

March 20, 2007

The Honorable Pete Visclosky
Chairman, House Energy and Water
Appropriations Subcommittee
2256 Rayburn House Office Building
Washington, DC 20515

The Honorable Byron Dorgan
Chairman, Senate Energy and Water
Appropriations Subcommittee
322 Hart Senate Office Building
Washington, DC 20510

RE: ELIMINATING FUNDING FOR PRIVATIZATION REVIEWS IN CORPS OF ENGINEERS AND REQUIRING CONGRESSIONAL APPROVAL FOR LOCKS AND DAMS HIGH PERFORMING ORGANIZATION

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 two important issues of concern to federal employees in the Corps of Engineers (CoE), as you and your colleagues mark up the FY08 Energy and Water Appropriations Bill.

PRIVATIZATION: We ask you to eliminate funding for privatization reviews in CoE, as was proposed by former Senate Energy and Water Appropriations Subcommittee Chairman Pete Domenici (R-NM) in the Senate's FY07 Bill.

The CoE has aggressively reviewed its workforce for privatization because of strong pressure from the Office of Management and Budget (OMB). This pressure comes in the form of numerical privatization quotas, which require CoE to review a specific number of federal employees for privatization within each fiscal year. In 2001, the Bush White House imposed numerical privatization quotas on agencies, insisting that agencies must review for privatization certain numbers of federal employee jobs within certain periods of time or risk having their budgets cut. In February 2003, the Congress prohibited this practice, reasoning that it hurt taxpayers and was unfair to federal employees for political appointees in the Bush White House to tell agencies how many federal employees to review for privatization and which employees to review for privatization merely so agencies could hit arbitrary numerical quotas, especially given the significant cost of carrying out the privatization reviews. In July 2003, OMB officials repudiated the use of quotas.

However, as CoE documents show, the agency has worked since 2002 under a numerical privatization quota—one that never changed, even after the prohibition and repudiation of 2003. Out of a relatively small workforce of 22,500 employees, CoE has historically been charged by OMB with reviewing for privatization a whopping 7,500 employees. In a November 13, 2006, memorandum that was sent to Commanders from CoE Headquarters, after both the House and Senate had weighed in strongly in opposition to a privatization review of locks and dams operation and maintenance personnel, it was written: "As you know the original plan was to conduct an A-76 competition (of locks and dams) as part of the 2002 commitment to OMB that the Corps would compete 7,500 positions." In a separate CoE document from November 2006, it was written by CoE management that, "We are still in negotiations with OMB regarding our original commitment to compete 7,500 positions." We understand that OMB is insisting that CoE review for privatization an additional 3,000 jobs.

The inevitable consequence of the OMB privatization quotas is that agencies review work for privatization that is actually inherently governmental, i.e., inappropriate for contractor performance. Indeed, there was strong bipartisan and bicameral sentiment that operation and maintenance of locks and dams should never have been reviewed for privatization. According to CoE's own job descriptions and vacancy announcements, operators and mechanics make locking decisions and direct lock traffic, thereby affecting the life, liberty, and property of private persons, thus rendering their workload inappropriate for contractor performance under law. But CoE officials tried to conduct a privatization review nonetheless because of the OMB privatization quotas.

CoE's other major privatization effort—an OMB Circular A-76 review of 1,100 information technology employees that was begun in June 2004—is now in its 33rd month. According to an October 12, 2006, GovExec.com story, "Information technology management at the Army Corps of Engineers is being stressed to the breaking point by staff shortages resulting from a stalled public-private job competition, according to senior Corps officials. An early September meeting of senior IT leaders at the agency reflected concern that IT services are suffering from

significant attrition at 'virtually every Corps [information management] office,' according to a summary of the meeting distributed by the agency's chief information officer, Wilbert Berrios. Some have lost as much as 35 percent of their workforce since the inception of a competitive sourcing process more than two years ago. 'We are one missed signal away from a train wreck,' officials warned at the Sept. 6 meeting in Jekyll Island, Ga., according to the summary, with staffing levels only 'one person deep in several critical areas.'" Clearly, whatever savings might have been generated through this privatization review were lost a long time ago because of the almost three years of costs incurred from carrying it out and the dangerous levels of workforce disruption it has inflicted.

As Senate Energy and Water Chairman Pete Domenici (R-NM) concluded in FY07 report language shutting down all CoE A-76 privatization reviews: "Millions of dollars have been spent over the last several years on an initiative to contract out Government jobs in order to make the Government more efficient. The Committee fails to see any evidence of cost savings or increased efficiency by undergoing these expensive competitions. Therefore, the Committee directs that no funds provided in this account or otherwise available for expenditure shall be used to comply with the competitive sourcing initiative." Continued funding for the A-76 circular allows OMB to impose its privatization quota on CoE to review another 3,000 jobs—the same quota that the Congress outlawed and the OMB publicly repudiated, the same quota that resulted in the aborted privatization review of locks and dams personnel, the same quota that caused a dangerous and wasteful privatization review of information technology—despite strong evidence that privatization just doesn't work.

HIGH PERFORMING ORGANIZATION: Thanks to your strong leadership, there will be no privatization review of locks and dams operation and maintenance personnel. However, there will be a High Performing Organization (HPO), an attempt by CoE management to generate efficiencies through internal restructuring. Staff from our unions has been favorably impressed by the good faith displayed by CoE officials who are responsible for the HPO. But as a former President once said, "trust but verify". The HPO process is neither administrative nor statutory; in fact, there are virtually no rules at all. Moreover, the scope of the HPO plan is almost twice as large as the aborted privatization plan. The HPO process will review more than 3,500 employees—the 2,000 locks and dams employees as well as employees in the maintenance fleets and CoE district offices. Decisions made by the HPO may be of keen interest to the Congress, including, for example, reducing hours at some locks, ignoring long-term maintenance needs in some districts, and eliminating capacities at some CoE district offices. We ask that you include language in the FY08 Energy and Water Appropriations Bill that would encourage CoE management to ensure the meaningful participation of rank-and-file employees and their exclusive representatives in the development of the HPO plan; require CoE management to periodically report to the Congress about the proposals being considered by those crafting the HPO plan; and prevent the implementation of the HPO plan until the House and Senate Energy and Water Appropriations Subcommittees have had an opportunity to thoroughly review the HPO plan and approve of it.

Thank you for your consideration of our views as you and your colleagues mark up the FY08 Energy and Water 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
COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO
DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO
NATIONAL FEDERATION OF FEDERAL EMPLOYEES, AFL-CIO
INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, AFL-CIO
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO
INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, AFL-CIO
LABORERS INTERNATIONAL UNION OF AMERICA
METAL TRADES DEPARTMENT, AFL-CIO
PROFESSIONAL AIRWAYS SYSTEMS SPECIALISTS, AFL-CIO
SERVICE EMPLOYEES INTERNATIONAL UNION
TRANSIT WORKERS UNION, AFL-CIO
UNITED AUTO WORKERS, AFL-CIO