300,000 federal jobs have been eliminated since President Clinton took office. Unfortunately, the same cannot be said of the shadow government which has grown to take the place of, and perform the functions that have previously been performed by federal workers. The Washington Post reported in the fall of 1995 that while government spending had declined nationwide, local Washington, D.C. area businesses reaped $20 billion in federal contracts -- a 10 percent increase over the previous year.

Moreover, I understand that the federal government's current annual service contracting budget is in the neighborhood of $115 billion dollars. In contrast, the federal government's annual personnel costs stand at approximately $90 billion dollars. While Congress has mandated dramatic federal agency downsizing in the

name of deficit reduction efforts, private sector procurement contracts have become one of the fastest growing areas of federal spending. It is ironic that tighter restrictions on hiring federal employees have led to even more expensive contracting out of federal services -- little more than a ledger paper change, and a costly one at that. Although there may be no room in agency personnel budgets, it seems there is always room for one more contractor.

We are all familiar with the findings outlined in the March 1994 General Accounting Office (GAO) study that measured the costs associated with contracting out federal functions. Entitled, Measuring Costs of Advisory and Assistance Service Contractors Versus Federal Employees (GAO/GGD-94-95), its findings still bear repeating today. GAO found that the federal government could save millions of dollars by performing functions directly rather than allowing them to be performed by private contractors. An audit of Air Force service contracts found that the Air Force could have saved up to $6.2 million if contractor work had been performed in-house in 1990. An audit of the Department of Energy's support service contracts revealed that direct government performance of these contracts would have resulted in savings of between 26 and 53 percent.

Yet another GAO Report, Federal Contracting: Cost-effective Contract Management Requires Sustained Commitment (GAO/T-RCED-93-2)

detailed examples of contractors charging the federal government for millions of dollars in costs, such as employee parties, tickets to sporting events, and alcoholic beverages, that are either unallowable or questionable. Numerous other GAO reports cite contract cost overruns, poor, or nonexistent oversight and lax management of contracts as rational reasons why their use must be tightly controlled. Yet, this black hole of federal spending is as active today as it was when these reports were first issued. While the federal government downsizes and federal employment has dropped to its lowest level in decades, private sector contractors appear to be the ones who have benefitted.

The performance of commercial government activities by outside contractors is subject to OMB Circular A-76, which requires a cost comparison between performing work in-house by federal employees and performing the work by private contractors. Consulting, or service contracts, however, are **not** subject to A-76 cost analyses. Considering the roughly $115 billion currently estimated to be spent annually by the federal government on service contracts, such a requirement is long overdue.

We applaud the changes made to Circular A-76 in early 1996. Among the changes was a provision to allow the government the opportunity to win back a contract after it has been contracted out if the service could be performed at less cost in-house. This provision allows the government to take advantage of improvements

that may have been made that permit more efficient delivery of services, but it also serves as an important check on private contractors. Absent this provision, contractors have had little incentive in the past to provide timely and efficient service.

In testimony before the Senate Governmental Affairs Committee earlier this year, OMB Deputy Director for Management, John Koskinen, provided illuminating facts concerning the government's ability to compete for, and win back contracts that have been let to the private sector. He indicated that federal employees have proven to be extremely cost competitive and stated that "approximately 50 percent of the competitions conducted to date have been won by the Government."

But more remains to be done to address serious problems that remain. Your letter inviting me to appear today asked for my recommendations on what should be included in legislation on contracting out. Such legislation is long overdue, Mr. Chairman, and I will detail some of the points NTEU believes must be addressed in order to level the playing field and provide for genuine competition, where it is appropriate, between contractors and federal employees:

Provision for Inherently Governmental Functions

There are many instances where the government does not have

the necessary expertise to accomplish a job and seeking that assistance from the private sector is wholly appropriate. However, there are also those functions that are so inherently governmental in nature that there should be no question but that the federal government shall perform them.

The basic definition of the concept of "inherently governmental functions" is set forth in OMB Circular A-76 and dates back to at least 1983. In that Circular, OMB states that an inherently governmental function is "a function which is so intimately related to the public interests as to mandate administration by government employees." In listing examples of inherently governmental functions, the Circular includes federal tax collection and revenue disbursement activities. Both the General Accounting Office's general guidelines and the literal language contained in Circular A-76 make clear that these activities fall into this protected category.

Despite clear guidance on this point, Congress mandated an IRS private sector debt collection pilot program which was initiated in FY 1996. Opposition to the pilot program came from many quarters, including the National Association of Enrolled Agents which strenuously opposed siccing private bounty hunters on some individuals with long overdue taxes. Revenues collected under the program were significantly less than expected and the pilot was subsequently canceled. Nevertheless, advocates of contracting out

continue to suggest that other, equally sensitive, aspects of tax collection are appropriate areas for contractors. NTEU strenuously disagrees.

The relevant portions of A-76 on these points have been incorporated into the Code of Federal Regulations. They are binding on all agencies and have the force and effect of law. Legislation adopting these same points would serve an important purpose -- making clear that the Congress, too, believes they should guide federal procedure in this area.

Cost Comparisons of Federal vs. Contractor Services

The rationale most often advanced for contracting out federal jobs is that the services can be accomplished at less expense. As the many GAO reports on this topic accurately point out, this is not necessarily the case. Still other advocates of contracting out federal jobs to the private sector have indicated their beliefs that contracting out achieves superior productivity, efficiency and effectiveness. There is simply no truth to these unfounded beliefs.

Federal employees deserve a fair shot to compete. The provisions of Circular A-76 require a cost-comparison between contracting out and conducting the work in-house. Yet, agencies often disregard this rule and cost-comparisons are frequently not

performed before work is contracted to the private sector. Legislation to require federal agencies to make these cost comparisons -- including contracts for advisory and assistance services -- and to prohibit agencies from entering into outside service contracts if the services can be performed at less cost by federal employees is overdue. I urge the Subcommittee to look at legislation introduced by Congresswoman Eleanor Holmes Norton on this topic, H.R.885. This bill addresses one of the fundamental flaws in federal contracting and deserves to be adopted by this Congress.

As detailed above, the 1996 supplement to Circular A-76 allows the government the opportunity to win back a contract after it has been contracted out if the service can be performed at less cost in-house. This key provision not only allows the government to take advantage of improvements that make delivering services more efficient over time, it serves to encourage government to find ways to become more efficient and remain competitive. This, too, should be included in legislation.

Agency Budget Line-Item Accountability for Service Contracts

Congressional budget and appropriation bills should include line-items for agency contract services. Just as agencies are required to live within congressionally-mandated salary and expense account limits which dictate the number of full time equivalent

employees, agencies should be required to live within a contracting budget as well. The amount of money an agency spends on contract employees should be no less prominently displayed than the agency's accounting of salaries and expenses for in-house employees.

Cost Analysis at Renewal, Extension or Re-Competition of Contracts

It has become clear over the years that even if cost estimates are performed by agencies prior to letting a contract, they are often skipped when it comes time for the renewal, extension of even re-competition of existing contracts. In the interest of streamlining federal expenditures and continuing to ferret out and eliminate waste, fraud and abuse, there must be increased emphasis placed on the necessity of cost estimates whenever private sector contracts are reviewed. This, too, must be addressed in legislation.

Effective Oversight and Contract Administration by Federal Agencies

Lax management and ineffective oversight of contracts continues to plague many federal agencies. As detailed earlier in this testimony, GAO has uncovered instances where the federal government has been charged millions of dollars in either

questionable or clearly unallowable expenses.

Moreover, GAO, in previous reports to Congress, has made clear that federal agencies have often abdicated their responsibilities and relied on contractors to carry out their own oversight! This is akin to encouraging federal employees to write their own performance evaluations. In December of 1992, (GAO/T-RCED-93-2), GAO concludes, "Unfortunately, in all too many instances, federal agencies have abdicated to their contractors the responsibility for ensuring that contractors perform quality work cost effectively."

Contract administration is one of the costs of doing business with contractors -- it not only must be done; it must be included in cost comparison analyses.

