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**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

Chairman Costello, Congressman Petri and members of the subcommittee, thank you for inviting PASS to testify today on the reauthorization of the Federal Aviation Administration (FAA) – review of FAA’s operational and safety programs. Professional Airways Systems Specialists (PASS) is the oldest and second largest 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, missions specialists and procedures development specialists in Aviation Systems Standards; and administrative employees in the FAA’s Aviation Registry.

Congress has an opportunity to enact meaningful FAA reauthorization legislation to modernize and improve the efficiency of the FAA and protect and enhance the safety of this country’s aviation system. PASS appreciates the opportunity to present our views on proposals vital to aviation safety, including staffing and training of the technician and inspector workforces, the FAA’s application of its designee programs, and airline outsourcing of maintenance work to non-certificated repair stations. In addition, it is undeniable that recent actions by FAA management have caused labor-management relations inside the FAA to fall into chaos. This legislation provides a chance to repair the contract negotiations impasse process within the agency, which will help improve productivity and ensure that the FAA has the very best men and women working together to promote air safety. We also have great concerns over what we consider to be dangerous and ill-advised propositions made by the administration in its proposed reauthorization legislation, such as piecemeal outsourcing of key components of the National Airspace System (NAS), the creation of a non-independent commission to identify outsourcing targets and facility closures, and ambiguous “user fees” to fund the agency.

Contract Negotiations

Labor relations within the FAA are in a state of chaos, with the eye of the storm being the manner in which the FAA has approached contract negotiations with PASS, the National Air Traffic Controllers Association (NATCA), and the American Federation of State, County and Municipal Employees (AFSCME), which collectively represent over 33,000 employees at the FAA. By taking advantage of the ambiguities in current law covering FAA labor negotiations, the agency has created a tempest of extremely low employee morale, difficult working conditions and overwhelming tension between labor and management.

The history leading to the current state of contract negotiations between the FAA and its unions starts with the FY 1996 Department of Transportation Appropriations Act, which exempted the FAA from most of the federal personnel system under Title 5 of the U.S. Code and ordered the agency to develop its own personnel system. The FAA Reauthorization Act of 1996 established a new process for resolving certain bargaining impasses that were related to the new personnel system, but provisions of the legislation did not clearly define the types of disputes covered under the new process. The FAA interpreted the provision to mean that it had authority to impose contract terms unilaterally without the agreement of employees’ representatives or ratification by the employees themselves. According to this interpretation, if the FAA declares

that contract negotiations are at an impasse, the administrator can send the matter to Congress. If Congress does not act on the contract within 60 days, the FAA's contract offer will be automatically imposed on employees. Under these conditions, the rights of FAA employees to participate in fair contract negotiations have been taken away, and bargaining is merely an option for the FAA rather than a requirement.

The status of contract negotiations between PASS and the FAA are reflective of the serious problems with the agency's interpretation of the process. Contract negotiations are at impasse with four of PASS's five bargaining units, representing 3,500 employees in the Flight Standards (FS), Aviation Systems Standards (AVN), Aviation Registry (AFS-700) and Manufacturing Inspector District Office (MIDO) bargaining units. Negotiations over new contracts for these employees have been at impasse *for over four years*, and there is no foreseeable end to these stalemates other than the agency's persistent threat to submit the contracts to Congress in order to impose working conditions on these employees against their will.

Employees in PASS's largest bargaining unit, Air Traffic Organization (ATO) Technical Operations, have recently sent the FAA an undeniable message by overwhelmingly rejecting its contract proposal during the ratification process. The agency's actions at the bargaining table made it clear that it was not interested in real bargaining and was intent on going through the motions in order to declare impasse and simply impose the contract as soon as possible. At that point, it became obvious that additional bargaining would have been futile and no material changes were likely on the key issues of concern. Thus, PASS accepted the FAA's contract proposal to give the employees a chance to voice their opinion about the proposal and, if rejected by the membership, convince the administrator to reconsider her unacceptable positions. The agency's proposal included *no increases in base pay* for a majority of the workforce over the proposed seven-year term, no protections during drug and alcohol testing, and little, if any, negotiating over changes to working conditions during the term of the agreement. In August 2006, following a record voter turnout, PASS members in Technical Operations almost unanimously (98 percent) voted against the tentative agreement. Despite this result, the agency has chosen to pursue legal action to implement this anti-worker, anti-union and anti-safety agreement.

