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To: "Nila Stovall" <stovall.nila@dol.gov>  
Date: Wed, 16 Nov 2005 12:38:47 -0500  
Subject: WD 29011 - Flight Service Controller  
Dear Ms. Stovall,

As counsel for NAATS, I write to address a letter to you from the FAA that just found its way into my hands. In his letter, dated October 31, 2005, Brian Anderson, the FAA's Contracting Officer, takes issue with the draft Job Description I furnished your office this past summer for the Air Traffic Controllers now employed by Lockheed Martin at Automated Flight Service Stations ("AFSS"), as well as for those controllers still employed by the FAA in Alaska.

First, while Mr. Anderson claims that "the statements and implications made are inaccurate," he fails to explain how they are inaccurate. In fact, the draft Job Description is predicated entirely on the FAA's own documentary materials that describe the functions performed by, and the job requirements of, AFSS controllers, many of which were submitted to your office in the Appendix accompanying NAATS' Request for Review on October 22, 2004.

Second, Mr. Anderson claims that any comparison of AFSS controllers to the Tower and Radar Center controllers is inappropriate because a mistake by the latter controllers could give rise to greater loss of life and potential liability for the Agency than a mistake by an AFSS controller. But, even if true, his claim fails to address the critical inquiry which concerns the nature and complexity of the AFSS job, the knowledge that AFSS controllers must master, and the skills required of them versus the Tower and Center controllers. Again, he fails to dispute any of the representations contained in our Request.

Third, in fact the current job description for AFSS controllers was formulated long ago, before the overhaul of the job with the advent of new technologies and the conversion of ordinary Flight Stations to Automated Flight Service Stations roughly 15 years ago. As a consequence, the current definition is a dated anachronism and it does not accurately reflect the responsibilities of AFSS controllers.

Fourth, Mr. Anderson is obviously anxious to justify the FAA's decision to privatize its AFSS operation in order, allegedly, to reduce its overall cost. In fact, however, the savings claimed by the FAA are marginal and could evaporate entirely unless a "minimum wage determination" is established by your office, as he claims you must do. In this connection, he acknowledges that "the NAATS' position is to look to the highest [level of] knowledge, skills and abilities" required for AFSS controllers, rather than "setting a lower boundary" that might be appropriate for a new-hire trainee, which he advocates. Were the DOL to do so, the FAA apparently hopes the contractor would be able to replace its current workforce with a significantly lower-paid workforce, contrary to Congressional intent embodied in the SCA.

Fifth, Mr. Anderson's claim, in essence, that a GS-9 pay scale is appropriate, rather than the pay bands adopted by the FAA and incorporated in the collective bargaining agreement between the Agency and NAATS, or even the GS-12 (Step 5) level the Agency instructed bidders to adopt when formulating their proposed contracts for the Flight Service Option, simply does not hold water.

Accordingly, we trust that you will accord no more credence to Mr. Anderson's representations than they deserve on their merits.

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