

TESTIMONY  
of  
THE AMERICAN ENGINEERING ASSOCIATION

as presented to  
HOUSE WAYS & MEANS COMMITTEE

July 25, 1991

by  
BILLY E. REED, PRESIDENT

## INTRODUCTION

The American Engineering Association is a non-profit corporation with membership in virtually every high-tech center in the United States. We were founded in 1979 to improve engineering and related professions in the areas of professional issues. We are dedicated to the enhancement of the engineering profession and employment opportunities of engineers and related professions.

Approximately fifty percent of our members are contract engineers and consultants. While others claim to speak for the contract engineering industry, they represent the contract engineering firms. The American Engineering Association is the only national organization representing the American contract engineer with his or her interests in mind.

We believe that our nation must maintain it's technological leadership and to do so we must have a strong and vital engineering community. To insure this status, we must attract our nations "best and brightest". To attract the best and brightest, we must solve the professional problems of the engineering profession.

At or near the top of the professional problems "list" for engineers is the issue of portable pensions. I recently read where the average employee of the next century will change jobs seven or eight times during his or her career. Engineering may be even higher than that.

It is obvious in order to provide an adequate retirement, there must be changes in system. None of us wants to be dependent on anyone for our retirement years, yet many of us have never had an opportunity to participate in a meaningful retirement plan. I believe this is a national disgrace and must be remedied.

AEA believes this nations consultant/contract engineers are a valuable resource and as such and as such should be nurtured. It is to this end we offer the following testimony.

I want to thank the committee for the opportunity to present written comments on this very important piece of legislation. I do not profess to have any expertise in retirement finances, but I have seen many of the problems within my profession. It is from this perspective I offer my comments.

We welcome the efforts of various members of the Ways and Means Committee and want to commend them for undertaking such a task. There were many good ideas presented in the earlier hearings. From our perspective, it seems as if a combination of the Rostenkowski and Gibbons bill might provide better coverage, portability and vesting requirements as well as much needed administration simplification and certainly minimum benefits standards would be welcome.

In our opinion, the Institute of Electrical and Electronic Engineers (IEEE) has presented an excellent summary of the problems and very good recommended solutions to the problems for permanent employees. We support IEEE's efforts and recommended changes with minor exceptions. Those exceptions relate to the differences in the employment situations between permanent employees and those of contract (temporary) employees.

Roughly half of the members of the American Engineering Association are contract engineers. We believe there are some 150,000 to 200,000 contract engineers in the United States today. The American Engineering Association is the only national organization speaking on issues from the interest individual contract engineer.

#### CONTRACT ENGINEERS

Contract engineers do not fit any of the traditional employment categories which Congress, the Department of Labor, the IRS and employers seem to try put us. While we appear to fit the "independent contractor" description best, Section 1706 of the 1986 Tax Reform Act has destroyed it's usefulness as a vehicle for retirement planning. Yet we are not "traditional" employees with benefits as one would find at any major corporation.

As we use the term, a contract engineer is an engineer, consultant or related technical occupation who contracts his services to a company either directly or through a third party, known as the "contract engineering firm", the "broker" or "job shop". The contract engineering industry shrinks and expands with the ebbs and tides of the economy, federal spending and defense spending in particular.

The contract engineer is hired, on a temporary basis, to fill the need of a company facing a peak workload or a need for a specific job skill for the remainder of the development portion of their project. While it is not the norm, contract engineers are often given a half day or less "notice" upon termination of their services.

Contract engineers are normally hired from a resume and may never meet anyone from the contract engineering firm. Often the contract engineer will not work for the same contract engineering firm more than once. As an individual, I have never worked two consecutive jobs for the same firm. The contract engineer often will not have any contact with the company who uses his services until the day he reports to work.

On short assignments, the contract engineer may never become eligible for the "benefits" package offered. Contract engineering firms have no loyalty or responsibility to the individual contract engineer.

Virtually every major missile, space or defense contract over the past forty years or so has made extensive use of contract engineers. The Mercury, Gemini and Apollo space programs as well as the A-7, F-111, F-16, B-1, B-2, F-14, F-15, F-18, F-22, and A-12 military aircraft programs have all used contract engineers extensively. Contract engineers made major contributions to the success of desert storm.

Many commercial aircraft, petrochemical, nuclear power, and electronics projects also use contract engineers.

#### CONTRACT EMPLOYMENT

Assignments for contract engineers last from a few weeks to a few months, with a few contracts in Aerospace, Nuclear and the Petrochemical industries lasting for perhaps two or three years. Three years is a very long contract. It is not uncommon for a contract engineer to work for three or four different contract firms on three or four different projects in a single year.

