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**BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE – SUBCOMMITTEE ON AVIATION**

**ON  
THE FUTURE OF AIR TRAFFIC CONTROL MODERNIZATION**

**MAY 9, 2007**

Chairman Costello, Congressman Petri and members of the subcommittee, thank you for inviting PASS to testify today on the future of air traffic control modernization. Professional Airways Systems Specialists (PASS) is the oldest and second largest Federal Aviation Administration (FAA) union, representing approximately 11,000 FAA employees in five separate bargaining units throughout the United States and in several foreign countries. PASS members include Technical Operations technicians who install, maintain, repair and certify the radar, navigation, communication and environmental systems making up the air traffic control system; Flight Standards and manufacturing aviation safety inspectors responsible for inspecting and certifying every aspect of the commercial and general aviation industries; flight inspection pilots, mission specialists and procedures development specialists in Aviation System Standards; and administrative employees in the FAA's Civil Aviation Registry.

The FAA has introduced a plan to modernize the National Airspace System (NAS) through development and deployment of the Next Generation Air Transportation System (NextGen). Although the FAA estimates a target date of 2025 to realize the full benefits of NextGen, it is starting to execute ideas and plans related to the new system. As the FAA continues on this path, it is critical that the men and women responsible for maintaining, certifying and protecting this country's aviation system be meaningfully involved at every point in the process.

Under previous administrators, PASS worked closely with the FAA in its efforts to modernize the NAS, and our testimony will highlight the benefits of our involvement. Yet, in approximately 2003, the FAA began to systematically eliminate PASS's participation. As Congress has seen over the years, involving the employees who use and operate the systems in the development of those systems greatly improves the final product and inevitably saves the agency money. PASS believes the FAA must reconsider its exclusionary approach to modernization and once again involve the employees who will ultimately play a large part in any modernization effort. In addition, there must be a sufficient number of trained FAA technicians in place to maintain the NAS today and into the future.

## **Importance of PASS Involvement in Modernization**

PASS has not been a participant in developing and implementing any of the FAA's modernization projects for several years now. This revelation is always a surprise to members of Congress and other government organizations focused on aviation safety. In fact, at a recent hearing before the House Subcommittee on Space and Aeronautics, the Government Accountability Office (GAO) emphasized the important role stakeholders, such as FAA technicians, should play in "planning for and deploying the new technology" that will be "important to the success of NextGen."<sup>1</sup> The GAO continued by stating that input from current technicians "who will maintain NextGen equipment is important when considering human factors and safety issues. Our work on past air traffic control modernization projects has shown that a lack of stakeholder or expert involvement early and throughout a project can lead to costly increases and delays."<sup>2</sup>

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<sup>1</sup> Government Accountability Office, *Joint Planning and Development Office: Progress and Key Issues in Planning the Transition to the Next Generation Air Transportation System*, GAO-07-693T (Washington, D.C.: March 29, 2007), p. 19.

<sup>2</sup> *Id.*

In a recent meeting between PASS, FAA Administrator Marion Blakey and Secretary of Transportation Mary Peters, PASS informed the secretary that the technicians PASS represents are not involved in NextGen or any modernization efforts. The secretary stated that she supported the FAA's position of banning PASS participation in FAA modernization projects. PASS understands that the exclusion of unions from modernization has applied to all FAA unions, not just PASS. The FAA's ill-advised position prohibiting PASS involvement is punitive to employees who are eager to see the agency succeed. In the end, the agency will inevitably suffer for choosing to give less than its best effort to FAA modernization.

