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TO: Members of the U.S. Contract Tower Association

FROM: Spencer Dickerson
AAAE/USCTA office

Attached is a report on the FAA contract tower program prepared by the Congressional Research Service (CRS) which provides background information on various issues of interest to members of Congress and congressional committees. CRS did request our input as they prepared this document.

I thought you would find this of interest.

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FAA's Contract Tower Program

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Summary

The Federal Aviation Administration (FAA) began contracting for air traffic control services in 1982. The program was initially limited to small municipal airports that lost air traffic service following the 1981 air traffic controllers' strike. To save costs, the program was expanded in 1994 to Level I FAA-operated towers. Level I towers have the lowest level of activity of five designated levels; are not radar equipped; and are limited to visual flight rule (VFR) traffic. By fall 1999, the FAA had converted all of its Level I towers to contract operation, bringing the number of towers in the program to 186.

The program has been successful in providing air traffic services to low activity airports at lower costs than the agency could otherwise provide. Contracting saves the agency about \$250,000 per tower in annual operating costs while providing a level of service and safety comparable to FAA-operated towers. In light of the program's success, interest has grown in expanding the program to the agency's Level II and III, non-radar, VFR towers. A total of 71 towers could be affected, with a potential for greater average costs savings due of the larger FAA staff at these facilities.

The National Air Traffic Controllers Association (NATCA), which represents FAA's air traffic control work force, opposes the conversion of FAA towers to contract operations. While it was unsuccessful in stopping the Level I conversions, it has mounted a new effort to stop any further conversions. Language in the Senate FY2000 Department of Transportation (DOT) appropriations bill (S. 1143) directing the FAA to proceed with Level II and III conversions caused an outpouring of protest from the NATCA membership. The protest, coupled with a draft FAA report indicating that contracting out beyond Level I would not be cost effective, caused Congress to delay further action on conversions for the time being. Language in the final FY2000 DOT appropriations act (P.L. 106-69) directs the FAA Inspector General to conduct an independent review of the feasibility and benefits of expanding the contract tower program, and report to Congress no later than March 1, 2000. This report will be updated as needed.



Background

The FAA began contracting out air traffic control services at low activity air traffic control towers in 1982. Initially the program was limited to towers not being staffed by FAA controllers because of staffing shortages following the air traffic controllers' strike of 1981, and because the low traffic volume made them too expensive to operate. Contracting out has made it possible for some small communities to have the benefits of a control tower when they might otherwise be forced to operate without this safety feature. In 1994, in a cost saving move recommended in Vice President Gore's National Performance Review,¹ the agency expanded the program and began converting FAA-staffed Level I towers to contract operations. FAA towers are categorized as Level I through Level V, with Level I towers having the lowest number of operations (fewer than 35 take-offs or landings per hour) and least complex air space. In the fall of 1999, the FAA converted the remaining 22 agency-operated Level I towers to the contract tower program, raising to 186 the number of towers that have been converted to contract operations, including 136 former Level I FAA-operated towers.

Oversight. The contract tower program is managed by a centralized program office located in Washington, DC.² This office develops the policies and procedures for the program, and provides technical guidance to tower contractors.³ The interests of airports with contract towers are represented by the U.S. Contract Tower Association (USCTA), which was established in March 1997 by the American Association of Airport Executives.⁴

Services.⁵ Contract towers do not have radar and are not equipped for instrument flight operations. They are limited to visual flight rules (VFR) traffic, providing service to air carrier, air taxi, military, and general aviation users. Customer services provided by a contract tower are identical to those provided by an FAA-staffed towers. Contract tower controllers are certified by the FAA and follow the Code of Federal Regulations and FAA directives. Users should notice no difference between a contract tower and an FAA-operated tower. Hours of tower operation do not change when a location is converted to contract operations. Staffing and operating hours at FAA towers and

¹ Vice President Al Gore. *From Red Tape to Results: Creating a Government that Works Better and Costs Less*. A Report of the National Performance Review. 1993. Department of Transportation recommendation 09: NPR recommends converting 99 Level I (low-use) air control towers to contract operation and reviewing the remaining Level I towers for possible decommissioning: p. 150.