The current collective bargaining process for the FAA makes it clear that a change is needed in order to guarantee FAA employees access to an equitable contract negotiations procedure. After all, Congress has stated that collective bargaining in the federal government is in the public's interest; yet, there is no real collective bargaining in the FAA at this time. By following its current course, the FAA has only succeeded in further eroding the already troubled relationship between the agency and the employees' unions. It is essential that these problems be addressed quickly not only to ensure a highly motivated rather than greatly demoralized workforce but also to protect the safety and efficiency of the aviation system.

The following excerpts from the FAA's most recent Employee Attitude Survey (2006) illustrate the dismal state of morale within the FAA's workforce:

When asked to evaluate the following statements:

The FAA is committed to employee concerns.

Within the past 2 years, I have seen a positive change in the emphasis that the FAA places on managing people.

The FAA takes into account the impact of organizational changes on employees.

My organization has a real interest in the welfare and satisfaction of those who work here.

I trust FAA management.

FAA executives are honest when communicating with employees.

In the past 12 months, I have seen improvements in the way the FAA communicates with its employees.

I think the FAA pay systems are administered fairly.

Employees responded:

61% of employees *Disagree* or *Strongly Disagree*.

66% of employees *Disagree* or *Strongly Disagree*.

68% of employees *Disagree* or *Strongly Disagree*.

61% of employees *Disagree* or *Strongly Disagree*.

64% of employees *Disagree* or *Strongly Disagree*.

64% of employees *Disagree* or *Strongly Disagree*.

59% of employees *Disagree* or *Strongly Disagree*.

58% of employees *Disagree* or *Strongly Disagree*.

In order to guarantee FAA employees the right to participate in fair contract negotiations, PASS is requesting that Congress take action to clarify that the Federal Service Impasses Panel (FSIP), an impartial third party with special expertise in these matters, has jurisdiction over all bargaining impasses arising at the FAA, and that binding arbitration before a board of experienced arbitrators is the method to be used by the FSIP for resolving these bargaining disputes, such as those currently looming between PASS and the FAA. This is a system that has worked successfully in the Postal Service and would be appropriate for the FAA. Rather than forcing Congress to be directly involved in resolving labor disputes over internal agency personnel matters, PASS believes it is more appropriate to require both parties to submit bargaining impasse issues to binding arbitration under the direction of the FSIP. A fair contract that addresses issues important to both labor and management is essential in making a more efficient agency; by not establishing a balanced process, the FAA is impeded from moving forward.

Technical Training and Staffing

The largest PASS bargaining unit is the Air Traffic Organization (ATO) Technical Operations unit, consisting of technical employees (systems specialists, electronics technicians and computer specialists) who install, maintain, repair and certify the radar, navigation and communication systems making up the air traffic control system. 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. For example, both the Great Lakes and Southern regions are understaffed by at least 45 technicians. Since it takes a minimum of three years for a technician to be able to satisfy all requirements of the job, training of the technical workforce also significantly affects the situation.

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.

Every day that the FAA operates with an inadequate number of trained technical employees places the flying American public at increased risk. For example, inadequate staffing has left the FAA without enough people to uphold its time-tested maintenance and certification program and the FAA is increasingly moving to a "fix on failure" approach where periodic maintenance and certification of NAS systems and equipment are significantly reduced. In other words, instead of hiring additional employees, the FAA is changing its maintenance approach, 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

The inadequate staffing has resulted in more unplanned outages and a dramatic increase in restoration times. FAA documents reveal a 50 percent increase in the hours required to restore and repair vital technical components of the NAS. Specifically, unscheduled outage restoration times rose from 21.6 hours in 2001 to 33 hours in 2005. Some facilities are staffed at less than half of what the facility has been allotted. 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. Several recent high-visibility outages illustrate this issue, including a massive power and communications failure at Los Angeles International Airport that caused major delays. 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. Consider the following additional examples:

- The Chicago Midway radar facility, which also acts as a backup to Chicago O'Hare, was originally staffed with six technicians providing coverage 24 hours a day, seven days a week; since 1999, there has only been one technician assigned to the radar and the coverage has gone down to 40 hours a week. The lone employee has worked several hours of overtime in order to complete necessary work; despite the employee's efforts, with such sparse staffing conditions, work is not getting done. To make matters worse, when that employee retires, there are suggestions that the FAA does not plan to staff the facility but remotely maintain it out of O'Hare. Yet, that presents additional staffing problems for the two airports as a recent

example illustrates. In that instance, an incident at Midway led the technician to request assistance from an employee stationed at O'Hare. The technician at O'Hare left his facility to travel 34 miles to the Midway facility, leaving O'Hare, one of the largest airports in this country, with no coverage. Leaving either airport understaffed, or without any staff at all, is an enormous risk to the safety and efficiency of this country's aviation system.

- The Frontier system support center (SSC) is responsible for air traffic across a 200-mile radius in Washington state. Currently, the staffing situation at the Frontier SSC is extremely low, with three navigation/communications (NavCom) technicians responsible for 45 facilities, another single NavCom technician responsible for 16 additional facilities and two environment technicians covering 37 facilities—a total of six employees covering 98 facilities. Currently, these employees are being pushed to the extreme in order to maintain safe air traffic within the region. Even more alarming is that two of the NavCom technicians will be eligible for retirement in two years and, although it takes a minimum of three years to properly train an FAA technician, there is no indication that there are employees currently being trained to replace the retiring technicians.
- The radar facility located in Jedburg, S.C., covers air traffic for most of the coast from South Carolina to Savannah, Ga., and half of inland South Carolina. The Department of Defense relies on this facility for radar data. The facility had always been staffed during the week, but, since the only technician at the facility recently retired, the facility will now be maintained out of the Charleston SSC located approximately 40 miles away. With this change, if the radar goes out, the average restoration time will be at least three to four hours, a significant amount of time especially considering the fact that this facility provides important information to the Department of Defense.
- The Superior system management office (SMO) includes 13 SSCs in Michigan and Wisconsin. As of November 2006, nine out of these 13 facilities are staffed at 60 percent or below their allocated levels with four at 50 percent or below. The lowest of these, the SSC for Austin Straubel International Airport in Green Bay, Wis., is staffed at an astonishingly low 45 percent, with four of these 14 technicians eligible to retire in 2006 and another three eligible by 2009. The staffing for the entire SMO is under 64 percent; 21 of these 154 employees are already eligible to retire and 54 will be eligible by 2010—over 35 percent of the total workforce.
- The Ashton long range radar facility in Idaho was staffed with three technicians until June 2006. Since that time, all three technicians have retired and management has decided that maintenance support for the radar will come from technicians at another facility located *seven hours away*. Not only does this put the safety and efficiency of the air traffic in the area at serious risk, but it is also a major hardship on the employee who has to make the trip, which involves a perilous drive up a dangerous mountain where cellular service is not available. Furthermore, the technician is required to perform work at the facility by himself in a remote location, a risky scenario that is in direct opposition to safety regulations and threatens the safety of both the employee and the aviation system. The situation is also affecting restoration times in the region since it now takes hours for a technician just to get to

the site. When there were technicians on location in Ashton, the radar could be restored in minutes.

It is clear that the state of technician staffing needs immediate attention in terms of the number of employees and the level of training. 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.

Inspector Staffing

FAA aviation safety inspector staffing continues to be a major concern for PASS. PASS represents approximately 2,800 Flight Standards (FS) field aviation safety inspectors (ASIs) and 127 Manufacturing Inspection District Office (MIDO) ASIs,¹ dedicated federal employees who are responsible for certification, education, oversight and surveillance of the entire aviation system, including air operator certificates, repair station certificates, aircraft, active pilots, mechanics, flight instructors and designees.