The GAO has reported that a key factor in the FAA's ability to successfully meet cost and schedule goals is the sufficient involvement of relevant stakeholders, such as air traffic controllers and maintenance technicians, throughout the development and approval processes of a modernization project.<sup>3</sup> Yet, the FAA chooses to ignore these recommendations, preferring to develop these systems in a vacuum in which no critical views are permitted. Along with the incredible technical expertise that PASS members offer the FAA, they also provide an independent view of the FAA's program management. An FAA employee assigned by the agency to work on a modernization program can raise an issue to management but cannot pursue it beyond that point. The FAA's culture is one where management is intent on keeping employees silent when they see a problem. Although the administrator will dispute this assertion, the agency's own reports show otherwise, as evidenced in the following disturbing results from the FAA's most recent Employee Attitude Survey (2006):

Some employees may be hesitant to speak up for fear of retaliation.	62% of employees <i>Agree</i> or <i>Strongly Agree</i> .
It is generally safer to say that you agree with management even when you don't really agree.	54% of employees <i>Agree</i> or <i>Strongly Agree</i> .
Employees trust FAA management.	17% of employees <i>Agree</i> or <i>Strongly Agree</i> .

On the other hand, a PASS participant working on the same program can raise the issue repeatedly until the problem is addressed. Additionally, a PASS participant provides information to PASS that can be used to inform Congress of what is really happening with the program.

In the past, PASS was actively involved in many of the FAA's efforts to develop and modernize the NAS. The input provided by PASS bargaining unit members was invaluable, resulting in safer systems, smoother deployment and less cost. For example, PASS members were extensively involved in the development and deployment of the Standard Terminal Automation Replacement System (STARS). In 1996, the STARS program was introduced as a way to standardize air traffic control equipment by replacing older systems and controller displays with the updated systems designed to provide such benefits as high-resolution color displays and multi-radar tracking. PASS participated from the beginning with the STARS program and was an integral part of identifying major issues that would have rendered the system unusable if it had been deployed as the agency had planned. PASS involvement included a human factors study that identified 52 individual issues, all of which have since been incorporated into the final version of the system. PASS played a critical role in ensuring security of the system by insisting on the use of passwords, login

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<sup>3</sup> Id.

screens, aural alarms<sup>4</sup> and the capability to load the software onsite. In addition, PASS was pivotal in designing a method to train employees with the prerequisite skills and STARS-specific training while also ensuring current onsite systems were fully supported during installation and testing.

Another collaborative effort between PASS and the FAA involved the Display System Replacement (DSR), which was scheduled to replace display channels and workstations in the late 1990s into the early 2000s. For example, the FAA agreed with a PASS recommendation that the video and power modules needed to be reconfigured for the DSR to facilitate troubleshooting and reduce cable and connector failures. PASS technicians, working with FAA experts, developed a new design for all 20 air route traffic control centers at considerable savings. With PASS's assistance, the DSR project was successfully implemented on time and within cost.

An additional example of the importance of involving PASS members in the development of new systems involves the National Airspace System Infrastructure Management System (NIMS), an acquisition program to update software used in capturing activities conducted at all NAS facilities. A PASS member was part of the product team responsible for selecting the software package. As part of that team, the PASS member visited the potential vendors and witnessed product demonstration and then helped decide which software package suited the specific design needs. The PASS member was instrumental in saving the agency \$8.75 million during the purchasing of the software package when he suggested negotiating the software and maintenance fees. If the PASS member had not suggested negotiating the software package price, the agency was willing to purchase the product at a much higher price. This is a clear example of the pivotal, not to mention cost-saving, role PASS members play in the acquisition and development of a new system or product.

However, these collaborative efforts between PASS and the FAA are now a thing of the past. Recent major problems associated with the FAA's implementation of the FAA Telecommunications Infrastructure (FTI) highlight the costly inefficiencies of allowing the FAA to move forward without PASS technician involvement. In fact, PASS liaisons were summarily removed from the project and PASS was informed that its support on this program was not needed. PASS was told that the FAA program manager did not want people on the team that would point out any potential problems with the transition to the system. Unfortunately, this has resulted in numerous and costly problems with FTI.

As the primary voice/data transport system for the FAA's modernization efforts, FTI is the basis of the communications infrastructure for NextGen. FTI, currently contracted with Harris Corporation, is envisioned to provide complete telecommunications service and support for the NAS. When completed, FTI will consist of approximately 25,000 telecommunications services at over 4,400 FAA sites.

