

Dear Representative:

During consideration of the FY12 National Defense Authorization Act (NDAA), the undersigned unions strongly urge you to

- 1. oppose any attempt to revive the OMB Circular A-76 privatization process,**
- 2. support efforts to ensure that the Department of Defense's (DoD) "Efficiency Initiative" does not impose disproportionate sacrifices on federal employees, and**
- 3. oppose any effort to prevent DoD from using federal employees when they would be less costly than contractors or when the work is too important or sensitive to privatize.**

1. OMB Circular A-76

This privatization process is so infamous that its use by DoD is prohibited in three different laws. The Government Accountability Office (GAO) and the DoD Inspector General (IG) have repeatedly reported, year after year, in agency after agency, that no reliable systems have ever been established to track costs and savings and that the actual incurred costs of carrying out the studies often exceed any guesstimated savings. Also, according to the DoD IG, a systemic overstatement of in-house costs has prevented managers from making "sound and justifiable business decisions".

The FY10 NDAA established two milestones that must be achieved before its DoD-specific prohibition can be lifted: the Pentagon must submit a report on how it will address problems in the A-76 process identified by GAO and the IG; and DoD must certify completion of a long-overdue inventory of contracts, integration of the results into the budget process, and correction of problematic contracts. The report has not yet been submitted. More significantly, DoD has made no changes to the privatization process. Of course, DoD can't fundamentally change the A-76 process—that's why it is called the *OMB Circular A-76*. And although acknowledging significant flaws in the A-76 circular, OMB hasn't even begun to reform the privatization process. Moreover, GAO reported in January that DoD, other than the Army, has made no progress towards compliance with the contractor inventory. Clearly, the rationales for the trio of A-76 prohibitions have never been stronger.

2. "Efficiency Initiative"

There is no question that DoD should become more efficient and there is no question that federal employees must be prepared to make necessary sacrifices. However, federal employees shouldn't be forced to sacrifice disproportionately. Although smaller and less costly, federal employees are, conservatively estimated, taking hits of \$13.3 billion in FY2012-2016, as a result of the "Efficiency Initiative". Over the same period, savings from contractors from the initiative will be just \$5.7 billion. There was much talk of contracting expenses being reduced by 10% over three years. However, rather than reduce contracting expenses overall, DoD ultimately plans to reduce only a narrowly defined subcategory of contracts by that amount. Federal employees are capped at FY10 levels, with "very limited exceptions", while spending on contractors would increase by 10% in the FY12 budget request. For example, the Army's civilian workforce will be reduced by 33,000 over the next several years, while the FY12 budget request would increase contractor spending by 11%.

Performance decisions are no longer being made on the basis of cost, risk, policy, and the law; rather, they are being dictated by the arbitrary cap the Pentagon has imposed on the federal workforce. New work and expansions to existing work will be contracted out, even if federal employees can do the work more efficiently or the work is inherently governmental. Work that should be performed by federal employees, either because it would cost less

or the work is too important or sensitive, will be left in the private sector. And work that federal employees are currently performing will be contracted out, even if in-house performance is more efficient or required by law.

As a result of the "Efficiency Initiative", DoD is in violation of almost a dozen sourcing and workforce management laws, including two prohibitions against managing the federal workforce by arbitrary constraints, a requirement that the most efficient workforce be used, and requirements that federal employees be used for inherently governmental work and, "to the maximum extent practical", for closely associated with inherently governmental functions. As DoD has acknowledged, it is not possible for a real "Efficiency Initiative" to be mounted without the completion of an inventory of contracts that is integrated into the budget. DoD should not be allowed to continue with its "Efficiency Initiative" until that contractor inventory has been finished, the department imposes sacrifices on contractors as well as federal employees, and it is consistent with sourcing and workforce management laws.

3. Insourcing

DoD has successfully used insourcing to begin to rebalance the federal and contractor workforces. Sometimes, insourcing has been used to ensure in-house performance of inherently governmental, closely associated with inherently governmental, and critical functions—e.g., preparing budgets, overseeing contractors, and developing regulations. Other times, it has been used to reduce costs for taxpayers. In FY10 alone, DoD reports savings of \$900 million through insourcing—at the same time contracting costs increased by another \$5 billion. The Army's robust and intelligent use of insourcing resulted in savings for taxpayers without loss of performance. With the use of insourcing, the Army's base contract dollars dropped from \$50 billion in FY08 to \$31 billion in FY09 and \$33 billion in FY10; at the same time, civilian dollars increased only modestly—from \$18 billion in FY08 to \$20 billion in FY09 and \$22 billion in FY10.

Complaints about the insourcing process have been proven groundless. The costing methodology does include all in-house costs. Quotas to promote insourcing have been prohibited. While GAO and the IG have repeatedly criticized the outsourcing process, contractors' complaints about the insourcing process have never been corroborated by any independent third party. DoD managers should continue to have the flexibility necessary to use insourcing in order to ensure public control over important or sensitive functions and generate savings for taxpayers.

Thank you for considering our views.

Sincerely,

**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL-CIO
DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO
INTERNATIONAL FEDERATION OF PROFESSIONAL
AND TECHNICAL ENGINEERS, AFL-CIO
INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA (UAW), AFL-CIO
NATIONAL TREASURY EMPLOYEES UNION
PROFESSIONAL AVIATION SAFETY SPECIALISTS, AFL-CIO**