Federal Government Contractor Inventory

Just as the federal government tallies the number of employees working for the federal government, a similar annual accounting should be kept of the number of contract employees doing business with the federal government. Congresswoman Eleanor Holmes Norton (D-DC) has introduced legislation to provide for just such an accounting, H.R.887. Her bill would require the Office of Management and Budget to develop a government-wide system for determining and reporting the number of non-federal employees engaged in service contracts. I encourage this Subcommittee to

review H.R.887 and include its provisions in any contracting out legislation that the Chairman may draft.

Federal Employee Protections

NTEU strongly endorses the protections afforded to federal employees by Circular A-76. It is essential that these remain intact and be included in legislation drafted to address contacting out in the federal sector. These include the right of first refusal for any new contract work, priority consideration for available positions within the agency, payment of reasonable costs for training and relocation and an internal appeals process following announcement of a contract. These provisions help maintain a federal workforce that continues to be of the highest quality.

In conclusion, I want to thank you again for inviting me to appear on this important topic. My staff and I would welcome the opportunity to work with you on legislation that encompasses the important issues I have addressed today.

Mr. Chairman. My name is Alfred K. Whitehead, and I serve as the General President of the International Association of Fire Fighters representing more than 225,000 professional fire fighters and emergency medical personnel throughout the nation. I appreciate this opportunity to present our views on the federal government's process for contracting out.

After working on issues involving contracting out fire protection for a number of years, we have come to the conclusion that the process is deeply flawed. Quite simply, current law is not working when it comes to fire protection issues.

Before delineating the problems with the current system, I wish to make a comment about my membership. The IAFF represents approximately one-third of all federal government fire fighters, but represents over 95% of fire fighters employed by state and local governments. When the federal government contracts out fire protection, the IAFF gets more members. In short, I am not here to make a parochial plea to save my members' jobs. Rather, I am deeply concerned that the current federal policy toward contracting out is severely damaging fire safety and protection at federal facilities.

The IAFF primarily represents fire fighters working for two agencies: the Department of Defense and the Department of Veterans Affairs. While the situation faced by the employees of these two agencies

differs markedly, they share the common theme that the current process is not working in either agency.

I wish to begin by discussing the situation in the Department of Defense. As you know, Mr. Chairman, more than ten years ago Congress came to the conclusion that fire protection at military installations was so specialized that it should not be contracted out. Among Congress' many reasons for taking this step were the potential threats to national security stemming from base commanders' ceding control over emergency situations to outside private sector contractors, and the need for fire fighters at certain sensitive installations to have security clearance.

For these and other reasons, Congress created Section 2465 of Title 10 which expressly forbids the Department of Defense from contracting for fire protection or security guard functions. With such a clear statement on the matter of contracting for fire protection, one would think that there would be no problems in this area. One would be wrong.

For ten straight years, opponents of this provision have refused to accept Congress' decision and have tried every imaginable tactic to circumvent Section 2465. Repeated efforts to directly repeal the provision have failed miserably, so these overzealous advocates of contracting out have sought other avenues. Every single year the Defense Department conjures up new and increasingly creative ways to undermine Congress' clear policy on this issue. There have been

pilot projects, studies, exceptions and restrictions. In some cases, military base commanders have even tried ignoring the law and illegally moved forward with their contracting out plans. The amount of taxpayer resources expended by those seeking ways to by-pass current law is truly extraordinary. These games have to stop now!

Even worse than the antics of the Department of Defense, has been the inexcusable conduct of the Department of Veterans Affairs. VA fire fighters protect Medical Facilities which care for our nation's war heroes. The total disregard for patient safety that has marked the VA's efforts to contract out fire protection is a national shame.

Unlike their colleagues in the Defense Department, VA fire fighters are covered by the contracting out process of OMB Circular A-76. While A-76 was intended to bring a rational approach to contracting out, the story of how the VA approaches fire protection contracts highlights the deficiency of the process.

Every assessment conducted using the guidelines of A-76 has concluded that the most cost effective and efficient way to provide fire protection at VA facilities is to use in-house fire fighters. If A-76 was working properly, these studies would have resolved the issue. On the contrary, the studies have only prompted VA Medical Center Administrators to invest resources in finding ways to circumvent the A-76 process.

One of the biggest loopholes that VA officials have exploited is the ability to waive fire protection standards without adequate rationale. In cases where local jurisdictions have been unable to comply with VA and NFPA* fire protection standards, the VA has simply issued variances--in effect nullifying their own standards. These variances are issued without regard to patient safety or any legitimate fire protection criteria. Rather, they are simply issued in order to allow local governments to offer a low enough bid so that contracting out fire protection becomes economically feasible.

In at least one case, a VA Medical Center Administrator chose to simply ignore the cost efficiency studies, and contracted out fire protection in direct violation of A-76. He told the president of a local union that he knew he was violating the law, but decided to go ahead anyway because "by the time OMB finds out, all the fire fighters will be long gone and then I'll have to contract out."

This story brings up a final problem with the A-76 process: lack of oversight. In essence, OMB gives each agency wide latitude in determining whether or not they have fairly complied with A-76 requirements. Agencies that wish to contract out in violation of A-76 protocols have little difficulty doing so. The result of this lax enforcement has serious repercussions. Not only are taxpayers footing the bill by paying for services that could be provided cheaper

* *The National Fire Protection Association (NFPA) is the consensus, standard making body for the fire service.*

by federal employees, but because agencies waive standards to circumvent A-76, the American public is not getting the service they deserve. And when this service is fire protection, lives are being jeopardized.

We believe there is a solution to these problems, at least as they pertain to fire protection. The unique demands of safeguarding people and property at military and veterans installations require the unique talents of specialized and highly trained fire fighters. Congress should acknowledge this special case and deem fire fighting an "inherent government function." By giving fire fighters this designation, no longer will taxpayers' money and lawmakers' precious time and energy be wasted in the mounting gamesmanship of those who would contract fire protection at all costs. The inherent government function designation will ensure better fire protection at reduced cost. That's something we should all want.

Mr. Chairman, I.thank you for this opportunity to share our views on this important subject. I would be happy to answer any questions you may have.

INTRODUCTION

Mr. Chairman and Subcommittee members, my name is Bobby L. Harnage. I am the National Secretary-Treasurer of the American Federation of Government Employees (AFGE)--the largest federal employee union, representing 600,000 government workers serving worldwide. I appreciate the opportunity to submit this testimony for the record.

The nation's newspapers continue to be filled with contractor horror stories. Here are abstracts of some recent entrants into the Hall of Shame:

RE-ENGINEERING B-52 BOMBERS: A recent General Accounting Office study reports that a proposal by Boeing to re-engineer the Air Force's fleet of B-52 bombers would cost $1.4 billion more than sticking with the aircraft's current engines. This contrasts with a projection by the company that the proposal--which involves the use of commercial engines in the bombers--would yield savings of $4.7 billion over the life of the planes.

STUDENT LOAN PROCESS: In September 1997 the Department of Education announced that it would not accept any more applications from recent college graduates seeking to consolidate or refinance their tuition loans because the contractor hired to process such applications--Electronic Data Systems--had allowed an enormous backlog to accumulate. The length of time required to handle applications had risen as high as seven months.

MEDICARE COMPUTERS: In September 1997 the Department of Health and Human Services terminated a contract with GTE to create a single national computer system for Medicare. The project had fallen far behind schedule and had accumulated cost overruns of more than $65 million.

SPACE STATION: The General Accounting Office recently told the Senate Commerce Subcommittee on Science, Technology and Space that Boeing's performance as the prime contractor on the space station has continued to deteriorate. As of July, cost overruns had reached $355 million, and NASA was penalizing the company.

PIT 9 PROJECT: In July the GAO told the House Commerce Oversight and Investigations Subcommittee that there were serious problems with the performance of contractor Lockheed Martin in the cleanup of the Pit 9 nuclear waste site in Idaho. The company has already exceeded the expected $200 million cost by more than 25 percent, even though waste processing has not yet begun. Lockheed began a work slowdown to pressure the Energy Department to convert the contract from a fixed-cost to a cost-plus-type arrangement.