Unfortunately, our technicians in the field tell PASS of numerous problems associated with implementation of FTI, including many delays, contractor errors and outages over the past couple of years. In its April 2006 report, the Department of Transportation Inspector General (IG)

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<sup>4</sup> As originally procured by the FAA, STARS had no audible alarms to indicate a malfunction with the system.

indicated that a major problem with the FTI program is a lack of contractor understanding.<sup>5</sup> Only trained FAA technicians are fully aware of the way in which every interconnected unit affects the entire NAS system and thus the aviation system as a whole. Neither the FTI Program Office nor Harris fully comprehend the requirements of site installation and the potential problems, and Harris contractors tasked with maintaining FTI are not properly supervised. For example, in November 2006, Harris contractors were performing corrective maintenance on equipment at New York's Air Route Traffic Control Center. As a result of the work being performed by the contractor, the Center lost remote and inter-facility communications, leading to significant unscheduled outages lasting over an hour that impacted airspace serving major airports including Kennedy International and Newark International. In another example, in August 2006, over 40 flights were delayed on average for over 30 minutes when contractors working with the FTI system at the San Diego Air Traffic Control Tower failed to properly coordinate maintenance activity with FAA employees. These are only two examples of the outages and problems that have occurred throughout the country, including outages in Atlanta, Boston, Chicago, Denver, Indianapolis, Little Rock, Louisville, Miami and Salt Lake City.

Poor management by the FAA of the implementation process is also a serious concern. PASS has learned of instances where FTI is being implemented without ensuring compatibility with FAA equipment. Instead, the plan is to install the equipment and then attempt to transfer to the new lines and work out the problems on a case-by-case basis. In other words, the FAA is going to be testing vital air safety services on a trial and error approach.

Poor management is also leading to an increase in cost and a corresponding decrease in benefits. In April 2006, the IG noted that FTI was a "high-risk and schedule-driven program that is unlikely to meet its December 2007 completion date."<sup>6</sup> The IG indicated that the FAA needed to improve management controls over the program and develop a realistic master schedule and effective transition plan. Since the time of that report, the FAA has revised its schedule yet again, extending the FTI completion date to December 2008. FAA also increased its acquisition costs to develop the FTI network by \$8.6 million (from \$310.2 to \$318.8 million) and increased its operations lifecycle support by \$100 million (from \$3.0 to \$3.1 billion).<sup>7</sup> This means that the expected benefits of FTI are lessening even further. "By December 2004, FAA's expected benefits dropped from \$820 million to \$672 million," stated the IG. "By the end of FY 2006, we estimated that benefits had dropped to about \$415 million."<sup>8</sup> Since the FAA has not independently validated the FTI cost and benefits estimates, despite recommendations from the IG to do so, the actual costs and benefits remain unknown.

There are obviously major problems with the implementation of FTI, and the number of FTI-related outages highlight this fact. Over approximately a six-month period (July 4, 2006 – April 12, 2007), there were 191 FTI-related outages.<sup>9</sup> Between the dates of April 2 and April 10, 2007,

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<sup>5</sup> Department of Transportation Inspector General, *FAA Telecommunications Infrastructure Program: FAA Needs to Take Steps to Improve Management Controls and Reduce Schedule Risks*, AV-2006-047 (Washington, D.C.: April 27, 2006), p. 18.

<sup>6</sup> *Id.*, p. 2.

<sup>7</sup> Department of Transportation Inspector General, *FAA's FY 2008 Budget Request: Key Issues Facing the Agency*, CC-2007-019 (Washington, D.C.: February 14, 2007), p. 14.

<sup>8</sup> *Id.*

<sup>9</sup> FAA National Operational Control Center (NOCC) daily report, July 4, 2006 – April 12, 2007.

there were over 60 unscheduled FTI-related outages in the Central Service Area alone.<sup>10</sup> Yet, there were only six unscheduled FTI-related outages reported by the FAA during the National Operational Control Center (NOCC) daily summary briefings.<sup>11</sup> Again, it seems the agency is more concerned with how things look rather than how things really are.

