

Statement of AFL-CIO President John J. Sweeney

Before the Commercial Activities Panel

June 11, 2001

Mr. Chairman and members of the panel: On behalf of the 13 million members of the AFL-CIO, I appreciate the opportunity to join you today to share our views and suggestions regarding the principles that should guide the federal government's service contracting process.

There are few challenges greater or more important than ensuring that the federal government has the resources and capacity it needs to keep the economy growing and the nation prospering. As we know from many successful public and private ventures, the key component for creating a vibrant, strong and effective organization is to recruit and retain an equally vibrant, strong and effective workforce, and to establish systems, such as labor-management partnerships, that tap the combined experience and expertise of all the partners in the enterprise. Making the investments up front in securing the best workers possible, and then continuing to invest in them throughout their careers, is the soundest and most cost-effective use of taxpayers' dollars. And it ensures the highest quality delivery of public services.

All too often today, however, rather than making the necessary commitment of resources and investments in devising a comprehensive, future-oriented work force development plan that includes building and strengthening the federal work force, the focus is on short-term savings by cutting the federal work force. The regrettable result is a real and growing human capital crisis, propelled in part by excessive downsizing and outsourcing in recent years.

This panel has the opportunity to help stem and reverse that crisis through the recommendations you will make for administration of the federal government's outsourcing processes and procedures. In the discussion that follows, we outline several principles that we believe should inform these agency procedures and practices.

1. The federal government should not engage in excessive downsizing and indiscriminate service contracting: Many analysts have concluded that the federal government has engaged in excessive downsizing and indiscriminate service contracting over the last several years, resulting in a human capital crisis. In recent years, the federal work force has declined by almost 400,000 positions. Today, agency after agency suffers from shortages of federal employees in critical occupational categories. The aging of the federal workforce raises serious concerns that this crisis will intensify in coming years, with an expected large wave of baby boomer retirements.

America's working families depend on rank-and-file federal employees to nurse our veterans, patrol our borders, collect the government's revenues, dispense critical safety net benefits, conduct scientific and medical research, preserve our civil rights, defend our nation, safeguard our workplaces and environment, protect the rights of workers and consumers, and to

provide myriad other important services. The interests of America's working families are best served by a strong and robust federal employee workforce. Consequently, when the capacity of the federal work force is diminished, it is not just a crisis for federal employees, it is a matter of profound concern for all of us.

Our leaders should recognize the invaluable contributions federal employees make and provide them with the stable environment they need to do their important work. Bashing "bureaucrats" is a popular pastime for some, but arbitrary threats of downsizing and service contracting injure the interests of any organization, whether in the public or private sector. When the organization involved is the nation's largest and most important employer, the federal government, the dangers are even more pronounced.

2. *The government should staff agencies adequately and pay federal employees competitively:* The federal government must begin rebuilding its workforce to recover from the serious deficits created by downsizing and contracting. Agencies should no longer be subject to arbitrary in-house personnel ceilings, whether for managers or rank-and-file federal employees. In light of the central role the federal government plays in the lives of all Americans and the real and growing "human capital" crisis we face, it is in our national interest to emphasize the "right-sizing" of the federal workforce, instead of its continued "down-sizing." If it is to recruit and retain the best, the federal government must invest in its workforce by eliminating the documented pay gaps between federal employees and their counterparts in the private sector. Agencies must also stop looking at job-related training as a costly optional extra instead of the absolute necessity it is, if the government is to remain competitive with the private sector.

3. *Government agencies should work collaboratively with employees:* The best way for agencies to achieve actual and lasting efficiencies is for managers to use the expertise and experience of rank-and-file federal employees and their union representatives in real labor-management partnerships. Nobody knows better how to get the job done right than the people who are actually doing the job.