FAA NAVIGATION SYSTEM: In April 1996 the Federal Aviation Administration terminated a $475 million contract with Wilcox Electric (a subsidiary of Thomson CSF) because of dissatisfaction with the company's performance in developing a

new navigational system. Among the problems was a $100 million cost overrun in the project.

LUCAS INDUSTRIES: In 1995 Lucas Western Inc., a subsidiary of the British-owned Lucas Industries, pleaded guilty to 37 counts of submitting false statements to the Defense Department and agreed to pay a criminal fine of $18.5 million--the largest criminal penalty ever imposed against a defense contractor. Lucas had falsely certified to DoD that gearboxes it manufactured for the Navy's F/A-18 aircraft had been fully inspected, when it fact many had not.

Here is a sample of contractor problems at just one agency--the Department of Defense--as reported by the Inspector General:

Defense Reform Task Force

Although AFGE tries to track the performance of individual contractors, the union is not in a position to obtain systematic information. However, here is a sample of contractor problems cited in Inspector General reports in recent years:

" A summary judgment of $6,680,000 was ordered against John Gillespie, former employee of Daniel F. Young, Incorporated. Under a civil complaint filed by the Government, Gillespie was charged with filing false claims, totaling in excess of $3.6 million, and failing to pay restitution ordered in a related criminal proceeding. A DCIS investigation disclosed that Gillespie and others were involved in a

fraudulent billing scheme in connection with the transportation of military cargo."
--report for 10/1/96-3/31/97, p.20

"SmithKline Beecham Corporation agreed to pay $325 million to resolve issues of civil false claims to Medicare, CHAMPUS and other Federal and state health care programs. The issues that were the main focus of the investigation and the basis for the settlement included greatly inflated insurance billings through unbundling of clinical test profiles, fabricating test codes and double billing for tests not performed."
--report for 10/1/96-3/31/97, p.13

"An audit of two related contract termination proposals by Cinpac, Incorporated, resulted in savings to the government of $8.3 million. Before the award of the contract for meals-ready-to-eat, the contractor was required to identify any additional building or equipment acquisitions or modifications needed to perform the contracts and to submit a proposal for a separate line item. Cinpac did not submit any requirements. The auditor then questioned the claimed costs for building and equipment acquisition/modification expenses that were not included in the contract. The auditor also questioned settlement expenses for outside legal counsel and accounting expertise as being unreasonable."
--report for 4/1/96-9/30/96, p.17

"The audit determined that Defense Information Systems Agency (DISA) acquisition planning and award procedures inappropriately restricted competition, allowed inherently Government functions to be contracted and had incomplete and inaccurate acquisition packages. Administration of time-and-material contracts did not safeguard the Government's interests and incurred duplicative administration costs. The DISA also improperly used a multiple source procurement award that restricted competition, produced excessive prices and gave contractors windfall profits."

--summary of Audit Report 96-032 in report for 10/1/95-3/3/1/96, p.7

"Mark Zetzer, Sr., president and sole owner of Mobility Systems, Incorporated (MSI), submitted fraudulent progress payment claims to the DoD on behalf of MSI. MSI, under contract to produce munitions trailers, received $1,490,000 in overpayments. Following guilty pleas, Zetzer was sentenced to $250,000 restitution, 3 months imprisonment and 5 years probation. MSI was fined $50,000, placed on 3 years probation and must obtain court approval before contracting with the Government."

--report for 10/1/95-3/31/96, p.35

"Westinghouse Electronic Corporation, Electronic Systems Group, gave the Government inaccurate cost or pricing data in connection with the F/FB-111 Avionics Intermediate Shop Replacement Program contract, resulting in the Air

Force being overcharged $1,361,517. The DCAA used the false data during the pre-award audit of the modification proposal. The investigation resulted in a $1,803,188 civil settlement against Westinghouse."

--report for 10/1/94-3/31/95, p.3-4.

"An audit of the Lockheed Aeronautical Systems Company overhead costs incurred during 3 fiscal years questioned four major cost elements:

* the C-130 aircraft support enhancement costs that were beyond the scope of the contract and not requested by the Government;

* unreasonable repair and maintenance costs incurred on perishable tools caused by significant internal control weaknesses in the standard tool control department;

* repair and maintenance costs that should have been capitalized or charged direct to the facilities contract; and

* first class travel to third world countries.

As a result of the audit, the Government saved $3.4 million."

--report for 10/1/94-3/31/95, pp.2-3 and 2-4.

"An audit questioned a Johnson Controls International, Incorporated, equitable adjustment proposal for:

* extended warranty costs expressly unallowable under the subcontract and other overhead costs unallowable under the Federal Acquisition Regulation;

* duplicate domestic labor hours included in the 'domestic/foreign' labor category;

* the application of overhead to purchased labor costs, which were not included in the proposed labor allocation base; and

* the application of fringe benefits to foreign management labor costs included in the 'domestic/foreign' management labor category when the benefit factor was only applicable to domestic management.

The audit resulted in savings to the Government of $25.3 million."

--report for 4/1/94-9/30/94, p.2-2

What's been the response of lawmakers to this crisis in contracting out? Many have passively accepted the consequences, notwithstanding the unfair burdens imposed on the taxpayers. And others have even said that we should make it even easier to contract out!

AFGE AND OMB CIRCULAR A-76

Permit me now to say a few words about where AFGE stands on contracting out and outsourcing. Unlike some organizations in the federal employee community, AFGE is not reflexively opposed to each and every instance of contracting out. In these times, such a position is as unrealistic as it is untenable. Because we are conscientious employees, patriotic Americans, and hard-working taxpayers, AFGE members are determined to see that the federal government's dollars are spent wisely. Quite simply, federal employees should not perform work that is not inherently governmental if they cannot do it more effectively, more efficiently, and more reliably than contractors.

In fact, AFGE is unreservedly pro-competition when it comes to work that is not inherently governmental. Full and fair competition for such work spurs federal employees and contractors to be more productive and ensures that taxpayers and customers receive high-quality services at low costs. As the General Accounting Office (GAO) concluded in a recent report,

> "...(C)ompetition is the key to realizing some savings, whether the function is outsourced or remains in-house. According to (Department of Defense) data on cost comparisons done between fiscal year 1978 and 1994, savings from competed functions occurred regardless of whether the government or a private company was awarded the work. DoD's data shows that the government won about half of the time and private industry won the other half."[1]

That's why AFGE was the only federal employee union to work with the Administration last year to reform OMB Circular A-76.[2] This effort resulted in a revised Supplement that, while permitting more flexibility to contract out, also ensures federal employees greater involvement in the competitive process, and makes contracting out a "two-way street" by permitting work to return back in-house when it is more cost-effective to do so.

The fact that OMB Circular A-76 is now under continuous attack is implicitly a compliment of federal employees and their work. Several years ago, federal employees were losing 70% of all A-76 competitions. As you might expect, contractors had

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[1] General Accounting Office, BASE OPERATIONS: Challenges Confronting DoD as It Renews Emphasis on Outsourcing (March 1997), p. 8. Although this report discusses the Department of Defense, the agency responsible for most contracting out, its competition-friendly conclusion applies to all other federal agencies.

[2] In fact, we are working with Pentagon officials on implementing instructions for the new A-76 supplement.

considerably fewer problems with the Circular then. However, agencies--employees and managers alike, often working in partnership--learned from their defeats and looked to the private sector for inspiration and guidance. With the reinvention of government and partnership initiatives, agencies are now running their operations more like businesses. In doing so, the public sector has pulled even with the contractors, winning every other A-76 competition. Now, as you might expect, the contractors aren't so happy--even though the federal government runs up service contracting bills of approximately $120 billion annually. I have to wonder if this dissatisfaction can be attributed more to the fact that federal service contracts aren't quite so attractive to private sector firms now that increased competition from federal employees has driven down costs so sharply.

However, instead of expressing admiration for this remarkable transformation in the federal workplace, some lawmakers can express only dismay. Instead of "Wow, they're good," it's "Wow, they're good, they're too good." After being bashed for so many years, usually very unfairly, for not measuring up to their private sector counterparts, Mr. Chairman, you can't begin to imagine how bewildering and discouraging these attacks on A-76 are for federal employees. Instead of giving us grudging credit for doing better work, our private-sector competitors and their friends in Congress say that the system has suddenly broken down. Just as good craftspersons, whether in-house or contractor, shouldn't blame their tools, contractors who are genuinely interested in real public-private competition shouldn't blame A-76.