Testifying before this subcommittee on February 14, the IG discussed the agency's increasing problems as it transitions to FTI, citing several "key watch items" for FTI, including addressing schedule delays, improving FTI reliability and customer service, and validating cost savings. The IG emphasized that the FAA "needs to ensure that it has an effective strategy to address FTI reliability and customer service problems that have led to a number of serious outages (i.e., unscheduled outages leading to flight delays)."<sup>12</sup>

While implementation problems may have been avoided or reduced had PASS been involved in the development of the system, not involving FAA technicians represented by PASS in the implementation process is certainly worsening the already dismal situation. Implementation of additional NextGen systems must include stakeholder participation—especially FAA technicians who are intimately aware of every aspect of the NAS and how each system affects every other system.

In the summer of 2003, PASS had members involved in several of the FAA's most critical modernization programs, including ADS-B, AMASS, ASDE-X, ASR-11, ATOP, ECG, ERAM, Free Flight, FTI, ITWS, LAAS, NEXCOM, NIMS, STARS, WAAS and WARP. Together, these programs represent an investment by American taxpayers of more than \$13 billion. At a time when the FAA asserts daily that it is in a fiscal crisis unlike it has ever faced, should that money not be spent doing everything possible to ensure the success of the programs?

Over the last few years, the FAA has boasted of major improvements in its modernization efforts. According to the agency, it has made great progress in managing the costs and schedule of modernization programs and is operating in a more "businesslike" manner. However, as long as the FAA refuses to allow participation in modernization programs by employees who are working on behalf of PASS, overly optimistic agency reports should be strictly scrutinized to ensure that they accurately portray the status of FAA modernization. PASS believes that the FAA *must* work with PASS to find ways to incorporate user involvement early in the acquisition and development processes. PASS members have the expertise and field experience needed to identify problems before the systems are deployed, and the FAA *needs* this expertise in order to field systems that are cost effective and safely meet the operational requirements of the NAS.

## **Technician Staffing and Training**

As the FAA moves forward with its plans for NextGen, it is not only vital that FAA technicians be thoroughly involved but also that there be enough trained technicians in place to ensure success of the new systems while also making sure that current systems continue to operate in a safe manner.

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<sup>10</sup> FAA Central Service Area daily reports, April 2, 2007 – April 10, 2007.

<sup>11</sup> FAA NOCC daily briefing reports, April 2, 2007 – April 10, 2007.

<sup>12</sup> Department of Transportation Inspector General, *FAA's FY 2008 Budget Request: Key Issues Facing the Agency*, CC-2007-019 (Washington, D.C.: February 14, 2007), p. 14.

According to the GAO, “FAA will be largely responsible for implementing the policies and systems necessary for NextGen, while safely operating the current air traffic control system 24 hours a day, 7 days a week.”<sup>13</sup> In other words, although the FAA is focusing on the deployment of NextGen technology, it must nonetheless continue to manage and sustain the current system. A large aspect of this is ensuring that there is an adequate number of trained technicians in place.

Insufficient technical staffing continues to be a major problem at numerous facilities throughout the country, and an increasing attrition rate in these safety-sensitive positions is worsening the critical staffing crisis. Staffing figures released by the agency already show a significant decrease in technician staffing from December 2006, a decrease that further stretches the gap between target staffing numbers and actual figures in many regions. Some facilities are staffed at less than half of what the facility has been allotted, as highlighted in PASS’s recent testimony before this subcommittee.<sup>14</sup> Not only does this make daily operations difficult, it lessens the FAA’s ability to respond to an emergency in a timely and efficient manner and will make it difficult to modernize the NAS.

The chronic understaffing of the FAA’s technical workforce is exacerbated by the agency’s inability to accurately determine the right number of employees and job skills needed to safely and efficiently maintain the NAS. Currently, the FAA does not have a staffing standard or model that can accurately determine the number of trained FAA technicians needed to meet the agency’s mission “to provide the safest, most efficient aerospace system in the world.” In today’s changing aviation environment, it is *critical* that there is a staffing standard in place for the FAA technical workforce and that the FAA is required to abide by that standard and ensure that it has an adequate number of professionally trained technical employees. When viewed in combination with the agency’s “scorched earth” labor relations posture, PASS believes that the FAA is deliberately understaffing its Technical Operations workforce in order to make it a more attractive target for outsourcing.