² U.S. Department of Transportation. Federal Aviation Administration. Contract Services Branch, ATO-310. The program manager is Willie Card (202-276-9336). The contract tower program web site is: <http://www.faa.gov/ats/ato/ato310.htm>

³ U.S. Department of Transportation. Federal Aviation Administration. Office of Congressional Affairs. *FAA Contract Tower Program*. Fact sheet. Undated. 1 page

⁴ U.S. Contract Tower Association. C/O American Association of Airport Executives, 601 Madison Street, Suite 400, Alexandria, VA 22314. Telephone (703) 824-0500. The association web site is: <http://www.airportnet.org/depts/corppags/cta/index.htm>

⁵ Op cit, FAA Congressional Affairs.

contract towers are based on criteria set forth in FAA regulations, and the agency is the determining authority for any request to change hours of operation.

Cost Savings.⁶ The FAA realizes certain cost savings by converting FAA-operated towers to contract operations. Average operating costs for an FAA-staffed Level I tower are approximately \$508,000 per year, compared to \$253,000 for a contract tower. Up-front program costs, such as the cost of relocating the FAA controllers, can be recovered after 2 to 3 years through employee attrition and reduced hiring requirements. Contractors realize cost savings through innovative staffing approaches which may utilize part-time controllers, assign controllers to more than one facility, and adjust staffing to reflect seasonal variations in traffic. Such staffing flexibility is not available to the FAA. In addition, training costs are less at contract towers, reported because most contract employees are previously trained FAA and military air traffic controllers.

Contract Tower Cost-Sharing Initiative. Under FAA eligibility criteria, some airport towers do not qualify for the contract tower program because the cost to operate them is greater than the benefit they produce. In an effort to ensure that some of these marginal airports might still have air traffic control service, Congress established a contract tower cost-sharing program under the FY1999 appropriation acts (P.L. 105-277). This federal-local government partnership allows local airports to pay for part of the operating costs for a contract tower based on the benefit/cost ratio of their control tower. Under the program, if the ratio is less than 1, for example 0.9, the FAA would pay 90% of the cost and local interests would pay 10%. In FY 2000, Congress appropriated \$5 million for the contract tower cost-sharing program (P.L. 106-69). A total of 30-40 airports have applied, or are in the process of applying for the program.⁷

Inspector General Audit

In a May 1998 audit of the contract tower program, the Department of Transportation Inspector General (IG) found that contracting out FAA towers is good for safety and saves money, while delivering a level service comparable to FAA-staffed towers.⁸ In the report, IG officials said they found little difference in the quality of service at Level I VFR towers whether they were operated by FAA or by contractors. "Interviews with airport operators and other users of contract towers indicated overall satisfaction with the service provided by contract tower controllers," the report said. A comparison of safety data collected over a 3-year period showed virtually no difference in safety between contractor and FAA-operated towers. The IG report also found that contract tower controllers met FAA's qualification and certification requirements, and that training requirements for contract controllers and FAA controllers are the same.

The IG report was generally positive, but it did identify staffing discrepancies amounting to \$2.4 million in overpayments to one contractor over a 3-year period. It

⁶ Ibid.

⁷ Communication with Spencer Dickerson, executive director, USCTA.