Let me make one final remark with respect to AFGE and contracting out. Some lawmakers insist that AFGE's relentless determination to ensure full and fair public-

private competition for work that is not inherently governmental is nothing but parochialism--that we are only concerned about saving federal jobs. This is not the case. AFGE has a long-standing policy to follow outsourced work into the private sector once a decision is made to contract out. We are adapting to the reality that the federal in-house bid may not win every competition. For example, earlier this year, we signed a contract with Hughes Aircraft, which allows AFGE to continue its representation of the employees at the recently privatized-in-place Naval Air Warfare Center, in Indianapolis, IN. The fact that AFGE will retain its vigor and vitality--even in this era in which privatization, often mindless, is all the rage--by organizing outsourced workers allows this union to be a calm and constructive player in the debate over public-private competitions. After all, our members are taxpayers also.

AFGE'S SUGGESTIONS FOR IMPROVING THE COMPETITIVE PROCESS

Mr. Chairman, I welcome the Subcommittee's interest in the important issue of ensuring that the government's taxpayers and customers actually benefit from contracting out. Permit me now to make some suggestions for related issues to be discussed at future hearings of your panel.

Lifting Arbitrary Ceilings On Government Employees

Quite simply, Mr. Chairman, the federal government is contracting out work that could be performed more cheaply by federal employees because of the arbitrary ceilings on full-time employees (FTE's) imposed as part of the government's overall downsizing. That's not just what AFGE says. That's what independent observers, and, yes, even

Administration officials say.

This problem is particularly acute in DoD--even though the Congress has explicitly prohibited management-by-FTE ceilings. GAO reported in a recent survey that a "senior command official in the Army stated that the need to reduce civilian positions is greater than the need to save money."[3] An earlier report by the DoD Inspector General noted that "the goal of downsizing the Federal workforce is widely perceived as placing DoD in a position of having to contract for services regardless of what is more desirable and cost-effective."

In 1995, the personnel directors of the four branches of the Armed Forces told the Senate Armed Services Personnel Subcommittee that civilian ceilings--not workload, cost, or readiness concerns--are forcing them to send work to contractors that could be performed more cheaply in-house. The witnesses bemoaned the fact that their services' depots must turn away valid, funded workload requirements because of the FTE ceilings, thus limiting the flexibility of our depots to adjust to and meet quickly the critical, unprogrammed, surge requirements of our Armed Forces.

Sadly, our concerns about this problem have been repeatedly dismissed by the Administration. Earlier this year, I was provided a copy of the attached correspondence between General George Fisher, the Commander, Army Forces Command at Fort McPherson, GA, and the Commander, III Corps and Fort Hood, Killeen, TX. (We have obtained a copy of a similar letter which was sent to the Commander, Fort Riley, KS.)

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[3] General Accounting Office, BASE OPERATIONS: Challenges Confronting DoD as It Renews Emphasis on Outsourcing (GAO/NSIAD-97-86) (March 1997), p. 11.

In his letter, General Fisher informs the Commander of Fort Hood that the installation's FTE elimination-in-favor-of-privatization quota has been increased from 645 to 767 spaces. To soften the blow a bit, General Fisher added a handwritten note at the bottom of the letter:

> "Tom, We're required to meet the Army's assigned requirement. For each function you select, a **study leading to a contract-out decision**. You're ahead of most everyone; just need a few more in '98. George"

Obviously, Mr. Chairman, the outcome of any competition at Fort Hood or elsewhere within Forces Command for that matter has already been decided in advance. Contracts won't be awarded because contractors provided more effective, more efficient, and more reliable services. Rather, they will be awarded because there aren't enough federal employees available to do the work. Administration officials took a look at the same letter and said this wasn't a clear case of management-by-FTE ceilings; rather, the General simply wasn't a very artful writer. Mr. Chairman, you be the judge.

Here's another example. In this attached letter, a senior Defense Information Services Agency (DISA) manager clearly instructs his subordinates not to exceed established FTE ceilings. The manager also instructs his managers to back-fill positions at GS-12 and below with contractors, or re-engineer the positions in order to make up for FTE shortfalls. Again, this is a clear case of management-by-FTE ceilings, and then contracting out work that might have been performed more cheaply by federal employees. Administration officials say I'm wrong; it's not that the DISA manager is a bad writer, it's that I'm a bad reader. Again, Mr. Chairman, you be the judge.

Moreover, a senior DoD official admitted to me in writing in response to our concerns that he had discovered that "some managers have been establishing FTE bogeys on some depot maintenance activities." This official insisted that he was taking corrective action. I'd be happy to share this correspondence with you and your staff. I didn't include his letter in my testimony because his deviation from the Pentagon line that "management-by-FTE's is never, ever practiced" at DoD would surely invite retribution. And since he is one Pentagon political appointee who's trying to be part of the solution, I wouldn't want that to happen.

As bad as this problem is, Mr. Chairman, it's not limited to DoD. Actually, it's government-wide. As OMB reported three years ago, several agencies--including the Departments of Agriculture, Health & Human Services, Housing & Urban Development, State, Education, Treasury, as well as the Environmental Protection Agency--said that they each could have saved several million dollars by performing functions directly rather than having them performed by contractors but did not do so because either their requests to OMB to take on the necessary FTE's were refused or the agencies were so sure such requests would be refused that they were not even submitted.[4]

Mr. Chairman, I think you'd agree that even if you, the Ranking Minority Member, OMB, a representative from the contractor community and I locked ourselves in a room to think of ways that A-76 could be made even more fair to both contractors and federal employees, all of our work would be in vain. What's the point in coming up with a more equitable public-private competition system if federal employees aren't even allowed to

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[4] Office of Management and Budget, Summary Report of Agencies' Service Contracting Practices (January 1994), p. v.

compete because the in-house workforce has been so arbitrarily downsized?

Mr. Chairman, agencies must be prevented from employing arbitrary in-house personnel ceilings. Instead, agencies must be allowed to manage by budgets. If agencies have the money to perform the work, they should be allowed to use either contractor employees or federal employees--depending on which provider gives the most efficient, most effective, and most reliable service to the nation's taxpayers and the government's customers.

OMB insists that to the extent management-by-FTE's occurs, it is perpetrated by managers who should know better. Regardless of whether one accepts that position, management-by-FTE's is happening. It's costing the taxpayers money. It's depriving federal employees of opportunities to compete. It's wrong--and the Congress and the Administration must become more aggressive in eliminating this pernicious practice.

Representative Eleanor Holmes Norton (D-DC) has introduced legislation (H.R. 888) which would prevent agencies from replacing downsized federal employees with contractor employees. Such meritorious legislation should serve as the starting point for your own effort to address this problem.

Developing A Better Understanding Of The Contractor Workforce

Many lawmakers have bragged to their constituents about how drastically they have reduced the federal workforce. But as we know, much of the work that used to be performed by federal employees has simply been transferred to the federal government's "shadow workforce" in the private sector. The federal government's actual workforce hasn't gotten any smaller. It's just that the people who now do the work are not directly

on the public payroll--although their salaries are paid for out of the same revenues that pay the salaries of federal employees.

Taxpayers are still paying for the services now provided by contractors. Often, they are paying even more, based on the reports discussed elsewhere in my testimony. Just how big is the contractor workforce, Mr. Chairman? I wish I could tell you, sir, but such statistics aren't even kept. Strange, isn't it? We keep such meticulous statistics about the government's in-house workforce, but know so little about the government's contractor workforce. But if the federal government spends $120 billion annually on highly labor-intensive service contracting and the federal government's yearly in-house payroll is less than $80 billion, the contractor workforce must be quite large, indeed.

Clearly, lawmakers like yourself would benefit from knowing more about the federal government's shadow workforce, particularly its size. Such information would help lawmakers to better assess the Administration's claims for downsizing the federal workforce, public- and private- sector. It would also help lawmakers to better understand the growth in service contracting and better assess the claims made by some that A-76 is somehow biased against contractors.