One major impact resulting from the inadequate technician staffing is that the FAA is moving to a “fix on failure” approach where preventive maintenance and certification of NAS systems and equipment are significantly reduced. In other words, instead of hiring additional employees, the FAA is lowering its maintenance standards, claiming a move towards efficiency; in reality, PASS believes this change will place aviation safety at risk and is merely an attempt to temporarily mitigate the impacts of inadequate staffing.

Several recent high-visibility outages have called into question the FAA’s focus on maintaining its current systems, including an incident in August 2006 where the instrument landing system (ILS) malfunctioned at Los Angeles International Airport, leading to 46 delays because the lone technician was in the air traffic control tower fixing other equipment and could not respond to the ILS issue. If the proper technical staff had been readily available at the time, the duration of the outage and the number of delays could have been significantly decreased. Many are making the

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<sup>13</sup> Government Accountability Office, *Next Generation Air Transportation System: Progress and Challenges in Planning and Implementing the Transformation of the National Airspace System*, GAO-07-649T (Washington, D.C.: March 22, 2007), p. 1.

<sup>14</sup> Professional Airways Systems Specialists, *Statement of Tom Brantley, President, Professional Airways Systems Specialists (PASS), AFL-CIO, Before the House Committee on Transportation and Infrastructure – Subcommittee on Aviation on FAA Reauthorization Review of FAA’s Operational and Safety Programs*, March 22, 2007, pp. 4 – 6.

clear connection that the increasing number of outages is an indication that systems are failing more frequently. In a recent testimony, the GAO focused on the duration of unscheduled outages, citing an increase from an average of 21 hours in 2001 to about 40 hours in 2006 as a potential sign that “maintenance and troubleshooting activities are requiring more effort and longer periods of time.”<sup>15</sup> According to the GAO, “It will be critical for FAA to monitor and address equipment outages to ensure the safety and efficiency of the legacy systems, since they will be the core of the national airspace system for a number of years and, in some cases, will become part of NextGen.”<sup>16</sup> The FAA claims that the increased duration of unscheduled outages is not a problem because it “considers user impact and resource efficiency when planning and responding to equipment outages.”<sup>17</sup> In FAA terms, however, “user impact” means only that the user is not aggressively complaining and does not reflect potential safety implications resulting from the outage. And “resource efficiency” means nothing more than the agency will get someone out to fix the system as soon as it is feasible, given the shortage of staffing in the field.

In order to ensure effective modernization of the air traffic control system, it is obvious that the state of technician staffing needs immediate attention in terms of the number of employees and the level of training. The GAO has even expressed agreement with the significance of creating a staffing model for the technician workforce, stating at a recent hearing that development of a staffing model is “important in the changing aviation environment and is critical to FAA’s ability to ensure that its safety programs and workload are aligned to meet the future demands for which NextGen is preparing.”<sup>18</sup> As such, PASS is requesting that Congress instruct the Comptroller General to conduct a study of the training of FAA technicians, including a recommendation for a future approach to training these employees. In addition, PASS is requesting that Congress direct the National Academy of Sciences to conduct a study of the assumptions and methods used by the FAA to estimate staffing needs for FAA technicians to ensure proper maintenance and certification of the NAS.

## **FAA’s Reauthorization Proposal**

As the FAA moves forward with plans to modernize the NAS, it must keep in mind the safety of this country’s aviation system. Yet, in its reauthorization proposal, “Next Generation Air Transportation System Financing Reform Act of 2007,” the FAA attempts to make significant changes that would not only impact the work done by FAA employees but has the potential to threaten the safety and efficiency of the entire system.

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<sup>15</sup> Government Accountability Office, *Next Generation Air Transportation System: Progress and Challenges in Planning and Implementing the Transformation of the National Airspace System*, GAO-07-649T (Washington, D.C.: March 22, 2007), pp. 10 – 11.