A National Academy of Sciences staffing study was initiated as part of the 2003 Aviation Reauthorization Act in reaction to concerns over the inadequate level of ASI staffing, combined with questions surrounding the FAA's increasing reliance on non-governmental "designees" to perform inspector duties and the ability to monitor outsourced work. The results of this two-year study were released in September 2006 in a report titled *Staffing Standards for Aviation Safety Inspectors*. The Academy concluded that the FAA currently had no viable staffing standard and that development of an entirely new model was necessary.² A staffing model would allow the FAA to determine whether it had the correct number of skilled individuals in position to accomplish the responsibilities of the job.

Unfortunately, little has been accomplished since the report was issued. The reasons behind the staffing study continue to be major issues today, calling increased attention to the need for an updated and detailed staffing model. In fact, at a recent hearing before this subcommittee, both the Department of Transportation Inspector General (IG) and the Government Accountability Office (GAO) supported the Academy's recommendations and expressed concern over the staffing level of the inspector workforce, calling specific attention to the high number of inspectors expected to retire in the coming years—nearly half of the inspector workforce will be eligible to retire by 2010. The FAA is requesting funding to hire an additional 203 aviation safety inspectors in FY 2008; however, according to the IG, without an effective staffing model,

¹ As of February 2007, the FAA lists the number of FS inspectors as 3,593 and the number of MIDO inspectors as 201. These figures, however, include first line field and office managers; the PASS figure only includes field inspectors.

² National Research Council, Committee on Federal Aviation Administration Aviation Safety Inspector Staffing, *Staffing Standards for Aviation Safety Inspectors* (Washington, D.C.: The National Academies Press, 2006).

the FAA “will not be able to make effective use of the resources that it obtains.”³ The GAO stated in its testimony that “part of the challenge that FAA faces with regard to safety inspectors is improving its process for determining staffing needs.”⁴ The IG echoed these concerns, clearly stating that the “FAA must develop a reliable staffing model to ensure that it has the right number of inspectors at the right locations.”⁵

The level of inspector staffing combined with the evolving aviation industry places an incredible workload on the ASI workforce, making it mandatory to have a model in place for determining if the staffing numbers are adequate to meet these demands while satisfying safety requirements. Contributing to the increased demands on ASIs include:

- **Air Transportation Oversight System (ATOS):** The Air Transportation Oversight System (ATOS) was developed in 1998 as a “system safety” approach to oversight of the air carrier industry, aiming to ensure that airlines comply with FAA safety requirements and have operating systems to control risks and prevent accidents. ATOS has yet to be fully implemented due to insufficient staffing, inadequate training and a variety of other problems. Yet, the FAA has bold plans to transition the approximately 115 remaining air carriers into the program by the end of 2007, a move that will introduce even more challenges for the ASI workforce.

While many organizations, including PASS, applaud the concept of employing a system that prioritizes workload based on risk, this move cannot be made without making sure that there is an adequate inspector workforce available to ensure that the entire aviation system is protected. Furthermore, at the same time the FAA is transitioning additional carriers to ATOS, it is also doing a major revision to the program, further complicating things and creating an enormous strain on resources. The expansion of ATOS with the corresponding changes in oversight activities and workload shifts makes it even more important that the FAA improve its staffing process and develop a reliable staffing model. As stated by the GAO in its 2007 testimony, “The expansion of its oversight program for air carriers will result in workload shifts for its inspector workforce that will make it important for FAA to improve its staffing process and address its lack of a staffing model.”⁶

- **Outsourced Maintenance:** As part of an effort to find additional cost-saving methods, the aviation industry has increased its reliance on outsourcing maintenance work. A June 2005 IG report stated that the percentage of outsourced maintenance for major air carriers has gone up as much as 24 percent between 2002 and 2004.⁷ In 2006, the IG said air carriers’ use of repair facilities has grown from 37 percent of air carriers’ maintenance costs in 1996 to 62

³ 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. 11.

⁴ Government Accountability Office, *Federal Aviation Administration: Challenges Facing the Agency in Fiscal Year 2008 and Beyond*, GAO-07-490T (Washington, D.C.: February 14, 2007), p. 9.

⁵ 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. 3.

⁶ Government Accountability Office, *Federal Aviation Administration: Challenges Facing the Agency in Fiscal Year 2008 and Beyond*, GAO-07-490T (Washington, D.C.: February 14, 2007), p. 2.

