

Extended Statement of

**James J. Goodyear, Ph.D.**

NTEU Chapter 280  
Environmental Protection Agency

for the Commercial Activities Panel

### **WHY THE REVIEW OF PESTICIDE STUDIES SHOULD NOT BE OUTSOURCED**

When orders from the President's office or from Members of Congress are given to agencies, the agency administrators tend to implement those orders, even if they have to violate the meaning of the founding law, regulation, or Executive Order. Thus, when they are told to outsource a certain percentage of their agency's work, they do so, even if that work doesn't qualify for outsourcing.

I will address outsourcing from my personal experience in the Environmental Protection Agency's (EPA) Office of Pesticide Programs (OPP). My presentation touches on just one example of countless other contracting out efforts at EPA and other federal agencies. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), chemical companies that wish to register pesticides must demonstrate their safety by doing a series of scientific studies. The scientists in OPP review these studies and make the value judgement on whether the companies have met the legal requirements.

#### **THE OATH OF OFFICE**

Government employees take an oath of office to uphold the Constitution of the United States. This phrase includes the laws, regulations, and executive orders produced under the Constitution. Contractors are not obligated by this oath.

The job of OPP is to *regulate* pesticides, not to *register* them. I have had several occasions to remind upper management of this important distinction. Arlington County registers dogs. You identify your dog, show a rabies certificate, pay a fee, and you get a dog licence. Your dog is registered.

Under FIFRA, OPP's scientists *regulate* the types of pesticides and the methods of their use. We are charged by the Constitution and by FIFRA to safeguard the health and environment of the people of the United States from undue harm from pesticides of all types.

OPP's scientists analyze the effect of a pesticide and, if its safety hasn't been demonstrated, recommend that the registration not be granted. Upper management frequently feels political pressure to register a certain pesticide for general use or to give an emergency or special local needs registration to the chemical company. Generally, we are able to stop the registration by standing on our scientific ethical principals and by upholding our OATH OF OFFICE. Contractors have no such oath. They must do as they are told; or they will be replaced.

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**OTHER ECONOMIES HAVE NOT BEEN INSTITUTED**

Economies such as requiring electronic copies of study reports, having the registrants list the methods and results on a standard electronic form, and having the data submitted in an electronic table ready for statistical analysis have not been tried. If they were instituted, about 80% of the contractor's production could be realized without shirking the government's responsibility to make the decisions needed to protect the public.

**IT IS NOT A COMMERCIAL ACTIVITY**

There are contractors that do the studies and write the study reports for the registrants, but there are no businesses that actively, commercially review studies. The commercial review of scientific studies is an activity that was invented by the private sector to fulfil the demand created by the government's decision to outsource these reviews.

**THE STUDIES CONTAIN CONFIDENTIAL INFORMATION**

Many study reports contain confidential business information. Only government employees should see these business secrets. EPA scientists must be security cleared to handle this information.

EPA's management claims that allowing nongovernment personnel to see this information is allowable, because they have given themselves permission to violate the confidentiality provisions of the FIFRA.

**CONTRACTORS ARE NOT MORE EFFICIENT.**

EPA's management has attempted to keep several contracts under the ten Full Time Equivalent (FTE) limit, so that they would not have to do a study to show that outsourcing is less expensive than reviewing the study reports "in house." Due to the increasing pressure to outsource work, these contracts are becoming larger and have exceeded ten FTEs, but they still haven't done the study. I believe that an examination of the costs would reveal that it is less expensive to have EPA do their own reviews.

When the contractor's review is returned to EPA, the scientist who is in charge of that chemical must do a secondary review of the contractor's work. Some scientists review the report in detail; others simply see if it is in the proper format and accept the results without understanding the study. Both of these methods are incorrect, as are all degrees in between them. The detailed review can double the time and expense of the review process; blind acceptance puts governmental decision in the hands of the contractor.

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**THE REVIEW IS AN INHERENTLY GOVERNMENTAL DECISION**

The review of the report requires many decisions about whether the study has met the requirements of the law and regulations. Decisions are made on whether a study has followed the proper laboratory procedures, whether the results are sound, and if the study as a whole is valid and meets the legal requirements. They then do a risk evaluation for the pesticide. Contractors should not be allowed to make these decisions.

**REDUCING THE EXPERTISE OF THE OPP'S SCIENTISTS**

As time goes on and individual scientists leave OPP and are replaced by new personnel who have never reviewed a study report. Since the study reports are now sent to contractors, these new scientists do not gain expertise in the proper way to do a study. This means that they are not able to do the secondary review and decide if the contractor's opinion is correct. Since they don't understand the studies, they are not fully able to do the final Risk Assessment these pesticides to protect the environment and to people.

**OUTSOURCED BECAUSE OF BUDGETARY CONSIDERATIONS**

Executive Order A-76 forbids the outsourcing of government work to avoid personnel ceilings or salary limitations. The contractors do work that would be done by the Office of Pesticide's scientists if the personnel budget had not been reduced with the intent of forcing outsourcing.

**THE BOTTOM LINE**

OPP is wasting taxpayer dollars on unnecessary and expensive contractors, while putting the health and environment of the American public at risk and, potentially putting business secrets in the hand of foreign and domestic competitors. In my capacity as a taxpayer and an EPA scientist, I call on this Panel to take actions to end the wasteful outsourcing of government work.