<sup>16</sup> Government Accountability Office, *Federal Aviation Administration: Key Issues in Ensuring the Efficient Development and Safe Operation of the Next Generation Air Transportation System*, GAO-07-636T (Washington, D.C.: March 22, 2007), p. 10.

<sup>17</sup> Government Accountability Office, *Next Generation Air Transportation System: Progress and Challenges in Planning and Implementing the Transformation of the National Airspace System*, GAO-07-649T (Washington, D.C.: March 22, 2007), p. 11.

<sup>18</sup> Government Accountability Office, *Federal Aviation Administration: Key Issues in Ensuring the Efficient Development and Safe Operation of the Next Generation Air Transportation System*, GAO-07-636T (Washington, D.C.: March 22, 2007), p. 31.

PASS is extremely concerned over the FAA's introduction of the Facilities Realignment and Consolidation (FRAC) program, a concept that completely ignores the safety implications associated with such an undertaking. Section 409 of the FAA's proposal establishes a commission appointed by the secretary of transportation to review the FAA Administrator's recommendations for closing or consolidating FAA facilities. Under the FRAC procedure, the FAA administrator will publish a list of facilities for realignment and closure and the commission will evaluate the recommendations and then send them to the president, who will approve or disapprove the recommendations. The FRAC process culminates with the submission of the president's report to Congress. The language in the proposed bill provides that if Congress does not act to block the president's report through passage of a joint resolution within 60 days, the president's recommendations for facility and services closures and realignments will automatically go into effect.

Under current law, the FAA has the authority to consolidate or close facilities where doing so will reduce the capital, operating, maintenance and administrative costs as long as the changes are consistent with the highest degree of aviation safety. At least privately, FAA officials are fond of blaming Congress for the agency's inability to consolidate facilities, claiming that congressional interests prevent the agency from making needed changes. The FRAC process is simply a way for the administration to rubberstamp any consolidations or closures deemed appropriate without giving Congress a meaningful opportunity to weigh in. This is an extremely risky plan that does not allow for adequate oversight of the impact of closing or consolidating FAA facilities. The GAO has expressed concern with this process, stating that "any such consolidations must be handled through a process that solicits and considers stakeholder input throughout, and fully considers the safety implications of any proposed facility closures or consolidations."<sup>19</sup> Quite simply, decisions on closing or consolidating FAA facilities should be made only through consultation with stakeholders, including PASS, and with safety of the aviation system as the primary goal.

Regarding this proposal, PASS recommends that the subcommittee require the FAA to develop and issue a report to the subcommittee before closing or consolidating existing facilities. The report should describe in detail the benefits (i.e., cost savings, improved service, greater efficiency) and/or hardships (i.e., reduced service, less availability of service, increased costs, increased time to restore service following an outage) of such a closing to the FAA as well as users and customers of the impacted facilities. The report should explain what provisions, if any, the FAA is prepared to offer users or customers who will see a reduction in service resulting from a facility closing or consolidation. Furthermore, the FAA should be required to involve stakeholders in the development of its report, including allowing stakeholders the opportunity to offer a rebuttal to the subcommittee if they disagree with the content of the report.

PASS is equally alarmed that the FAA would consider a plan that would allow the administrator to transfer ownership, operating and maintenance responsibilities from the FAA to selected smaller airports. The FAA has expressed to PASS that it wants to "get out of" any airport that is not an Operational Evolution Plan (OEP) airport. In other words, if it is not one of the top 35 airports in

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<sup>19</sup> Government Accountability Office, *Next Generation Air Transportation System: Progress and Challenges in Planning and Implementing the Transformation of the National Airspace System*, GAO-07-649T (Washington, D.C.: March 22, 2007), p. 12.

the country, the FAA wants to let that airport fend for itself. Currently, these smaller airports rely on FAA technicians to maintain and operate systems and equipment, but, through Section 317 of its plan, the FAA is now offering the airports a monetary “incentive” to take this responsibility on themselves. FAA technicians are highly skilled employees specifically trained to address the intricate details of this work and should be the only people trusted with this responsibility. Essentially bribing airports to assume responsibility for locations that the agency no longer deems important because they are not major hubs for large air carriers is an inappropriate action based on misguided assumptions.