Contract engineers are often out of work for several weeks to several months between contracts. Couple the "out time" with the waiting period most pension plans have and it is extremely difficult to make meaningful contributions under the current rules.

As the job market worsens, the frequency of unemployment increases as does the length of time unemployed. With the shrinking defense budgets, we are facing a much tougher employment market. Unemployment rates are significantly higher with hourly pay being cut dramatically. Those of us fortunate enough to remain employed have far fewer dollars to contribute because of these lower hourly rates.

#### TYPICAL CONTRACT "BENEFITS"

Typically, a contract engineering firm will offer forty hours of pay after twelve months as vacation, no sick leave, no educational reimbursement, no company training, no company provided equipment, normally no bonus, nothing associated with the traditional employee/employer relationship. It is not unusual for the contract engineer and people from the technical services firm to never meet each other.

It has only been in the last five or six years that contract engineering firms offered any retirement benefits. Today, most contract firms do "make available" group insurance and a 401K retirement plan at the engineers expense. The 401K is an excellent retirement vehicle when used as it was designed to be used. It was designed to allow both the employee and employer to make tax deferred contributions. I do not know of any contract engineering firms who make contributions to their engineers retirement plans.

Most 401K plans through a contract engineering firm has a thirty to one hundred eighty day waiting period before becoming eligible to participate; most of these plans allow contributions to begin only at the quarterly or semi-annual reporting period which means even more time without contributions. If you are permanently employed, this is a more reasonable restriction since you are less likely to change jobs that often.

## CONTRACT RETIREMENT PROBLEMS

Most contract firms, with which we are familiar, view the 401K's simply as a carrot to attract their product, the engineer. This general attitude has lead to many problems with their 401K's. We believe many of the problems are unique to the contract engineering industry and therefore require unique solutions.

## REPORTING PROBLEMS

Most plans indicate there will be a quarterly report. Few have any way for the engineer to check performance between quarterly reports. One such plan I had issued one quarterly report in over a year and it was incorrect. I did receive a final "quarterly" report when I rolled my contributions over to an IRA upon termination. I received no help from the company, the "bookkeepers" or the people doing the "investing". Each was simply another layer of un-responsiveness. To this day I do not know whether the report was correct or not. I did "lose" about \$1,600 with this experience.

Another plan with which I am familiar has resulted in two of the contract engineers being sued. Under similiar circumstances such as I had they were unable to get an accurate accounting of the funds. A meeting held by the contract firm in which the engineers were told the only way to withdraw their funds was to terminate their employment.

After terminating their employment with the contract firm and continuing their employment with another contract firm at the same client, they were sued under a non-compete clause of their contract with the original contract firm. After four years and nearly thirty thousand dollars each in legal fees, the engineers are still in court.

## WITHDRAWAL PENALTIES

401K plans through the technical service firm often have significant withdrawal fee if you chose to remove your money after your employment ends. One such plan has a four percent plan penalty the first year, three percent the second and so on until after four years, there was no penalty. This penalty would also apply to money "rolled over" into their plan from a previous plan.

When a contract engineer takes another assignment, his choices are; leave the money in the plan it was contributed to, roll it over into the new plan or put it in an IRA. Seldom if ever are these choices the best thing to do. Generally we are faced with the "lesser of evils" theory of making the decision.

If the money is left with the plan it is contributed to, an individual can easily end up with many small accounts all over the country. If you roll it into the "new" plan, you may be faced with withdrawl penalties or reporting problems such as I experienced.

The IRA choice removes some of the options which makes the 401K an attractive choice, such as borrowing for emergencies. It is my understanding you cannot mix funds within an IRA so even the option of using one of the major mutual funds to park the money is not a particularly good choice. Over the years, we will almost certainly end up with many accounts, paying multiple fees and having multiple accounts to track.

## DELAYED CONTRIBUTIONS

Most contract firms make contributions to the plans on a monthly basis. This means my contributions are delayed up to a month before they start earning any dividends. This also means the contract firm is drawing interest on my money for the same period since my contributions equal what was taken from my check.

### SUMMARY

Contract engineers make a contribution to the nations wellbeing far above their numbers in society, yet are deprived of access on equal terms to many of the normal benefits afforded most of the rest of our workforce.

While employees of any of the nations major corporations receive insurance and retirement benefits paid by the corporation with pretax dollars, the contract engineer does not receive company contributions towards retirement and must pay the entire cost of insurance with after tax dollars. The contract engineer is eligible for one week of paid vacation per year, he or she is not normally afforded such things as sick leave, educational benefits etc..

The length of many of the contracts engineers must accept is too short to become eligible for any retirement benefits and must normally change insurance companies at the end of each contract. This leads in too many instances to inadequate retirement benefits and individuals who are no longer able to purchase insurance at an affordable price.