⁷ Department of Transportation Inspector General, *Safety Oversight of an Air Carrier Industry in Transition*, AV-2005-062 (Washington, D.C.: June 3, 2005), p. 8.

percent in 2005, an increase of 8 percent over the 2004 figure.⁸ Much of this outsourced work is performed in areas outside the United States, with a significant portion being done in areas such as El Salvador, Hong Kong and Singapore. FAA airworthiness inspectors are charged with ensuring this outsourced maintenance is performed in accordance with airline and/or manufacturer instructions and FAA regulations. Yet, as the outsourcing business explodes, there has been no corresponding increase in the number of FAA inspectors.

- **Aging aircraft:** The FAA issued regulations in response to the Aging Aircraft Act of 1991 requiring aircraft to undergo inspections and record reviews by an FAA inspector after the 14th year in service and at specified intervals thereafter to ensure the adequate and timely maintenance of an aircraft's age-sensitive components. The number of aircraft in service for 14 years or more is growing, thereby increasing the demands on field inspectors to satisfy this requirement and ensure the continued airworthiness of aging aircraft. Since fulfilling this requirement is impossible given the current staffing situation, the administrator is designating out as much as 75 percent of this work instead of recognizing that this high-risk work demands direct FAA inspector oversight. Not only is this increasing the risk to the public safety, but the FAA inspectors are also responsible for overseeing the designees performing the work, resulting in yet another demand on the workforce. With the fleet of aging aircraft on the rise, the inspector workload will continue to increase, making it even more important that an appropriate and reliable staffing model be in place.
- **Increases in Aircraft Manufacturing:** The FAA ASI workforce responsible for overseeing aviation manufacturers has only 128 manufacturing inspectors, meaning that there are not enough of these employees to cover some major companies sufficiently. In fact, despite additional funding in recent budgets to hire more manufacturing ASIs, the level of this workforce is almost the same as it was 20 years ago. This inadequate staffing results in an overburdened workforce, with some inspectors responsible for up to 40 companies, and a limited ability to oversee manufacturing work. For example, one of the largest manufacturers of general aviation aircraft in the world, Cirrus Corporation, located near Duluth, Minn., has over 1,200 employees and is producing nearly a thousand airplanes a year; yet, only a single manufacturing ASI is assigned to the company. That same ASI is also responsible for 12 other manufacturers in four different states. With such limited resources, the ASI was only able to visit the Cirrus facility four times in 2005.
- **Emerging Trends in Aviation:** There are additional factors facing the inspector workforce that must be addressed when developing a staffing model, including emerging trends in aviation, such as unmanned aerial vehicles and the increasing popularity of very light jets (VLJs). By 2017, approximately 5,000 VLJs will be part of the aviation system and inspectors will have to confront a variety of new oversight challenges. According to the IG, as the new vehicles become operational, "FAA inspectors will face new oversight challenges in every aspect of FAA's operations, including inspector oversight of pilot training and aircraft maintenance and air traffic control."⁹

⁸ Department of Transportation Inspector General, *Observations on FAA's Oversight of Aviation Safety*, CC-2006-074 (Washington, D.C.: September 20, 2006), p. 4.

⁹ 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. 11.

It is imperative that the FAA immediately develop and implement a staffing model for aviation safety inspectors. PASS is requesting that Congress direct the agency to develop a staffing model for aviation safety inspectors and follow the recommendations outlined in the Academy's study. The Academy's staffing study also emphasized the importance of involving those who are affected by the staffing model in its development, specifically stating that aviation safety inspectors, as well as PASS, should be included in the process from the beginning and remain active participants through the model's design, development and implementation.

Designee Programs

The FAA has responded to the dwindling FAA inspector workforce by increasing its reliance on the agency's designee programs. These programs were initially intended to allow the administrator to delegate private individuals or companies to act on behalf of the FAA to perform certain basic responsibilities deemed non-safety critical, such as administering written tests to pilots and mechanics, inspecting repair work done by maintenance facilities and approving designs for aircraft parts. However, as a result of the FAA's attempts to compensate for inadequate FAA aviation safety inspector (ASI) staffing, these programs have not only experienced enormous growth in recent years but designees are being assigned even more hands-on work that was once performed by experienced FAA inspectors. While PASS is firmly against increasing designee responsibility, if the FAA continues in this practice, there must be enough inspectors to properly oversee this "shadow workforce."

