

March 20, 2007

The Honorable Jose Serrano
Chairman, House Appropriations
2227 Rayburn HOB
Subcommittee on Financial Affairs
Washington, DC 20515

The Honorable Richard Durbin
Chairman, Senate Appropriations
309 Hart SOB
Subcommittee on Financial Affairs
Washington, DC 20515

RE: REFORMING THE OMB CIRCULAR A-76 PRIVATIZATION PROCESS IN ALL FEDERAL AGENCIES THROUGH THE FY08 FINANCIAL SERVICES APPROPRIATIONS BILL TO ELIMINATE OMB POLITICS, ESTABLISH EQUITABLE APPEAL RIGHTS, AND EXCLUDE THE COST OF HEALTH CARE AND RETIREMENT BENEFITS FROM THE CONTRACTING OUT COST COMPARISON PROCESS.

Dear Chairmen:

The undersigned unions appreciate your support for federal employees and your leadership in the fight against privatization. We ask for your leadership on three important privatization-related issues of concern to federal employees, as you and your colleagues mark up the FY08 Financial Services Appropriations Bill.

SUMMARY: We ask that you prevent the Office of Management and Budget (OMB) from telling agencies how many federal employees to review for privatization, which federal employees to review for privatization, and when to do so, so that agencies' career managers can instead make such decisions. We also ask that federal employees finally be allowed to have the same appeal rights long enjoyed by contractors to have agencies' botched and biased contracting out decisions reviewed by independent third-parties. Finally, we ask you to neutralize the impact of the costs of health care and retirement benefits on the contracting out cost comparison process.

OMB INTERFERENCE: OMB is telling agencies how many jobs to review for privatization and which jobs to review for privatization—and when to do so—even though Congress prohibited the use of numerical privatization quotas in February 2003 and OMB subsequently repudiated the use of such quotas in July 2003. The result is that federal employee jobs are being reviewed for privatization for the worst of reasons—because it promotes the White House's political agenda—rather than because career managers think such privatization reviews would reduce costs to taxpayers or promote their agencies' missions.

The driving force behind the privatization initiative has always been OMB. Agencies, with the exception of the DoD, rarely have sought to use A-76. No legislation has ever been introduced to facilitate the privatization initiative. In fact, the Congress, even with Republican majorities, has repeatedly rejected significant parts of the privatization initiative and sought to implement major reforms—despite constant veto threats. In FY02 and FY03, OMB imposed numerical privatization quotas on all agencies, charging them with reviewing for privatization 5% and then an additional 10% of their commercial workforces. As part of the budget process, agencies are judged on their compliance with this part of the President's Management Agenda.

APPEAL RIGHTS: Across the federal government, tens of thousands of federal employees are being reviewed for privatization in hundreds and hundreds of OMB Circular A-76 privatization reviews. However, federal employees in none of those privatization reviews will have the same rights that are already enjoyed by contractors to appeal privatization decisions to independent third parties at the Government Accountability Office (GAO) and the Court of Federal Claims (CFC). In other words, the

contractors trying to take the jobs of federal employees can appeal contracting officers' adverse decisions to GAO and CFC. But no matter how botched or biased those contracting out decisions might be, federal employees have no recourse. This fundamental inequity undermines the integrity of the entire privatization process. No matter how conscientious a contracting officer is—and from recent headlines, not all of them are—it can't help but influence her judgment that only contractors can hold her accountable.

HEALTH CARE AND RETIREMENT COSTS: Contractors sometimes obtain an unfair advantage in the contracting out cost comparison process by providing their employees with bad health care and retirement benefits, or even none at all. The cost of health care and retirement benefits should be excluded from the contracting out cost comparison process so that contractors cannot gain an unfair advantage from short-changing their employees. Exclusion of the costs of health care and retirement benefits would recognize that those benefits are fixed costs for in-house bids because the costs of federal employee health care and retirement benefits are set by Congress. Instead of rewarding contractors for providing inferior health care and retirement benefits, the contracting out cost comparison process should focus on who can deliver services more efficiently. In fact, health care costs are already excluded from the Defense Department's contracting out cost comparison process.

At the same time, this approach would not require contractors to provide health care and retirement benefits for their employees, or to improve those benefits; nor would it penalize contractors for using alternatives, whether health savings accounts, 401(k) plans, individual savings accounts, or profit sharing plans.

Thank you for your consideration of our views as you and your colleagues mark up the FY08 Financial Services Appropriations Bill.

Sincerely,

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL-CIO
AMERICAN FEDERATION OF TEACHERS, AFL-CIO
ASSOCIATION OF CIVILIAN TECHNICIANS
COMMUNICATION WORKERS OF AMERICA, AFL-CIO
DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO
INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, AFL-CIO
INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, AFL-CIO
METAL TRADES DEPARTMENT, AFL-CIO
NATIONAL FEDERATION OF FEDERAL EMPLOYEES, AFL-CIO
PROFESSIONAL AIRWAYS SYSTEMS SPECIALISTS, AFL-CIO
SERVICE EMPLOYEES INTERNATIONAL UNION
TRANSIT WORKERS UNION, AFL-CIO
UNITED AUTO WORKERS, AFL-CIO