The FAA is not considering what happens to these airports when the authority that accepts the responsibility is not able to successfully operate and maintain the airport. Furthermore, the FAA is proposing overseeing these airports in much the same way that it currently oversees aviation repair stations in the United States and overseas, relying largely on the airport to police themselves to ensure that they meet safety standards. Considering the manner in which surveillance of repair stations has gotten away from the FAA, applying a similar concept in this situation seems dangerous and irresponsible. Having already reduced its own expertise and resources available to the airport, the FAA will not be able to offer much assistance to a struggling airport. Given the large number of airports that are threatened by this proposal, if even 10 percent of them are unable to take over operation and maintenance successfully, the impact to smaller communities across the country could be devastating.

An important change that the agency is making that is not included in the administration’s FAA reauthorization bill is the precipitous reduction in the number of certifications performed by technicians in the field. Certification is the process in which a certificated FAA employee checks and tests systems or pieces of equipment on a periodic basis in order to ensure that the systems or pieces of equipment can be safely returned to service and not negatively impact any aspect of the NAS. According to the FAA, “Certification is a quality control method used by the ATO [Air Traffic Organization] to ensure NAS facilities are providing their advertised service. The ATO employee’s independent discretionary judgment about the provision of advertised services, the need to separate profit motivations from operational decisions, and the desire to minimize liability, make the regulatory function of certification and oversight of the NAS an inherently governmental function.”<sup>20</sup> Since certification is an inherently governmental function,<sup>21</sup> it can *only* be accomplished by FAA employees. The FAA sees this important safety function as a barrier rather than a necessary safeguard since it prevents the agency from outsourcing NAS maintenance across the board rather than only where there is a compelling reason to do so. Given the desire of the FAA to contract out or privatize as much of the NAS as possible, the agency has been very creative in finding ways to circumvent certification; since it cannot be contracted out, the FAA has simply decided to dramatically reduce the certifications that are done. Despite the obvious benefit of maintaining certification requirements to the NAS and the flying public, the agency is willing to reduce the safety margin by reducing the number of certifications simply to facilitate more widespread outsourcing.

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<sup>20</sup> FAA Order 6000.15E – *General Maintenance Handbook for National Airspace System (NAS) Facilities*.

<sup>21</sup> Manager, General Law Branch, AGC-110, memorandum to Manager, Maintenance Engineering Division, ASM-100, “Contractor Certification of Navigational Systems in National Airspace System (NAS),” June 18, 1991.

PASS is also concerned with Section 410 of the agency's proposal, which provides the administrator with the authority to delegate out responsibility for the development, testing and maintenance of flight procedures. This work, which is part of NextGen, is currently being done by trained and skilled professionals in Aviation System Standards (AVN), where flight procedures and flight inspection employees are charged with developing, evaluating, certifying and maintaining the 16,000 instrument flight landing and takeoff procedures for every major and municipal instrument-capable airport across the country. These employees have met or exceeded every legacy and new technology or performance-based navigation goal set forth by the FAA; yet, the agency now wants the power to delegate this important work to the private sector.

The development, testing and maintenance of flight procedures involves strict compliance with a complex series of computations, measurements and modeling standards. FAA flight inspectors and flight procedures development specialists receive intensive classroom and on-the-job training. Once these employees are deemed qualified, they are issued certificates of authority on instrument procedures development, airborne certification of NAS equipment and instrument flight procedures. The FAA flight procedures and flight inspection is the only program in the nation that includes the whole package of developmental and airborne certification of navigation systems and flight procedures. The agency does not currently have a certification process to qualify third parties to design and develop, test and flight check, and implement and maintain instrument flight procedures in the NAS. While the FAA's proposal would not allow these third parties to self-certify flight procedures, oversight of the processes would fall to an already understaffed and overburdened Technologies and Procedures division of Flight Standards. With airspace infrastructure around our nation's airports becoming increasingly crowded and complex, delegating out this work performed by professional FAA employees puts at risk the basis of this country's aviation infrastructure.

