



U.S. Department  
of Transportation

**Federal Aviation  
Administration**

Assistant Administrator for  
Human Resource Management

800 Independence Ave., SW.  
Washington, DC 20591

May 25, 2005

Ms. Kate Breen  
President, National Association of Air Traffic  
Specialists  
11303 Amherst Avenue, Suite 4  
Wheaton, MD 20902

~~Ms. Breen:~~  
Dear <sup>KATE</sup> Ms. Breen:

This is in response to our meeting, along with Scott Malon, held on April 29, 2005, and your May 2, 2005, letter in which you expressed a number of concerns. I have reviewed your letter and the issues you raised in our meeting. Responses to those issues are provided below:

#### **1. Article 108 Time**

**a. Lockheed Martin's (LM) offer to apply for a job is not the actual job offer and does not trigger any gain or loss afforded entitlements specified within Sections 7, 8 and/or 9 of the reduction-in-force (RIF) agreement.**

The act of submitting a job application for employment consideration with LM does not cause termination of career transition hours as outlined below and as provided for in sections 7, 8 and 9 of the Memorandum of Agreement (MOA) dated April 1, 2005.

**b. When do entitlements end or change if an employee refuses to respond to LM? Does it cancel your career transition hours?**

The Automated Flight Service Station (AFSS) Federal Aviation Administration (FAA) Contracting Officer approved LM's *Right of First Refusal* (ROFR) process on April 25, 2005. A copy of that document was transmitted for distribution to all affected AFSS (which includes Flight Service Data Processing Service employees) via e-mail on May 4, 2005 by the Flight Services organization (ATO-D).

It is my understanding that employees who are unresponsive to LM's efforts to extend job offers, under LM's ROFR process (copy attached), will be considered to have declined a "job offer," and that "declination" will have the effect on career transition hours as described below.

Employees are eligible for career transition hours, consistent with Article 108 of the National Association of Air Traffic Specialists (NAATS) collective bargaining agreement (CBA) (dated February 8, 2004), and as modified by the MOA (dated April 1, 2005), between FAA and NAATS. Once AFSS employees accept any position or take a voluntary action that removes them from the affected workforce, e.g., retire, resign, or accept other Federal employment, their entitlement under this provision ceases. In addition, while certified as surplus, employees' entitlement to the "16 hours of duty time per pay period" ceases when they accept or decline a job offer from Lockheed Martin; however, they then become eligible for 8 hours per pay period for the exclusive use of seeking Federal employment, if requested in advance and approved by management; however, those employees who decline a non-Federal job offer will not be entitled to the 8 hours.

## **2. Nationwide Terminal Bids**

**a. Some Air Traffic Managers in the Terminal Option have been vocal about not wanting/accepting any Flight Service Controllers into their facility. NAATS' requests AHR's oversight on the selection and training of any individual moving into the terminal option.**

As I shared with you during our meeting, a selection panel comprised of air traffic managers would consider those candidates referred for consideration under the recent nationwide announcements for level 6, 7 and 8 terminal positions. I am pleased to report that they are meeting this week to extend job offers. At this time, it is my understanding that job offers have been sent out and employees are responding.

**b. We would also like to see consideration given to married couples who are bidding that they get placed in the same tower now so we don't have to look at hardships later.**

We understand the potential hardship that might result when attempting to place employees who are married; however, the Office of Human Resource Management (AHR) must avoid even the appearance of endorsing that certain employees be afforded an advantage in the selection process not authorized by law, rule or regulation. In this regard, merit systems principles require that all employees receive fair and equitable treatment in all aspects of personnel management without regard to marital status.

**3. EMP 1.9 Application of "Well Qualified."** (Application of "Well Qualified" and What is meant by "well-qualified" with respect to HRPM Chapter EMP 1.9, Selection Priority? Also, clarify how CTOs are being handled under EMP 1.9.).

The provisions contained in the MOA, Section 4, specifically address FAA's EMP 1.9, Selection Priority Program (SPP). Under the SPP, a well-qualified employee receives priority consideration and must be hired before a non-FAA employee can be hired. The determination that a candidate is "well qualified" is made based on an evaluation of the individual's background against job related criteria. "Well qualified" is one designation used for grouping candidates for selection purposes. The question of what job related

criteria are used will depend on the specific position and the job related criteria established against which candidates would be evaluated and selections made.

To address any potential confusion, under the Air Traffic Organization (ATO) Preferred Placement Program (PPP), to receive consideration the employee needs only to be qualified, assuming there are no other issues that would impact consideration. An employee who has reached the full performance level as an AFSS controller is basically qualified for consideration under the ATO PPP. Under SPP, the employee must be well qualified, which is a higher standard and requires the employee be further evaluated against specific job related criteria, as discussed above.

We understand that some candidates may not have a copy of their CTO certificate. If the FAA issued their CTOs, Airmen's Records can furnish a copy or a letter confirming that the individual has a CTO. If their CTOs were issued by the military and the employees do not have a copy, we agreed it would be sufficient if the statement that they had a CTO was on their form DD-214. In all cases, their further statements about their own experience on their application materials were reviewed to help interpret the nature of their experience.