⁸ U.S. Department of Transportation. Office of Inspector General. Audit Report. Federal Contract Tower Program. Report Number: AV-1998-147. May 18, 1988: 19 pp. This report is available from the IG homepage: <http://www.oig.dot.gov/audits/av1998147.html>

recommended that FAA direct contractors to staff contract towers in accordance with contract requirements and establish procedures to periodically review staffing levels at contract towers. The IG will conduct a new audit of the program, due to Congress in March 2000, that will include site visits to contract towers to determine whether the staffing problems identified in 1998 have been fixed (see: **Congress Mandates a New Study**, p. 5)

Expanding the Contract Tower Program Beyond Level I Towers

In light of the program's success, Congress, in the FY1999 Department of Transportation (DOT) appropriations act (P.L. 105-277), directed the FAA to conduct a study to determine if additional savings could be achieved by expanding the contract tower program to other FAA-operated air traffic control towers "without radar capability." The agency operates 71 Level II and III visual flight rules air traffic control towers which do not have radar and are not equipped for instrument flight operations. While the study, due in May 1999, was never delivered, Congress received a draft study from the FAA in August 1999 which concluded that further expansion would be economically unfeasible.

The National Air Traffic Controllers Association (NATCA), which represents FAA's air traffic control work force, opposes the conversion of FAA towers to contract operations.⁹ While it was unsuccessful in stopping the Level I conversions, it has mounted a new effort to stop any further conversions. The Senate bill providing for FY2000 DOT appropriations (S. 1143), was introduced in May 1999 with language directing FAA to devise a plan for contracting out Level II and III facilities. NATCA responded with a protest from its membership in the form of letters to Members of Congress. The protest, coupled with FAA's unfavorable draft study prompted Congress to drop the provision in question from S. 1143 and delay action on conversions beyond Level I towers pending further study.

FAA Draft Study. In the August 1999 draft contract tower expansion study, the FAA concluded that under the terms of its contract with the air traffic controllers union, it would have to relocate every controller displaced by contracting out. Because relocation costs are high, there would be no net savings from expanding the program beyond Level I towers.

Article I of the agreement with the National Air Traffic Controllers Association (NATCA) establishes a baseline staffing level of 15,000 controllers for Fiscal Years 1999 through 2001, increasing by 2 percent in Fiscal Years 2002 and 2003. The agreement states in part: ". . . the agency will backfill in order to maintain these numbers when attrition, transfers, or promotions reduce the staffing below the agreed upon numbers." The agency concluded that there could be no net savings from expanding the Contract Tower Program because the NATCA agreement prohibits a decrease in the number of controllers.

⁹ National Air Traffic Controllers Association. 1150 17th Street, NW, Suite 701, Washington, DC 20036. Telephone (202) 223-2900. The web site is: <http://home.natca.org/natca/>

IG Critique. At the request of the appropriations committees, FAA's draft study was reviewed by the DOT Inspector General.¹⁰ The IG did not agree with FAA's conclusion. In his review of the draft report the IG said the "conclusion is based on flawed assumptions and ignores several key factors that should have been more fully considered."¹¹ He said that the assumption that the baseline staffing level of 15,000 controllers will not be increased or decreased through the legislative process is a serious misinterpretation of the authority of Congress. Congress has a constitutional prerogative to modify provisions or the underlying assumptions of the agreement.

While the draft study recognizes that FAA controllers from the converted VFR towers would provide the agency with a skilled work force to replace retiring controllers and supplement staffing at larger facilities, this benefit was not given appropriate weight in reaching the final conclusion, in the IG's opinion. The IG noted that the agency has had an ongoing problem in fully staffing some of its towers. Contracting out Level II and III VFR towers, he said, "would provide the agency with an opportunity to realign its limited resources in a more efficient and effective manner and help to reduce overtime at understaffed facilities."

The IG admonished the FAA for saying that no net savings related to further expanding the contract tower program will occur. He said that by taking this position, the agency is denying itself an opportunity to reduce operations costs and/or offset potential cost increases associated with future demand for air traffic control services.

Congress Mandates a New Study. The expansion of the contract tower program to the 71 Level II and III VFR FAA-operated towers is addressed in the FY2000 DOT appropriations bill (P.L.106-69). The bill report states in part, "the draft (FAA) report indicates that annual savings of \$30 million to \$50 million are achievable (from contracting Level II and III VFR towers) except for a provision in the current labor agreement which requires the agency to employ a minimum level of 15,000 government air traffic controllers."¹² It then refers to the IG's critique of FAA's draft study and quotes the recommendation that "FAA should revise the [draft] study's conclusions and recognize the substantial savings that expanding the federal contract tower program offers." The bill report then directs the DOT Inspector General to review the feasibility and benefits of expanding the contract tower program, notwithstanding the current minimum staffing agreement, and report to Congress no later than March 1, 2000.