Finally, such knowledge would help lawmakers make more informed decisions about how to achieve real and lasting deficit reduction. As I mentioned earlier, meticulous statistics are kept about federal employees. That's why, when Administration officials or lawmakers want to provide tax relief or ensure deficit reduction, they can always help to generate much of the necessary savings by cutting the compensation and the size of the federal government's in-house workforce.

As you may know, the Administration has consistently asked the Congress to provide federal employees with significantly smaller pay raises than those recommended by the Federal Employees Pay Comparability Act, thus causing them to fall farther and farther behind their counterparts in the private sector. The deficit reduction package most recently enacted by the Congress requires federal employees to contribute even more towards their retirement plans. Since 1980, incidentally, federal employees and federal retirees have contributed more than $175 billion towards deficit reduction in the form of lost compensation. Further, the federal government's in-house workforce has been cut by approximately 300,000 over the last four years, resulting in even more savings.

Clearly, lawmakers know where to look when savings are needed. If data similar to that compiled for the federal government's in-house workforce was kept for the federal government's contractor workforce, lawmakers would have more information available when they needed to make important decisions about how to spend precious taxpayer dollars. Representative Norton has introduced legislation (H.R. 887) which would require OMB to develop a government-wide system for determining and reporting the number of non-federal employees engaged in service contracts.

Requiring cost comparisons on all service contracting

Even though public-private competition has proven to save money for the taxpayers and spur providers, whether they be federal employees or contractor employees, to offer better service, much work is, incredibly, still contracted out without the benefit of cost comparisons. DoD officials, the same people who gave us prohibitively expensive toilet seats, are "considering the possibility of avoiding A-76 studies by

eliminating a given function as a government activity and relying on the private sector for its provision (privatization).[5]

Clearly, the A-76 process may not be the best for conducting every single type of public-private competition. And AFGE is always willing to consider changes that might expedite the public-private competition process. But at the same time we must impose some form of cost comparisons on all of the federal government's lucrative service contracting.

Representative Norton has introduced very sensible legislation (H.R. 885) which would require agencies to make cost comparisons before contracting out work and prevent agencies from contracting out that work if the cost comparisons show that the work could be performed less expensively by federal employees.

Mr. Chairman, what do you think should happen when it is shown that a contractor has not lived up to the terms of the contract? I say that the work should be recompeted or brought back in-house--and I think you'd agree. The new supplement to A-76 already requires agencies to collect the information necessary to determine if satisfactory performance of a contract has been achieved. Now we need to charge agency managers with the responsibility of acting on well-informed determinations of poor performance by requiring them to correct the problem by either recompeting the work or bringing it back in-house. To ensure that all taxpayers and customers benefit from this important initiative, the post-contract audit should be required for all contracting out decisions, including those made outside of A-76.

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[5] GAO, Ibid.

Improving contract administration

In order to ensure that agency managers make well-informed contracting out decisions, we need to conduct a bottom-up review of the entire contract administration process. Problems from start to finish are unnecessarily increasing service contracting costs.

As OMB itself has reported, Statements of Work, the forms used to describe specifically the services to be contractually procured, are frequently so poorly-written that it is difficult to determine the agency's requirements or the standards against which the contractor's performance is to be measured.[6]

As OMB itself has reported, cost analyses and independent government estimates are not performed by many agencies prior to renewal, extension, or recompetition of existing contracts. And in far too many instances, OMB must admit, cost estimates are not even prepared prior to entering into new contracts.[7]

As OMB itself has reported, agencies believe that they are contracting for mission-essential services; as a result of this haste-makes-waste approach, most contract administration efforts focus on ensuring that they receive the required services with costs often becoming peripheral.[8]

As OMB itself has reported, agencies do not always review the effectiveness and

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[6] OMB, Ibid., p. v.

[7] Ibid.

[8] Ibid.

efficiency of the services performed by contractors prior to making payments.[9]

As GAO has reported, agencies are bestowing "bonuses" on contractors who have only just met contractual requirements, and even to some who have fallen short, often grievously so.[10]

As GAO has also reported, "(i)ndependent audits show millions of dollars in unallowable and questionable costs have been charged that do not contribute directly to the agency's intended mission."[11]

Mr. Chairman, I think you'd agree that gutting A-76's firm but fair requirement for vigorous public-private competition would be ill-advised. But to do so when our existing contract administration system is in need of significant repairs would be nothing short of irresponsible. We would be committing a profound disservice to the nation's taxpayers and the federal government's customers. AFGE represents many hard-working federal employees who perform contract administration work--from the Pentagon to the Government Printing Office--who have many good ideas for saving precious tax dollars. Please permit us to help you to address this problem.

Making contracting out decisions for the right reasons

Mr. Chairman, you and many of your colleagues have spoken eloquently about the economic difficulties confronting working- and middle-class Americans. While all of us

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[9] Ibid.

[10] GAO, FEDERAL CONTRACTING: Cost-Effective Contract Management Requires Sustained Commitment (GAO/T-RCED-93-2) (December 1992), p. 8.

[11] GAO, Ibid., p. 11.

can't agree on explanations and solutions, all of us would accept the simple principle that the federal government should not exacerbate those difficulties.

That's why when we contract out we must do it for the right reasons. If a contractor can do work more cost-effectively than federal employees because she has devised a better system, employs better managers, or has done a better job inspiring her workforce, then that work should be contracted out. But what happens if a contractor can do the work more cost-effectively than federal employees merely because he pays his employees inadequate salaries or provides few if any health care and retirement benefits?

Mr. Chairman, contrary to a lot of propaganda, pay and benefits for federal employees are not extravagant. It's well-documented that our pay lags behind employees in the private sector who perform comparable work by anywhere from 13% to 43%. Further, federal employees pay more than almost all of their counterparts in the private sector for their health care and retirement benefits. Over 400,000 full-time federal employees don't have health insurance because the premiums are prohibitively expensive--even though our health care system, the Federal Employees Health Benefit Plan, is often cited as a model for some form of national health care. And the average before tax income of all U.S. retirees of $19,371 is in excess of the average before tax annual annuity of federal retirees. Quite simply, federal employees are not living high off the hog. Consequently, if work is being contracted out to firms that provide the government with savings simply because they provide their employees with compensation that is even more inadequate than that provided to federal employees, then I think lawmakers like yourself need to look at this phenomenon very carefully.

It is undeniable that the federal government is not an employment agency and that lawmakers are obligated to ensure that taxpayer dollars are spent wisely. But, at the same time, the federal government, ostensibly the nation's model employer, should not be providing incentives to contractors to provide their employees with inadequate compensation.

This is an emotional issue for both unions and contractors--and the absence of comprehensive and reliable information invariably leads to fiery debates that shed far more heat than light. Therefore, Mr. Chairman, I suggest that you ask GAO to compare the compensation--pay, health care benefits, and retirement benefits--of the federal employees who have been downsized in favor of contractors with that of the contractor employees who have assumed their work. If it appears that significant savings from contracting out are being generated simply because the contractor workforce is poorly-compensated, then lawmakers like yourself need to consider the necessity of implementing corrective measures to ensure that some basic floors exist for the pay, and health care and retirement benefits of contractor employees.

Encouraging managers to work with rank-and-file federal employees to make the government even more competitive

Taking a lesson from the private sector, the Administration issued an executive order in 1993 that established labor-management partnerships in agencies throughout the federal government. It hasn't been easy to change the hostile climate of labor-management relations in the federal sector, but we're making great strides. And that progress is paying dividends for the taxpayers.

*Before partnership at the Naval Warfare Center, in Crane, IN, it took two years for the parties to cobble together a collective bargaining agreement. After partnership, the parties finished their negotiations in less than two months. And by jointly designing new work systems and using self-directed work teams, the union and management were able to eliminate 150 front-line supervisor and mid-level positions, resulting in substantial savings to the taxpayers.

*At Anniston Army Depot, AL, the base Commander warned that if productivity problems could not be solved in the small arms facility, it would be necessary to bring in forty-five new contract employees. A partnership studied the problem and began to make changes in manufacturing and supply; and now the facility is working better, more economically, and faster.

