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**FIGHTING DIRECT CONVERSIONS**

**WHEN CONTRACTORS OR MILITARY PERSONNEL DO OUR WORK**

1. **What is a “Direct Conversion”?**
	1. Contractors: A direct conversion occurs when the government uses contractors to perform any work performed by/designated for federal employees without first doing a public-private competition (i.e., OMB Circular A-76 study). Direct conversions are prohibited by a number of laws and executive branch/agency guidance (*see attached summaries of law and guidance*). This rule applies to work performed by or designated for federal employees, including vacant federal positions. In other words, there is not a “no harm, no foul” rule. The rule applies even if a specific federal employee isn’t RIF’d or moved. The rule also applies to expansions of work performed by/designated for federal employees.
	2. Military Personnel: A direct conversion also occurs when DoD uses military personnel to perform any work performed by/designated for federal employees. The use of military personnel is often called “borrowed military manpower”, or “BMM”, and BMM must comply with federal law and DoD guidance. If DoD uses military personnel outside of the rules, it is a direct conversion.
2. **Education.** Local leaders and activists must be familiar with the law/guidance prohibiting direct conversions so that they can prevent them by educating management and spotting any direct conversions that occur. *(Summaries of the law and guidance are attached.)*
3. **Building a Case**. Facts (who, what, where, why, when, and how) and documentation (contracts, emails, letters, etc.) are the touchstones for every direct conversion case. The National Office can help a local in identifying the information needed and analyzing the information acquired, but only the local AFGE officers and members can obtain the required information.
4. **Reporting Cases to the National Office.** In addition to assisting local AFGE leaders in building cases, the National Office gathers all of the direct conversion cases so that we know the scope of the problem in each agency and have hard evidence to report to Congress, top agency management personnel, executive branch leaders, and independent investigators (such as GAO).
5. **Member Mobilization**. Like most issues, fighting direct conversions requires relentless action by local union activists, including organizing, educating members, signing/sending petitions, and lobbying Congress.
6. **Administrative.** Once a local has identified a direct conversion, the National Office will assist the local in documenting the case, gathering the relevant facts, and engaging in written communication with management. *(Sample letters to management are attached.)* *To report a direct conversion at:*
	1. A DoD depot or arsenal, contact *Sheila McCready at* *mcreas@afge.org**;*
	2. Any other DoD facility, contact *Diana Price at* *dprice@afge.org* *;*
	3. All other agencies, contact *Tim Shorrock at shorrt@afge.org.*
7. **Congressional.** Once a case has been documented, the National Office will assist local AFGE leaders in aggressively requesting that their congressional representatives pressure the agency to stop the specific illegal direct conversion. Often, a mere inquiry from a congressional representative to an agency is adequate to stop a direct conversion. In other cases, a full court press with a visit by local leaders to Washington, DC to meet with congressional staff may be necessary. *John Threlkeld in AFGE’s Legislative Department at* *threlj@afge.org* *will gladly design a congressional strategy for your local and assist you in every step in the process.*

**ACTION STEPS**

1. **Put Management on Notice:** Before you even identify a direct conversion, send a letter to management making them aware of the rules. (*See sample notice letter*).
2. **Ask Your BUEs**: Ask each group of employees in your bargaining unit (via email, face-to-face, or through stewards) if any of their work is now being performed (or is scheduled to be performed) by contractors or military personnel.
3. **Gather Facts/Documentation**: When you identify a direct conversion, contact the National Office, gather as much information and documentation as possible, and summarize the facts.
4. **Contact Management:**  Let management know in writing your concerns, the applicable rules, and any questions and information requests you have. *(See sample letters.)*
5. **Contact Congress:** Send a copy of your letter to management, along with management’s response if any, to your congressional representatives, alerting them to the situation and asking for their assistance in getting your questions answered and requested information provided.
6. **Constant Pressure:** If you’ve identified any direct conversions at your agency, press management about the specific case and the issue in general at every level (local, council, labor-management forum) and at every opportunity.

**INFORMATION NEEDED**

(It is unlikely that a local will be able to get all of this information at the beginning of the process. The important thing is to gather as much information as possible and identify additional information we need to request.)

1. **Who:** In what agency and division (and sub-divisions if applicable) is the direct conversion occurring?
2. **What:**
	1. Functions: What functions (in whole or in part) were performed by federal employees and are now performed (or are going to be performed) by contractors (or military personnel)?
	2. Numbers: How many federal employees (or positions) have been or will be affected by contracting out (or conversion to military personnel)?
3. **Where:** Where do federal employees perform the function? Where will contractors (or military personnel) perform the function?
4. **Why:**
	1. If you have had communication with the agency on this issue, please provide all relevant emails, documentation, correspondence and any other communications.
	2. What has been the agency’s response to your concerns?
	3. If provided, what is management’s reasoning for engaging in the direct conversion? Examples of invalid management arguments include:
		1. lack of knowledge about the rules;
		2. lack of interest in the rules;
		3. the rules don’t apply because management didn’t know about them;
		4. the rules don’t apply because the vacant positions still exist and can be filled later;
		5. the rules don’t apply because contractors/military personnel are being used to supplement the federal workers, not replace them;
		6. the rules don’t apply because this is an expansion of work, not the same work federal employees were performing;
		7. a personnel ceiling keeps the agency from hiring federal employees, so what other way can the agency perform its mission?;
		8. it is suddenly a military necessity that military personnel perform this work;
		9. the union has no right to complain because there is no adverse impact on a particular bargaining unit employee;
		10. none of the union’s business; or
		11. how dare the union try to keep the agency from performing its mission.
5. **When**:
	1. When was each function converted (or scheduled to be converted) to contractor/military performance? How long is the use of contractors/military personnel expected to last?
	2. When did you learn about the direct conversion?
6. **How:**
	1. General: How did you learn about the direct conversion?
	2. Contractor: How will the work be transferred to contractor performance (a new contract, an expansion of an existing contract, a task order under an existing contract)? Are the contractor employees being treated as federal employees for all practical purposes? How long is the contract?
	3. Military: How will the work be transferred to military personnel?
7. **Impact:** How have the bargaining unit and employees been impacted? Examples include: loss of bargaining unit work, loss of promotion potential within the function, interruption in career ladder requirements, vacant positions not filled, shift in the type of work performed by federal employees, more or less workload for federal employees, RIFs, requirement to train contractors, etc.
8. **Why Is This a Bad Idea?** Other than the illegality of the direct conversion, why else shouldn’t contractors or military personnel perform the function in question? Is the work inherently governmental or critical to the agency’s mission? Does the contractor cost more (military personnel almost always cost more)? Has the contractor had performance problems in the past doing similar or other work? Does the work require particular experience or training that the contractors/military personnel don’t possess?