Arguments For and Against Expansion of the Contract Tower Program

Besides FAA's cost concerns (see: **FAA Draft Study**, p. 4), opposition to expansion of the contract tower program beyond Level I towers appears to be limited to NATCA,

¹⁰ Comments on FAA's Draft Report to Congress on Expanding the Federal Contact Tower Program. Memorandum from Kenneth M. Mead, Inspector General, to Federal Aviation Administrator. September 27, 1999.

¹¹ *Ibid.*, p. 2.

¹² Conference Report to accompany H.R. 2084, making appropriations for the Department of Transportation and Related agencies for the fiscal year ending September 30, 2000, and for other purposes. H.Rept. 106-355: p. 63.

which is concerned about how system safety and integrity will be effected. In an undated Legislative Fact Sheet distributed to association members, NATCA called expansion beyond Level I towers “piecemeal privatization.”¹³ Level I contract towers achieve their cost savings in part by cutting staff, cutting pay, and using some employees on a part-time basis. NATCA is concerned that cutting staffing to make more profit will also occur at the higher traffic volume airports targeted for contracting out. The safety implications, it says, are enormous. NATCA further argues that because multiple contractors are used, the homogeneous management structure that exists in the FAA is lost. This can lead to disconnects, misinformation and breakdowns that should not happen. It says that when one component of the overall system is out of sync, “productivity decreases, efficiency is decreased and safety may be compromised.”

The case against expansion was further made in an editorial written by Michael McNally, president of NATCA, and reprinted in the U.S. Contract Tower Association Newsletter for July-August 1999.¹⁴ A major concern for Mr. McNally is that expansion beyond Level I towers is “merely the second step of a plan to slowly dismember our [air]space. Next, [Congress] will come for the Level IVs and Vs.” The current air traffic control system is united and seamless. A divided system, he argues, will result in a patchwork of critical systems that could cause problems when controllers transfer control of aircraft from one section of air space to another. He called the further breakup of the air traffic control system a “potentially life-threatening mandate.” Mr. McNally argues that controllers at contract towers are substantially under-trained and contractors do not adhere to the FAA’s rigid safety regulations. In addition, he says that a high turnover rate exists because contract employees often cannot support their families or themselves on part-time pay, robbing them of a fair living wage and benefits.

Mr. McNally’s arguments were rebutted in the same newsletter by Mr. Glenn Januska, manager of the Waukesha County (WS) Airport and board Member of USCTA. Mr. Januska called most of Mr. McNally’s statements “misleading at best, and not grounded in fact at worst.”¹⁵ He cites the very high level of satisfaction with the quality of contract tower services expressed by airports, air carriers, regional airlines, pilots and others, with “many saying the level of service is higher than at FAA facilities.” He dismisses Mr. McNally’s concerns about creeping privatization and the safety issues that raises, saying that “nothing in the [contract tower] program changes or alters in any way how the existing air traffic control system operates.” To some of the specific charges made by Mr. McNally, he said that controllers at contract facilities are held to the same training standards as FAA controllers and are FAA certified before they begin controlling traffic. Contract controllers, he said, comply with the same safety regulations as FAA facilities, with continuous FAA oversight.

¹³ National Air Traffic Controllers Association. Legislative Fact Sheet. The Contract Tower program/Oceanic Control. Undated, 2 pages.

¹⁴ U.S. Contract Tower Association Newsletter, July-August 1999, p. 3. This and all other USCTA newsletters can be accessed from the USCTA web site (footnote 4), or obtained by calling Spencer Dickerson, executive director of USCTA, at 703 824 0500.

¹⁵ Ibid., p. 4.