*At the Department of Veterans Affairs (DVA) Medical Center, in Des Moines, IA, self-managed work teams established through partnership have cut overtime costs from thousands of dollars every year to zero. These teams have also cut by more than one-half the amount of time that veterans have to wait for treatment at the hospital's clinic. One of the team members said that she used to work for a supervisor; now she works for her real customers: the nation's veterans.

*At another DVA hospital, in Albuquerque, NM, AFGE and management have jointly designed several new clinical programs to help care for veterans, including

a women's clinic, a new drug rehabilitation center, and a pain-management clinic. Other quality improvements designed in partnership by the union and management have reduced the waiting time for patients from four hours to thirty minutes.

*At the Department of Labor headquarters, here in Washington, DC, AFGE and management developed a program called "Serving Our Customer." Teams of supervisors and employees were brought together to identify customer improvement opportunities. The teams were empowered to implement their ideas without further review by any management official. When it was all over, this innovative program produced almost 10,000 decisions--not recommendations, but decisions--for improving service to the agency's internal and external customers.

Mr. Chairman, it would have been easy for a federal employee union like AFGE, during a time of unprecedented downsizing, to do nothing more than fuss and fight. But we didn't. Our members are striving every day to make the federal government the world's best service provider.

Ensuring that federal employees perform inherently governmental work

The needless controversy over the Administration's privatization-in-place initiative at Kelly and McClellan Air Force Bases reminds us of the perils of allowing politics to intrude upon policy. As the Pentagon admitted, 79% of the work at Kelly and 87% of the work at McClellan is considered to be core--so national security-critical that it is

statutorily-required to be performed by federal employees. Nevertheless, for reasons unrelated to national security and military readiness, the Pentagon defied the 1995 Base Realignment and Closure Commission recommendation to reduce excess capacity in the depot infrastructure by closing Kelly and McClellan and consolidating the workload at three depots. Instead, the Pentagon has attempted to privatize-in-place all of the work at Kelly and McClellan. Initially, the Pentagon would not allow any public-private competitions. Later, some element of competition was introduced, although many feared that the regime was tilted in favor of the contractors. But the point is that work which is inherently governmental, like most of the work performed at Kelly and McClellan, must continue to be performed by federal employees, notwithstanding the parochial concerns of certain well-placed politicians.

CONCLUSION

Again, Mr. Chairman, thank you for inviting me to testify at today's hearing. AFGE is ready to work with you to ensure that non-inherently governmental work remains subject to strong public-private competition before it can be contracted out. I would suggest, Mr. Chairman, that GAO be asked to more fully investigate the crisis in contracting. Please see the Appendix to my testimony for a list of questions which can be used to guide your investigation.

APPENDIX: SUGGESTED QUESTIONS FOR GAO

1. In early 1994, the Office of Management and Budget (OMB) reported that several agencies--including the Departments of Agriculture, Health & Human Services, Housing & Urban Development, State, Education and Treasury, as well as the Environmental Protection Agency--said that they each could have saved several million dollars by performing functions directly rather than having them performed by contractors but did not do so because either their requests to OMB to take on the necessary full-time equivalents (FTEs) were refused or the agencies were so sure such requests would be refused that they were not even submitted.

On March 16, 1995, the personnel directors of the four branches of the armed forces told the Senate Armed Services Personnel Subcommittee that civilian personnel ceilings, not workload, cost, or readiness concerns are forcing them to send work to contractors that could have been performed more cheaply in-house.

Also in March 1995, GAO reported "that the personnel ceilings set by OMB frequently have the effect of encouraging agencies to contract out regardless of the results of cost, policy, or high-risk studies."

And the DoD Inspector General noted in a 1995 report, "the goal of downsizing the federal workforce is widely perceived as placing DoD in a position of having to

contract for services regardless of what is more desirable and cost effective."

Queries: To what extent are FTE ceilings on the federal government's civilian workforce, imposed explicitly or implicitly, forcing agencies to contract out services? Has at least some of this contracting out cost more than if the work had been performed in-house? Has any of this contracting out been perpetrated in defiance of Section 1031 of the FY96 defense authorization act which prohibited DoD from managing its civilian workforce on the basis of FTE ceilings?

2. A recurring provision in section 8015 of the defense appropriation act requires DoD to certify in-house cost estimates before converting most DoD activities with more than 10 civilian employees to the private sector. Recent indications are that DoD will rely more on heavily on outright privatization--at the expense of the A-76 competitive framework. As GAO pointed out in NSIAD-97-86, an "A-76 study is not required to convert functions with 10 or fewer positions or outsource emerging requirements, such as new functions. DoD is considering the possibility of avoiding A-76 studies by eliminating a given function as a government activity and relying on the private sector for its provision (privatization)."

Queries: What cost, quality, reliability comparisons, if any, are being used by federal agencies, particularly DoD, to 1) convert functions with 10 or fewer employees, 2) outsource new functions, and 3) eliminate functions in order to privatize? Have these

options proven to be cost-effective?

3. Whether through a) contracting out properly through A-76, b) waiving A-76 in order to contract out, c) direct conversion of functions involving 10 or fewer employees, d) outsourcing new functions, or e) outright privatization, work that had formerly been performed by federal employees is now being performed by contractor employees.

Queries: What differences are there, if any, in terms of pay, health care benefits, and retirement benefits between contractor employees and federal employees who used to perform their work?

4. Queries: How much does the federal government spend annually on performance of commercial activities contracting? (How much is spent on goods contracting?) What percentage of those commercial activities contracting dollars is competed under A-76? What percentage of those dollars is competed under either an informal competitive framework or none at all? How many contract employees make up the federal government's commercial activities contracting workforce?

5. The new A-76 supplement allows for work to be contracted-in in the event of poor contractor performance.

Queries: Have any federal agencies used this provision? If not, why? What problems, if any, have federal agencies encountered in contracting-in work? To the extent such problems genuinely exist, what steps have been taken to deal with them?

6. Queries: What efforts, if any, have federal agencies undertaken to educate federal employees and managers about competing under the A-76 competitive framework? Given the possibility of bringing about even more intense public-private competitions, would federal agencies be well-advised to make a stronger commitment to educating federal employees and managers about A-76?

7. Both OMB and GAO have been highly critical of the federal government's contract administration capability:

a. contracting personnel concentrate on awarding contracts, not monitoring costs (OMB);

b. contract administration difficulties can often be attributed to the failure of top agency managers to be held accountable for their poor decisions (GAO);

c. use of cost-reimbursable contracts provide contractors with little incentive to control expenses and place a considerable administrative burden on the federal government to oversee, control and identify inappropriate costs (GAO);

d. contractors are often significantly overpaid and do not always return overpayments unless instructed to do so (although they didn't hesitate to report underpayments) (GAO);

e. agencies do not always review the effectiveness and efficiency of the services performed by contractors prior to the issuance of payments (OMB); and

f. independent audits show millions of dollars in unallowable and questionable costs have been charged that do not contribute directly to the agency's mission (GAO).

Queries: To what extent do these problems continue to plague the federal government's contract administration? What steps should the federal government take to resolve these problems? To what extent will the contemplated drastic downsizing of the Pentagon's contract administration workforce complicate these problems? To what extent would an even greater reliance by federal agencies on service contractors, as a result of enactment of S. 314 / H.R. 716, complicate these problems? How much is lost in dollars annually as a result of waste, fraud, and abuse from service contracting and poor contract administration?

8. The House Committee on Government Operations reported in 1985 that more than $40 billion worth of materials and equipment purchased by the federal

government for use by contractors in the performance of their services was still in the possession of those contractors. The report noted that, in many cases, contractors had improperly used this federal government property to perform commercial work unrelated to the contract. In addition, according to the report, some of that property had even been sold back to the government.

In 1994, GAO noted that almost $75 million of government property had been lost by a single contractor at just one Department of Energy (DoE) facility. GAO reported that this amount represents only what the contractor reported to DoE as missing. We believe that figure probably understates the actual amount of missing property, in light of our detailed review of property management at the (facility)."