The FAA designee programs were initially called into question during the investigation into the 1998 fatal crash of Swissair Flight 111, revealing that installation of an entertainment system approved by an FAA designee and inadequate FAA oversight were factors contributing to the accident. Since that time, several GAO reports have raised serious concerns regarding the FAA's use of its designee programs:

- The GAO criticized the FAA for its "inconsistent monitoring of its designee programs and oversight of its designees."¹⁰ Experts identified top oversight weaknesses of the designee programs, including inconsistent level of oversight and interpretation of rules among FAA offices; poor performing designees are not identified and removed; and inadequate surveillance and oversight of designees. It was noted that, overall, the FAA has not made oversight of designees a high enough priority.
- The GAO called into question the FAA's review of the designee programs, stating that at the time of the report, the FAA had evaluated only six of the 18 designee programs over the last seven years (about 35 percent of FAA's designees). There are no set criteria or requirements for the periodical evaluation of these programs, and the current evaluations do not identify roots causes of the programs' flaws.¹¹

¹⁰ Government Accountability Office, *Aviation Safety: FAA Needs to Strengthen the Management of Its Designee Programs*, GAO-05-40 (Washington, D.C.: October 2004), p. 3.

¹¹ *Id.*, pp. 15 – 16.

- Most recently, the GAO raised concerns regarding the FAA's oversight of designees, including the claim that the FAA's level of oversight and interpretation of rules differ among regions and offices within a region, thus limiting "FAA's assurance that designees' work is performed uniformly in accordance with FAA standards and policy, the primary goal of which is safety of U.S. aviation."¹²

Recently, the FAA has countered the criticism of its designee programs by proposing unsound changes to the programs, introducing a new concept known as the organizational designation authorization (ODA) program. In October 2005, the FAA issued a rule establishing the ODA program, with a plan to phase out the current designee program by November 2009. Under the ODA program, it would be possible for a corporation rather than an individual person to become an FAA designee. This would make it even more difficult to remove a poorly performing designee since that individual would be part of a larger organization. In today's already troubled designee programs, an inspector directly oversees a designee performing aviation safety-related work, such as certification and surveillance. Under the ODA program, the inspector would be taken completely out of the picture and an outside organization would be in charge of overseeing the designee—in essence, the industry is overseeing itself. The creation of the ODA program and other similar undertakings are further attempts by the FAA to outsource inspector work to the industry the FAA is supposed to be overseeing.

At the September 2006 hearing on FAA's oversight of aviation safety, the GAO questioned the FAA's development of the ODA program and the extent to which the program would remove the FAA from direct oversight. Specifically, the GAO expressed concern that planned changes to replace some designee programs with the ODA program will result in the FAA "focusing on the performance of organizations rather than the individuals within the organization who carry out the delegated functions."¹³ The GAO issued a clear warning that, as the level of inspector oversight goes down with the ODA program, the FAA must pay strict attention to the tasks these organizations are allowed to perform.

The FAA has not indicated any plans for ensuring that the level of safety does not decrease as it transitions to the ODA program. In terms of improving the designee programs, the GAO stated the following in its 2004 report:

To improve management control of the designee programs, and thus increase assurance that designees meet FAA's performance standards, we recommend that the Secretary of Transportation direct the FAA Administrator to establish a program to evaluate all designee programs, giving priority to those programs that have not been evaluated, and develop mechanisms to more consistently monitor and improve compliance with existing designee oversight policies, including identifying and sharing best practices among FAA programs and field offices. We also recommend that FAA strengthen the effectiveness of its designee databases by improving the

¹² Government Accountability Office, *Aviation Safety: FAA's Safety Efforts Generally Strong but Face Challenges*, GAO-06-1091T (Washington, D.C.: September 20, 2006), p. 11.