**4. Vacancy Announcements: En Route/Other Positions Not Covered Within the RIF Agreement. In particular, en route center positions. There is a concern that managers may have been instructed to hire CTI candidates before any AFSS bargaining unit employees.**

The SPP will become effective when reduction-in-force notices are issued later this year. Section 4 of the MOA limits SPP consideration, for air traffic controller positions, to the 5, 6, 7 and 8 level terminals. Therefore, AFSS employees who wish to receive consideration for en route positions other than those specifically addressed in the MOA can apply and receive consideration along with any other candidates.

Managers in the en route option may elect to hire externally to achieve the objectives outlined in the 10-Year Air Traffic Controller Staffing Plan, submitted to Congress in December 2004. I am aware that the en route option is considering candidates from external sources, such as CTI, MARC students and military controllers to achieve the hiring goals contained in the staffing plan. However, I understand that AFSS employees are also receiving consideration for and being selected for some en route positions.

**5. VERA Employees Ability to Rescind the Application:**

When the ATO made the decision to offer the opportunity for flight service employees to apply for voluntary early retirement (VERA), it was done with the condition that the application could not be withdrawn once it was submitted. The VERA application clearly stated that the application "serves as my commitment to retire." We are not aware of any case in the FAA where an employee has had to make a decision between a VERA or Discontinued Service Retirement.

## **6. Retirement Issue 1.7% After 30 Years of Service (may need to update web site on MRA + 30 1.7%)**

We checked the AHR Web site and confirmed that the information regarding annuity computations for the Federal Employees Retirement System (FERS) Air Traffic Controllers is correct.

**7. AT Workforce Plan on Terminal Hiring.** A BUE was given a number of 160 to 200 positions to be filled through Fiscal Year (FY) 07. The RIF team was told that in FY07, the agency expected to hire the majority of its terminal staffing needs and that FY 07 expected hiring was roughly 530 positions.

FAA must continue to take those steps necessary to meet the goals contained in the 10-Year Air Traffic Controller Staffing Plan. It would be reasonable to expect that how those objectives will be achieved, in consideration of available budget and training requirements, etc., will be adjusted based on continual analysis. While absent specific information or context for what one of your members may have been told, it is our understanding that ATO is using its expected FY06 terminal hiring quota to offer opportunities for the AFSS employees now, via the consolidated vacancy announcements (targeted to potentially hire approximately 120 air traffic controllers) and individual announcements that have been published. My understanding is that there will be limited, if any, additional terminal hiring in FY06 as a result of those activities already underway to assist AFSS employees. Additional hiring into the terminals is not expected to resume until FY07.

## **8. Waiver Approval from PPP by AVS-1:**

The Associate Administrator for Aviation Safety, AVS-1, approved a blanket waiver to the FAA Preferred Placement Program to exclude the internal filling of Aviation Safety Inspector positions, FG/FV-1825's. I am satisfied that based on legitimate budgetary constraints; it is not feasible to expect that hiring external to that organization is possible. I have no reason to believe that there is a trend evolving to restrict consideration of AFSS employees.

**9. Internal Placement Program (IPP) Criteria for Approval-** There appears to be an arbitrary process being used to approve/disapprove IPP requests, with some individuals being denied a transfer even though their paperwork was submitted first. What is being considered to ensure that fairness is applied to all interested employees?

After discussing with my staff, I learned that we are aware of only a few IPP requests and that we are unaware of any concerns regarding those actions. However, if there are specific cases or instances that cause you concern, we would be willing to review them. For your information, we are not using any new criteria. In addition, as we prepare for the reduction in force, I would expect to see very few movements within the AFSS workforce.

**10. Employees Selected for Positions Outside the Flight Service Option:**

Between the period February 1, 2005 and May 17, 2005, 24 bargaining unit AFSS employees have been selected for positions outside of the Flight Service option. If you would like, I can periodically provide you with the numbers of placements outside the Flight Service option.

**11. When will the VSIP for Alaska be offered? What is the timeframe?**

The ATO Chief Operating Officer is working with AHR to develop a voluntary incentive payment program for employees in the Alaska Region, consistent with the MOA dated April 1, 2005. I have been advised that a decision will be made within the next two weeks. As soon as the program has been approved, I can assure you that NAATS will be informed as quickly as possible. We all appreciate the need to implement this program as soon as possible to realize the greatest benefit.

**12. Some terminal managers in Florida stated they would not accept AFSS employees.**

We are not aware of such cases. ATO Selection Panels will make the selections from the consolidated vacancy announcements. ATO headquarters representatives plan to be present during the decision-making process.

**13. KWA - possible closing. Why open that location under the nationwide announcement bid?**

At the time the nationwide vacancy announcement was published, no final decision had been made on the disposition of Kwajalein ATCT (KWA) in the Marshalls Islands, Pacific, which I now understand is scheduled to close on 10/01/05. No job offers will be made for positions at KWA.

**14. What happens if the protest is successful?**

It is difficult for me to respond to this question with much certainty or specificity. However, as a general rule, personnel decisions made and effected prior to knowing the outcome of the contest, are final (e.g., retirements, reassignments, resignations, etc.). Those personnel actions that have not been effected may be revisited in the context of what is appropriate at the time.

I will consider any decision resulting from the contest and determine, from a human resources perspective, what may be the appropriate course of action. As always, I will collaborate with management and union officials, as the circumstances dictate.

The responses to your concerns are not intended to create any additional contractual obligations.

Please let me know if you have any questions. You can reach me at (202) 267-3456.

Sincerely,



Ventris C. Gibson  
Assistant Administrator Human Resource  
Management