Queries: To what extent, if any, is this still a problem at federal agencies? If so, what steps have been taken to address this problem?

9. It was reported in The Washington Post in mid-1994 that the specter of competition at DoE had proved so frightening that "some contractors (offered) to reduce costs by 15 percent to 20 percent..." "'If implied competition will do that, imagine what real competition will do,' (a senior agency official) quipped." These concessions represent implicit admissions by DoE contractors that some of their contracts contain as much as 20% of waste, fraud, and abuse. Unfortunately, DoE never attempted a reform so simple yet so sensible as to cut service contracting

expenses by 15–20%, knowing that such a slash would have no effect on the ability of contractors to deliver services.

Query: What would happen if the federal government simply cut expenses relating to commercial activities contracting by 10%?

10. Query: Given the extent to which DoE is contracted out, would it not be correct to say that the agency gives us the best possible approximation for what the federal government would be like if S. 314 / H.R. 716 is enacted?

11. OMB Circular A–76 has been criticized by contractors and federal employee unions for a variety of reasons.

Queries: Examined in its totality, is the Circular adequate to ensure full and fair public–private competition? To the extent that genuine problems exist, what are they? How might they be corrected? How much money has A–76 saved through its public–private competitions? Hasn't A–76 been recently reformed to make it even easier to contract out commercial activities? How important is the Most Efficient Organization process in realizing efficiencies and savings and in ensuring full and fair public–private competition?

12. Much of the recent literature involving outsourcing in the private sector indicates that many corporate executives feel they have taken privatization too far

because of the onerous demands of contract administration, the loss of quality control and workforce flexibility, and the failure of cost savings to materialize.

In fact, over the past year or two, many large companies have been having second thoughts about the downsizing mania that swept Corporate America earlier in the decade. Firms are realizing that there is a price to be paid for making wholesale reductions in their workforce. "Cost-cutting has become the holy grail of corporate management," one consultant told the Wall Street Journal. "But what helps the financial statement up front can end up hurting it down the road."

One of the first companies to recognize this problem was Delta Air Lines. In an attempt to compete with low-priced upstart carriers, Delta abandoned its longstanding no-layoff policy in the early 1990's and began eliminating tens of thousands of jobs. It also hired outside contractors to take over functions that had been handled by veteran employees.

Before long, serious problems began to surface at Delta, which had prided itself on the quality of its service. Understaffed ticket counters created long delays and confusion at airports. Insufficient numbers of mechanics and bag handlers undermined the carrier's on-time performance and forced passengers to endure long waits for luggage after they landed. Inadequate staffing at telephone reservation centers kept customers on hold for long stretches. Last spring, Delta's

board finally decided that it was time to take action. They forced the company's chief executive Ronald Allen--the architect of the downsizing and cost-cutting campaign--to resign, and they began to search for a replacement with a less draconian management style.

Or take the case of Eastman Kodak. From the mid-1980's to the mid-1990's, the company underwent five different restructurings in the course of which some 40,000 jobs were eliminated. Some departments were so decimated that they later had to contract out to get the work done. In some instances, managers brought back laid-off Kodak employees as contract workers, paying hourly rates much higher than what those people earned while on Kodak's payroll. George Fisher, who took over as Kodak's chief executive in the 1994, has been focusing on growth rather than downsizing.

Digital Equipment Corp. faced similar problems. The computer company made massive reductions in its workforce. Many of these were inevitable because of the shift away from minicomputers. But the company also cut jobs in many areas that were not overstaffed. For example, DEC eliminated hundreds of jobs in its division that sold computers to hospitals and other health-care providers. This reduced costs, but it also undermined longstanding relationships between its veteran sales force and major customers, many of whom took their business elsewhere.

NYNEX Corp.--the regional Bell operating company in the Northeast, which recently merged with Bell Atlantic--cut back so many employees that the New York State Public Service Commission ordered the company to rebate $50 million to customers because the reduced staff had fallen so far behind in handling service calls. NYNEX ended up hiring back hundreds of former employees, including many who were already receiving pensions.

These dynamics are being repeated at corporations around the country. As Robert Ramsey put it in an article in the journal Supervision earlier this year: "For the first time in a long time, economists and other trend-watchers are picking up signals that there is life after layoffs and there is growth after downsizing...More and more business leaders are concluding that 'enough is enough.' Downsizing can't be a permanent direction unless your destination is nowhere."

Query: Given the emerging skepticism towards contracting out in the private sector, what lessons should we take with respect to outsourcing by the federal government?

13. S. 314 / H.R. 716 invests extraordinary power in the Office of Management and Budget with respect to determining which are inherently governmental functions and whether or not to contract out--at the expense of the discretion now exercised by the managers out in the field who are closest to the action and thus best qualified to make such decisions.

Query: Is it wise to invest such power in decision-makers so far removed from the customer service level? Would this result in a cookie-cutter approach to determinations of inherently governmental functions. For example, photography services at one military installation might be completely commercial, but the same services at another installation might involve contract-sensitive matters. If determinations of inherently governmental functions are made in Washington, DC, is it likely that such important distinctions would receive the necessary consideration?

14. Codifying A-76 (or some such regimen for public-private competitions) would surely result in considerable litigation. More significantly, codification would likely result in unprecedented politicalization of the contracting out process. Some lawmakers would likely try to prevent some favored federal functions from being contracted out. And many lawmakers would likely try to help out contractor constituents by exempting their firms (or federal functions in which their contractor constituents are interested) from real public-private competition, in part or in full.

Queries: What impact would the inevitable politicalization of the contracting out process have on the integrity of public-private competitions? What impact would such politicalization have on any savings that might occur as a result of enactment of S. 314?

15. Queries: Please prepare charts showing the growth over the last ten years in the federal government's goods contracting; the federal government's commercial activities

contracting; the federal government's goods and commercial activities contracting combined; the number of A-76 studies initiated; the number of federal employees covered by A-76 studies; savings from the public-private competitions mandated by A-76 studies; increases in contract administration costs; and losses from waste, fraud, and abuse in commercial activities contracting and poor contract administration.

16. Contracting out and outsourcing are supposed to result in savings and efficiencies for the taxpayer and federal government. However, because there is no means of auditing these contracts after their award, the claims of savings and efficiencies are purely speculative. Conversely, in the absence of post-award oversight, no one is able to determine whether or not an outsourcing decision has resulted in greater costs and degraded quality of service.

Queries: What post-contract audit provisions, if any, do agencies have in place to determine whether or not projected outsourcing costs and efficiencies are being realized? Are there any measures in place, which compel managers to revisit or reverse a bad outsourcing decision such as in the case of contractor default, overruns, or non-performance? If these measures are not in place, or are inadequate, should agencies be required to annually audit the post-contract award performance of outsourced activities, and to recompete these functions in the event they fail to realize their savings and performance projections?

17. In T-GGD-95-131, GAO reported that even after years and years of billions and billions of dollars in contracting out, it could not "convincingly prove nor disprove that the result of federal agencies' contracting out decisions have been beneficial and cost-effective." In GGD-94-95, GAO reported that it had surveyed nine studies on service contracting and concluded that in each case savings would have been realized if the work had been retained in-house.

Query: Have there been any startling developments of late that would cause GAO to change its collective mind with respect to those two assessments?

HEADQUARTERS, UNITED STATES ARMY FORCES COMMAND
FORT McPHERSON, GEORGIA 30330-6000

REPLY TO ATTENTION OF

AFPI-IMP

S: 26 June 1996
31 MAY 1996

MEMORANDUM FOR Commander, III Corps and Fort Hood, Fort Hood, TX 76544-5000

SUBJECT: Commercial Activities (CA) Program

1. Privatization is receiving increased emphasis as the Army moves to streamline support activities and achieve cost savings while maintaining services in an environment of greatly reduced resources. The CA program provides an approach to achieve these savings whether the work remains in-house or is contracted.

2. The Army has been tasked to study CA functions totaling 16,000 spaces. Forces Command's share (DA directed) is 4700 spaces (1500 in FY 96 and a total of 3200 in FYs 97 and 98). Installation input to date is only 33 percent of our share.