¹³ *Id.*, p. 2.

consistency and completeness of information on designees activities and performance and FAA oversight.¹⁴

Since the time of these recommendations, the only changes made to the designee programs have been the creation of additional programs. The ODA program and other similar programs do not address the oversight issue and only succeed in further separating inspectors from the process, decreasing the level of oversight even more. In the face of a serious lack of inspector staffing and the anticipated increase in the ASI retirement rate, oversight of the designee programs is a significant issue that must be addressed. In order to protect the safety of the aviation system, PASS is requesting that Congress direct the FAA to put expansion of the designee programs on hold until the National Academy of Sciences staffing model is implemented and recommendations issued by the GAO can be thoroughly addressed, including the establishment of a program to evaluate all designee programs.

Non-Certificated Repair Stations

The aviation industry's increasing reliance on outsourcing maintenance work to non-certificated repair stations and the FAA's oversight of this work has become a major focus for PASS as well as garnering concern in the media and among industry experts. "Non-certificated" means that the repair facility is not certificated by the FAA to operate under Federal Aviation Regulation Part 145 and is therefore not subject to direct FAA oversight.

Effective oversight of non-certificated repair facilities initially gained attention in the aftermath of the January 2003 Air Midwest crash in Charlotte, N.C. The National Transportation Safety Board determined that contributing causes of the accident included lack of FAA oversight of the airline's maintenance program, which included work performed by non-certificated entities. A December 2005 IG report demanded new attention be focused on this issue as it revealed that more and more scheduled airline maintenance work is being done at non-certificated facilities.¹⁵ In fact, the IG discovered that non-certificated facilities are performing far more work than minor services, including some of the same type of work FAA-certificated repair stations perform, such as repairing parts used to measure airspeed, removing and replacing jet engines, and replacing flight control motors. Some of these non-certificated facilities are even performing scheduled and critical preventative maintenance.

It is obvious that relying on non-certificated facilities to perform critical maintenance work is dangerous on several levels. These facilities are operating without the same regulatory requirements and oversight as certificated repair stations; yet, in many cases, they are performing the same type of work. This practice cannot continue without a significant increase in risk to aviation safety.

The subject of oversight of outsourced maintenance work will be discussed at a hearing before this subcommittee next week and PASS will be testifying on the issue at that time. It would be

¹⁴ Government Accountability Office, *Aviation Safety: FAA Needs to Strengthen the Management of Its Designee Programs*, GAO-05-40 (Washington, D.C.: October 2004), p. 5.

¹⁵ Department of Transportation Inspector General, *Air Carriers' Use of Non-Certificated Repair Facilities*, AV-2006-031 (Washington, D.C.: December 15, 2005).

remiss, however, not to take this opportunity to emphasize the risk associated with this practice and to state that PASS is requesting that language be included in the FAA reauthorization bill to direct the FAA to require that all air carrier work only be performed by certificated repair stations regardless of the number of times that work is outsourced.

FAA's Reauthorization Proposal

The United States has the largest, safest and most efficient aviation system in the world. This reputation is kept intact through the work of experienced and trained FAA employees whose sole goal is to ensure and promote the safety of air travel. These federal employees are specifically trained to fulfill this responsibility and are involved in every aspect of air travel, including inspecting the plane and navigational systems, certifying air carriers, systems and equipment, and maintaining vital air traffic control systems. To introduce concepts that would hinder or delegate out the work performed by these professionals would be to risk the foundation that keeps this country's aviation system safe. 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.

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. The commission established through the FRAC program is not an independent commission but instead a group of administration appointees examining the administrator's selections for closure or realignment before simply sending the list on to the president. This is an extremely risky plan that does not allow for adequate oversight of the impact of closing or consolidating FAA facilities. Decisions on closing or consolidating FAA facilities should be made with safety of the aviation system as the primary goal.

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. 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.

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 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. 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 critical work performed by AVN employees should no doubt remain a function of the U.S. government and not be turned over to a private corporation or individual.

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 of these fees or tax rates. 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.

PASS is solely focused on making sure this country retains its reputation as having the safest aviation system in the world; the employees we represent give us confidence that this is a possibility. Congress must consider how the FAA’s proposals would affect the safety and integrity of the aviation system. Piecemeal outsourcing of key parts of the intricate web known as the National Airspace System to the lowest bidder is dangerous and ill advised. Safety should never be anything but the FAA’s top priority.