

July 6, 2009

Mr. Jeffrey B. Liebman,
Executive Associate Director
Office of Management and Budget
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, N.W.
Washington, DC 20503

Re: Public Comments on the Government Sourcing Memo

Dear Mr. Liebman:

On behalf of the undersigned unions, we thank President Obama for offering a compelling vision for how the federal government, including its dedicated civil service workforce, can improve the lives of all Americans. His March memo lays the foundation for significant reforms that will ensure that federal agencies provide the highest quality services and create a sourcing process that is more accountable to taxpayers and more fair to working Americans.

Here are our recommendations for carrying out the President's vision:

Area 4(a)

1. return inherently governmental functions as well as those functions that are closely related to inherently governmental and mission-essential but which have been wrongly contracted out to in-house performance and impose safeguards to ensure that such functions can no longer be contracted out;

2. redefine "inherently governmental"--using, among other things, the definitions found in section 5 of the Federal Activities Inventory Act of 1998 (31 U.S.C. 501 note) and subpart 7.5 of part 7 of the Federal Acquisition Regulation, as well as The CLEAN UP Act (S. 924 and H.R. 2736); and then enforce that redefinition—as well as the prohibition against personal services contracts—to ensure that federal employees perform all functions necessary for an agency to perform its mission, always taking into account the imperatives, among others, to

a) retain in-house technical expertise and institutional memory;

b) determine whether the agency has the capacity to oversee contractor performance;

c) retain in-house all functions related to determining work to be performed by a contractor as well as monitoring and evaluating a contractor's performance of that work;

d) avoid risks associated with contractor monopolies and non-performance;

- e) ensure transparency and accountability in any contractual relationships;
- f) develop, train, and maintain the federal civil service; and
- g) retain in-house all functions on which decisions to commit the federal government are ultimately based as well as those functions ultimately necessary to carry out inherently governmental functions;

Area 4(c)

3. ensure that no commercial functions currently or most recently performed by federal employees are contracted out in whole or in part without first formally determining that such conversions would be in the interest of taxpayers, including the performance of any requirements in rule or law for public-private competitions;

4. correct numerous inequities in the OMB Circular A-76 privatization process—including adding a strictly enforced limitation on how long OMB Circular A-76 privatization studies can last, adding a prohibition on automatic recompetition, abolishing the automatic 12% overhead charge on in-house bids, and increasing the minimum cost differential to take into account quantifiable costs (preliminary planning, consultants, and reassigning federal employees to work on OMB Circular A-76 privatization studies) as well as nonquantifiable costs—and establish a reliable methodology to track the cost and quality of work reviewed under the circular;

5. establish a reliable process for agencies to reengineer their services as an alternative to the costly and controversial OMB Circular A-76 privatization process, especially given that in-house workforces won 83% of the studies conducted since the process was revised in May 2003, according to the previous administration;

Area 4(d)

6. improve the lives of contractor employees by requiring all contractors to be compliant with labor, tax, and environmental laws and to provide their employees with appropriate levels of pay and benefits before they can bid on federal contracts—rather than by providing special preferences to particular contractors, which could undermine the integrity of the procurement process;

Area 4(b)

7. provide federal employees with opportunities to perform new functions, particularly those similar to work already performed by other federal employees;

8. ensure that, if commercial functions performed by federal employees are reviewed for outsourcing, federal employees have comparable opportunities to perform outsourced functions;

9. rebuild the in-house human resources workforce and ensure that the federal hiring process facilitates, rather than complicates, appropriate insourcing; and

10. establish inventories of service contracts so that agencies can identify whether a particular contract is well-performed, includes functions that should only be performed by federal employees, or is appropriate for insourcing.

We look forward to working with the President and the Congress to clean up the mess left behind by the previous administration and make lasting and long-overdue reforms to the sourcing process. Indeed, the best first step for undertaking this important effort would be expeditious enactment of The CLEAN UP Act, the landmark sourcing reform legislation introduced by Senator Barbara Mikulski (D-MD) and Representative John Sarbanes (D-MD). Thank you for your consideration of our proposals.

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

FEDERAL EDUCATION ASSOCIATION / NATIONAL EDUCATION ASSOCIATION

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, 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

METAL TRADES DEPARTMENT, AFL-CIO

NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION, AFL-CIO

NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES

NATIONAL FEDERATION OF FEDERAL EMPLOYEES, AFL-CIO

NATIONAL TREASURY EMPLOYEES UNION

PROFESSIONAL AVIATION SAFETY SPECIALISTS, AFL-CIO

UNITED POWER TRADES ORGANIZATION