We deeply regret that one of the first orders of business for the Administration was to repeal Executive Order 12871, which provided a strong foundation for labor-management partnerships in the federal sector. Indeed, even members of Congress from the President's party decried this move as a backward step that would hinder, rather than advance efforts to improve governmental performance and efficiency. Although some farsighted agencies are attempting to continue their cooperative arrangements, the partnership initiative, which merely incorporates the emphasis on labor-management cooperation of some enlightened private sector firms, has suffered a significant setback. And that's a shame, because real labor-management partnerships are cost-efficient for managers, fair to employees, and beneficial for the public as a whole. We urge the panel to recommend resumption of these important labor-management partnerships.

4. *The government should not use arbitrary competition/conversion*

quotas: We are extremely disappointed in and concerned about the Administration's apparent decision to place the jobs of at least 425,000 federal employees at risk over the next four years, either through direct conversions to contractor performance or public-private competitions. As discussed below, we believe that direct conversions are a disservice both to federal employees and taxpayers, and thus should never be used. Further, public-private competitions should be used as a last resort, only after other less disruptive mechanisms to achieve lasting efficiencies have proved ineffective.

Arbitrary quotas on federal employee positions, whether to meet goals for downsizing, in-house personnel ceilings, direct conversions to contractor performance, or public-private competitions are not sound public policy.

After abuses too infamous to ignore, the nation as a matter of law and policy rejected a "spoils system" allowing new presidents to replace their predecessors' workforces with cronies and political supporters. We adopted, instead, a civil service system to ensure that the American people would always be served by women and men who chose to devote their lives to the public good rather than private gain. Rank-and-file federal employees provide the continuity, attention to details, and institutional memory necessary to ensure that the American people continue to be the best governed in the world. Because they are not political appointees, these civil servants can do their job of serving the public without fear or favor. And because civil servants are part of the enduring fabric of government, the American people can always count on them for service, regardless of a President's political affiliation or ideological bent.

The idea that as much as one-fourth of the federal government's executive branch workforce could be outsourced over the next four years raises grave concerns that, under the banner of "efficiency," the nation could well return to a latter day "spoils system." The real possibility exists that in the future, lucrative service contracts paid for by taxpayers will be doled out in ways the civil service system was created to prevent. While some would undoubtedly win under such a scheme, most of us would be losers.

5. *The government should broadly define the concept of "inherently governmental" functions:*

We urge the panel to recommend against using narrow definitions of "inherently governmental" functions that fail to take into account the appropriateness of federal employee performance of most services. There are some who would argue adamantly that any service the private sector is interested in performing is inherently "commercial," and, therefore, need not be performed by federal employees. The panel should emphatically reject that contention. Not only should we err on the side of caution in determining that a particular service is not inherently governmental, we must also be careful about the extent to which even commercial services are outsourced.

We believe the Army has moved in the right direction by establishing a contractor inventory to develop a better understanding of the services it has outsourced. This inventory's purpose is to allow policymakers to "assess whether, and to what extent, contractors may be performing (inherently governmental) functions, or commercial functions, which, when contracted out

beyond a certain level of reliance, increase operational risks to overall Army mission capabilities and readiness." We urge the panel to recommend that all agencies develop systems similar to the Army's contractor inventory, to provide for collecting reliable information about the real costs and size of the contractor workforce.

6. *The government should bar contracting out of federal employee jobs unless and until there is full and fair public-private competition:* For reasons of efficiency and fairness, federal employees should always receive real and meaningful opportunities to compete for the opportunity to continue performing their jobs. Converting jobs to contractor performance without public-private competition is bad policy. Real savings from outsourcing come only from full and fair public-private competition. Savings that result from shortchanging workers on wages and benefits are often short-lived and illusory, costing all of us more in the long run.

Additionally, public-private competition should be just one tool for making service delivery more efficient. Given the cost of conducting competitions, the disruptions they cause, the longstanding difficulties in administering service contracts, and the persistent questions about whether they yield any long-term savings, federal agencies should exhaust all other options before pursuing outsourcing schemes. Whether called reinvention, reengineering, or reorganization, there is much federal managers can do on their own to generate efficiencies, and even more that agencies can accomplish if rank-and-file federal employees and their union representatives are involved in the process through strong labor-management partnerships. Selling off chunks of the government is the worst answer to efficiency concerns.