3. To ensure support of the Army's privatization effort, we have established installation quotas. Based on a review of the FY 95 CA inventory, your fair share is 767 spaces. You have currently identified 645 spaces for study. We need you to increase the number of spaces identified for study by 122 in FY 98 (encl). Submit the functions you select and associated spaces to this headquarters, ATTN: AFPI-IMP, by 26 June 1996.

4. The DOD has informed the services and agencies that "seed money" will become available beginning in FY 97. These funds will be distributed in the amount of $1000 per space based on official notification of FY 96 studies.

5. For more information, contact Mr. David Mayes, DSN 367-6254.

FOR THE COMMANDER:

Encl

GEORGE A. FISHER, JR.
Lieutenant General, USA
Chief of Staff

Tom,
We're required to meet the Army's assigned requirement for each function you select, a study leading to a contract-out decision. You're ahead of most everyone; just need a few more in '98.
George

received
APR 14 1997

DEFENSE INFORMATION SYSTEMS AGENCY
701 S. COURTHOUSE ROAD
ARLINGTON, VIRGINIA 22204-2199

IN REPLY REFER TO: DISA WESTHEM (WE04)

12 February 1997

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Results of the DMCs' Revenue Based Staffing Plans

1. The outstanding effort you put forth in developing your staffing plan is appreciated. The results show the bottom-line objective was achieved to attain the targets for FY98: 2,116 A-Goal staffing and an A-Goal Revenue per FTE of greater than $230,000. Enclosure 1 contains the narrative results of each DMC's submission and the Resource Management Advisory Group (RMAG) approved A- and C-Goal staffing levels for FY98. Enclosure 2 is a spreadsheet synopsis showing the following staffing breakouts: the original FY98 Staffing Projections from the June 1996 model, the DMC requested staffing from their plans, the RMAG approved staffing levels, and the DMC onboard staffing as of 31 December 1996.

2. The attachment identifies each DMC's RMAG approved strength for civilians, military, and contractor personnel. That strength is your new ceiling and is not to be exceeded without exception approval. These numbers will be used by RM during the build for the FY99 budget. In order to assist you in implementing your plans, the following guidance is provided.

a. If your site is below target and you require filling a position at the GS-12 and below level, you may utilize contractors or reengineer the position for filling under the DISA Bridge Position Program to meet your need. However, you are not authorized to increase your civilian end strength.

b. Due to the variety of versions and overall age of many of the exception requests currently submitted to WE1 and the RMAG, ALL pending requests for hiring exceptions are canceled effective with receipt of this memo. If you determine that you have a critical position that performs an inherently governmental function such as supervision, technical COTR, senior security specialist, contract management, senior financial management, etc., a new request for exception hiring should be prepared and forwarded to WE1.

DISA WESTHEM Memo, WE04, Results of the DMCs' Revenue Based Staffing Plans

c. We are still working several issues relating to filling vacancies from within the WESTHEM "family" and will update you as decisions and solutions are achieved.

3. Quarterly, we will be reviewing with you your staffing plan revisions. The next review will occur in May 1997. Details will be provided to you under separate cover.

4. Points of contact for staffing plan guidance are staff members of WE04 at DSN 869-9600 or commercial (614)693-9600. Points of contact for personnel actions are WE1 staff members at DSN 761-2284.

2 Enclosures a/s

for JOHN W. MEINCKE
Brigadier General, USAF
Commander

Distribution:
WE0, WE0CS, WE01, WE02, WE04, WE05, WE06, WE1, WE2, WE3, WE4, WE5, WEA, WEB, WED, WEE, WEG, WEH, WEJ, WEK, WEL, WEM, WEP, WER, WES, WET, WEW, WEY

48 2C5 230

DMC STAFF MODEL SYNOPSIS

Jan '97

DMO NAME	[illegible]			[illegible]			[illegible]			[illegible]		
	A-GOAL	C-GOAL	TOTAL	A-GOAL	C-GOAL	TOTAL	A-GOAL	C-GOAL	TOTAL	A-GOAL	C-GOAL	TOTAL
CHAM	106	9	115	115	28	143	115	28	143	149	8	157
COLS	230	150	380	185	284	469	185	275	460	256	133	389
DAY	41	26	67	81	79	159	81	70	151	118	33	151
DEN	118	76	194	121	91	212	121	91	212	148	79	227
HUNT	105	2	107	114	56	170	94	52	146	133	4	137
JAX	42	25	67	67	77	144	67	77	144	93	50	143
MECH	240	10	250	265	57	322	265	57	322	264	42	306
MONT	95	1	96	68	74	142	68	71	139	139	0	139
OGDEN	227	106	333	205	177	382	205	177	382	243	118	361
OKC	143	69	212	121	129	250	121	129	250	145	106	251
ROCK	75	7	82	139	32	171	139	32	171	180	5	185
SAC	25	18	43	37	43	80	37	43	80	65	26	91
SANT	157	52	209	173	121	294	173	121	294	224	70	294
SAND	26	40	66	55	77	132	55	77	132	74	109	183
STL	157	25	182	117	120	237	117	93	210	193	17	210
WARN	119	28	147	114	97	211	114	82	196	165	30	195
CMDR'S DISC*	135											
SUB TOTAL	2041	644		1975	1542		1957	1475		2589	830	
A to C Shift**		845										
TOTAL (A&C)			3530			3516			3432			3419

NOTE: Manpower includes civilian, military and contractor personnel at DMCs only. Storefronts, headquarters and other overhead organizations are not included.

*NOTE: Commander's discretion derived from model generated increases to current DMC end-strength. Model is restricted from allowing end-strength increases. The model will not produce A-Goal strength greater than 2116 or an aggregate greater than 3530.

**NOTE: "A to C Shift" identifies the number of A-Goal personnel needing to move to C-Goal lines of business by FY98 in order for us to meet rate reduction goals. Original estimate of 770 increased due to model re-run and one formula change.

Biography of Bobby L. Harnage

National Secretary-Treasurer of the American Federation of Government Employees, AFL-CIO

Bobby L. Harnage is the seventh National Secretary-Treasurer of the American Federation of Government Employees, AFL-CIO, the largest union for federal workers, representing over 700,000 government employees in some 1,200 locals in the United States and overseas, as well as the District of Columbia.

Harnage was elected National Secretary-Treasurer at the AFGE National Convention on August 28, 1991, and was overwhelmingly re-elected to serve another three-year term in 1994. Prior to his election as National Secretary-Treasurer, Harnage served as District 5 National Vice President in Atlanta, Georgia. During that 13-year period, from 1978 to 1991, he represented federal workers in the states of Alabama, Georgia, Florida, South Carolina and Tennessee. He was a member of the Labor Advisory Board, Center for Labor Education and Research at the University of Alabama in Birmingham and served on the Board of Directors of the Atlanta Metropolitan Area American Red Cross. Harnage is currently the senior member of the Federation's National Executive Council (NEC) and serves as Chair of the NEC's Privatization Committee.

Before serving as National Vice President, Harnage worked as a National Representative for the 5th District for 10 years--from 1968 to 1978. As a National Representative, he worked with AFGE members in South Carolina and Georgia.

He served in the Air Force from 1959 to 1963. During that time Harnage worked as an Air Police Investigator at Clark Air Force Base in the Philippines. He was later transferred to the Strategic Air Command at Warner Robins Air Force Base in Georgia. While at Robins he became involved in small arms competition and won the 8th Air Force Individual Championship twice. He also won the Georgia State Championship, was a team member of the Air Force Logistics Command Championship Team, placed fourth in worldwide competition and won a gold medal in 1962.

After his discharge in 1963, Harnage stayed at Warner Robins, beginning his civilian career as a sheet metal helper. He later transferred to the Security Police, where he worked until his resignation in 1968 to accept the position of National Representative.

Born October 2, 1939 in Lakeland, Florida, Harnage was raised and educated in Moultrie, Georgia. He graduated from Moultrie Senior High in 1957. He attended Norman Junior College on a baseball scholarship prior to entering the Air Force. After his discharge from the military, he attended Macon College and the University of Georgia.

House Rule XI, Clause 2(g)

AFGE has no grants or contracts to declare.