Regardless of the dangers associated with delegating out flight procedures work, and even before Congress has acted on the FAA's reauthorization proposal, the FAA recently approved contracting out the development of Required Navigation Performance (RNP) procedures for airlines and airports in the United States to a private organization. Currently, the FAA produces RNP procedures with its own highly trained and specialized workforce, inherently governmental work that should not be contracted out. It is impossible for the FAA to assure Congress that it can effectively regulate, supervise or review the work of these third parties, or even guarantee the safety of the procedures and processes used by independent entities. The development, testing and maintenance of flight procedures is inherently governmental work performed by federal AVN employees that should no doubt remain a function of the U.S. government and not be turned over to a private corporation.

PASS is very concerned about many of the goals the FAA is working toward with its reauthorization proposal. It is within the administration's authority to outsource parts of the federal government where there is a valid reason to do so. However, PASS is extremely concerned that the administration's desire to privatize the NAS and related services overwhelms any thought of the true implications of such an action. PASS firmly believes that providing a safe and secure NAS is an obligation that *must* remain with the federal government. The danger of placing the world's busiest, most complex, and yet safest air traffic control system into the hands of private contractors is too great to risk. The bottom line is that the safety of the flying public should *never* be sold to the lowest bidder, under any circumstances.

An aspect of the FAA's plan that has received considerable attention is the sweeping changes offered to the way the agency is funded, changes that take away congressional oversight and, in some ways, assume congressional responsibilities. Essentially, the FAA is proposing to set the fees and tax rates that are paid with no congressional oversight. While it has been touting the introduction of user fees, the FAA's proposal puts forward no credible plan for establishing these fees other than taking Congress out of the picture. In fact, the FAA even wants the ability to hold on to any funds appropriated until these funds are expended, a major shift from the way in which unspent appropriated funds are currently addressed at the end of the fiscal year. The agency is vague on details in its financing proposal, but PASS is concerned that the FAA is intent on establishing a system in which it can set its own fees and tax rates with only token congressional oversight. Regarding funding for the FAA, in recent testimony, the GAO has stated that "funding NextGen does not mean that the current funding structure needs to be changed."<sup>22</sup> Although the FAA characterizes this as "finance reform," in actuality, the FAA's scheme will greatly disadvantage small airports and the general aviation community. PASS believes Congress should take into consideration recommendations made by the GAO and other groups prior to moving forward with any drastic financing changes.

In Section 401 of the FAA's reauthorization proposal, the agency introduces the Air Transportation System Advisory Board to replace the Management Advisory Council and the Air Traffic Services Committee. Among other things, the Air Transportation System Advisory Board would be responsible for reviewing and providing advice on the administration's safety programs and reviewing and making recommendations on the administration's plan for modernizing the system. These are clearly two areas in which the experience and expertise of FAA technicians would prove invaluable; yet, the agency's proposal does not include a seat for these employees on the Advisory Board. PASS believes that if the Advisory Board is to be a productive and useful entity, it is imperative that unions be included as members of the Board, specifically FAA technicians who are responsible for certifying and maintaining the NAS.

The FAA's reauthorization proposal must be carefully considered as the agency continues with its plans for the development and deployment of NextGen. As the FAA moves forward with its plans for modernization, it is imperative that the safety and efficiency of the NAS remain the top priority. In order to ensure successful development and deployment of NextGen systems, there must be coordination between the agency and the users of the systems, especially FAA technicians who are intimately familiar with the systems and pieces of equipment that comprise the NAS. Only the highest level of cooperation between the FAA and its employees will result in a safe and successful modernization of the system.

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<sup>22</sup> Government Accountability Office, *Federal Aviation Administration: Observations on Selected Changes to FAA's Funding and Budget Structure in the Administration's Reauthorization Proposal*, GAO-07-625T (Washington, D.C.: March 21, 2007), p. 10.