7. *The government should ensure that federal employees have full and fair opportunities to compete for new work:* Federal employees should have full and fair opportunities to compete for newly created work, as well as the work they are already doing. A contributing factor to the crisis the federal government is experiencing has been the almost systematic refusal to consider in-house performance of new work, regardless of how similar it might be to work already being ably performed by federal employees at the agency in question or at another agency. Given agencies' continued difficulties in ensuring adequate competition between contractors for federal services, taxpayers would also benefit from public-private competition for new work.

8. *The government should provide federal employees full and fair opportunities to compete for work that has previously been outsourced:* Agencies using public-private competition must use it fairly. If real and lasting savings can be achieved from competing the jobs of federal employees, then real and lasting savings can also be achieved by subjecting contractors to the same degree of public-private competition. To ensure that public-private competition is not merely a mechanism to replace federal employees by contractors, but rather a mechanism to make the federal government as a whole -- both its contractor and federal workforces -- more efficient, federal employees must also be allowed to compete for work that has already been outsourced.

9. *The government should accord federal employees the same legal standing that contractors enjoy to challenge agencies' arbitrary service contracting decisions:* Contractors, but not federal employees and their union representatives, can take agencies to Federal Claims Court and the General Accounting Office to challenge service contracting decisions. Federal employees and their union representatives should have the same rights and legal standing that contractors enjoy. Putting contractors and federal employees on the same legal footing is not just fair to federal employees; it also improves the integrity of the process by ensuring that agency managers are accountable to both federal employees and contractors.

10. *The government should eliminate the human toll from service contracting:* Service contracting is undertaken in the private sector and elsewhere in the public sector as a strategy for reducing costs by undercutting workers' wages and benefits. Outsourcing leads to reductions in the numbers of public sector jobs that pay reasonably well, provide good benefits and offer job security. And all too often, the private sector jobs that are created through outsourcing pay considerably less and confer few or no benefits. A recent study by the Economic Policy Institute found that more than one-tenth of the contractor workforce earns poverty-level wages. In addition, these contract jobs are remarkably unstable, a situation greatly exacerbated by the President's repeal of a 1994 Executive Order that required federal service contractors to offer a right-of-first-refusal to their predecessors' employees, when contracts change hands. Taking away this protection has a disastrous effect on low wage service contract employees, many of whom are women.

At a time when the federal government enjoys and expects unprecedented surpluses, it is even more imperative that it act as a model employer, rather than contribute to a process that degrades jobs and drives down wages and benefits for workers performing public services.

Thus, while it is appropriate to compare staffing and processes in the context of public-private competitions, comparative wages and benefits of public employees and private contractor counterparts should be excluded from consideration. If there are lasting efficiencies to be achieved from service contracting, they should come from devising more ingenious ways of delivering services, not from replacing the working and middle class Americans in the federal workforce with what are in at least some instances poorly-paid, poorly benefitted workers with no job security.

Further, taxpayers want their tax dollars to be used to pave a high road of good jobs with good benefits, rather than to drive down working standards and living conditions. Accordingly, we urge the panel to ensure vigorous federal enforcement and contractors' full compliance with the Service Contract Act; and we recommend that Congress adopt legislation providing living wage and job retention safeguards that will help enable hardworking contractor employees to lift themselves and their families out of poverty.

Conclusion: The AFL-CIO appreciates the opportunity to share our views on these matters of great importance to the nation as a whole and to all working families. We all have a tremendous stake in insuring that the federal government does its job efficiently and capably. We believe that job is done best by a well-paid, well-trained, and well-respected federal work force. To that end, we urge the panel to incorporate the principles outlined above in the its final recommendations to Congress.

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