

## What Is “Competitive Sourcing”?

Everyone agrees that competition leads to efficiency in a free market economy. Competition is as American as motherhood and apple pie. The Bush Administration’s “competitive sourcing” initiative has been marketed as a way to bring free market forces to bear on government bureaucracies. But does the reality match the spin?

Let’s examine how “competitive sourcing” would work in your office. It is important to note that you would have no say in the matter – the decision to bid out the work comes from a centralized authority. Whether in the form of arbitrary quotas or restrictive criteria, the decision comes from OMB<sup>1</sup>. First, 10-20% of your staff would be assigned to develop a Performance Work Statement (PWS) to describe all the work your staff does<sup>2</sup>. The PWS is the guts of a solicitation for bids. After completion of the PWS, a different 10-20% of your staff develops a new staffing plan, called the Most Efficient Organization (MEO), to perform the work described in the PWS. A-76 rules prohibit PWS and MEO team members from speaking to each other about the work<sup>3</sup>. Finally, an in-house cost estimate is prepared for the MEO and compared to the bids received from private contractors. This is the only “competitive” part of the program: Corporate professionals, highly skilled in interpreting contracts and bidding to take advantage of any omissions and ambiguities, are matched against public employees untrained in contract law<sup>4</sup>.

A-76 outcomes are binding: If this bureaucratic process predicts savings, your staff of dedicated government employees will be replaced with contract workers guaranteed to perform at a minimally acceptable level as defined in the PWS. What about the human capital—the expertise your staff brought to the table? A-76 strips you of the power to manage with such considerations in mind.

Centralized authority and inflexible bureaucratic procedures drive “competitive sourcing” decisions. Managers are accountable to the centralized authority, not for the efficiency of their organizations. OMB outsourcing resembles the failed management style of the old Soviet Union, not free market competition:

### Free Market Competition

Manager considers outsourcing work based on knowledge of organization’s needs/strengths

Manager makes decisions and is accountable for them—losing coach is fired

First question is *what* work needs to be performed—flexibility is key

Costs accurately tracked with accounting systems—fraud leads to criminal prosecution

Cost is only part of decision to outsource—quality of work product is crucial

Manager seeks to minimize risk—outsources only if substantial savings are expected

Loss of capability costs the firm—track record of workforce is crucial

### OMB Outsourcing

Washington bureaucrats force binding outsourcing studies regardless of real needs

Centralized authority is not accountable—players are fired, losing coach stays on<sup>5</sup>

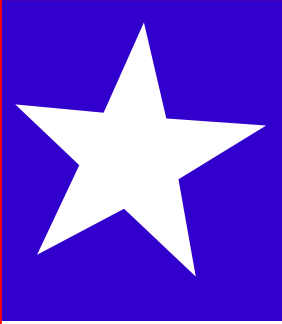
A-76 starts with work *currently* being performed—locks in *status quo*<sup>6</sup>

Costs of A-76 studies and savings realized are not tracked—no accountability<sup>7</sup>

Cost prediction is the only factor—A-76 favors minimally acceptable performance level<sup>8</sup>

A-76 mandates outsourcing even if only minimal savings are predicted

Loss of capability costs taxpayers—track record of public employees is ignored<sup>9</sup>



We did not become the greatest country in the world in spite of our public institutions, but largely because of them. The continued viability of these institutions is put at risk by this bureaucratic outsourcing program<sup>10</sup>. Why in the world is the Administration moving forward so recklessly to outsource even more Federal work when well-documented problems with Federal contract management waste billions every year? Does this Administration share the goal of one of the program's most ardent supporters, Grover Norquest, who wishes to shrink the size of government until it can be drowned in the bathtub? Decisive action on the part of Congress is urgently needed to block this outcome. We are asking you to:

- Sponsor and work for passage of legislation to prohibit the outsourcing of work currently performed by public employees until the A-76 Circular is rigorously tested in a Demonstration Project to accurately establish its costs and benefits.
- Sponsor and work for passage of legislation to grant Federal employees the same A-76 appeal rights enjoyed by their private competitors (see April 19, 2004 GAO letter to Committees on Governmental Affairs, Government Reform, and Armed Services).
- Sponsor and work for passage of the Truthfulness, Responsibility, and Accountability in Contracting (TRAC) Act.
- Work for repeal of the Federal Activities Inventory Reform (FAIR) Act. Rather than pressuring Federal managers to outsource government work, pressure them to manage efficiently and return the best value to the taxpayer by implementing independent performance and cost audits<sup>11</sup>.

*A democracy's success depends in no small part upon its civil service, and its ability to assure the continuity and competence of government, even as elections may bring about dramatic changes in the leadership of that government. The civil service must administer and enforce the laws of the land impartially and without regard to partisan politics or political party, subject to the rule of law and not individual whim. The United States has one of the finest civil services in the world...so good that our citizenry has come to take its excellence for granted. . . .*

*The single most important element of our civil service system is its separation from politics. This is perhaps our system's greatest strength, and in our view, the feature that may be the most "exportable" to nations considering significant civil service reform. Its foundations may be found in the Merit Principles that ground our nation's civil service laws, regulations, procedures, and practices. . . . [These principles] guarantee a civil service that is free from any partisan political activity or influence—without diminishing the responsiveness and accountability of our civil servants to the public interest... However, if they are to have any real meaning, these Merit Principles must be protected and enforced by the government.*

*—Address by the Hon. Kay Coles James, Director, U.S. Office of Personnel Management, representing President Bush at the 5th Global Forum on Reinventing Government, November 3, 2003*

## Endnotes for *What is “Competitive Sourcing”?*

<sup>1</sup> Initially, OMB forced agencies to comply with arbitrary quotas. Quotas remained in place long after OMB told Congress they had been dropped. In testimony before the Senate Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on July 24, 2003, OMB assured Congress that the program consisted of “agency-specific competition plans that are customized, based on considered research and sound analysis, to address the agency’s mission and workforce.” An August 28, 2003 memo from the Forest Service documents that this was not true, stating “a mathematical formula, based solely on [the Office of Management and Budget’s] direction, applied to the Forest Service’s 2000 Fair Act Inventory established the targets for FY03 through FY05 (see [http://home.centurytel.net/BehindTheCurtain/Briefing\\_031001/FS\\_Info\\_Response\\_Final.rtf](http://home.centurytel.net/BehindTheCurtain/Briefing_031001/FS_Info_Response_Final.rtf).)” OMB uses other more subtle methods as well to force Federal work into A-76 outsourcing studies. For example, the term “inherently governmental” has been redefined to force the recategorization of hundreds of thousands of inherently governmental jobs as commercial. Further, OMB reserves final authority regarding the criteria agencies must use to designate what commercial work is available for outsourcing—so called “non-core” work—and uses this authority to maximize the jobs subject to outsourcing. Finally, OMB forces Federal work into the A-76 mill by selectively enforcing “competitive sourcing” while ignoring the Presidential initiative to strategically manage human capital. OMB’s often-stated goal is that all non-core commercial agency work be subjected to A-76 outsourcing studies on a regular and recurring basis—without consideration of the efficiency with which agencies perform this work.

<sup>2</sup> The PWS is a contractual document. Any work that is omitted from the PWS leads to a decline in services, higher costs (via **noncompetitive** add-ons), or both. Any ambiguities in the contract are interpreted in favor of the bidder. The lack of contracting expertise on the part of employees pressed into service to write a PWS is a major problem.

<sup>3</sup> If increased efficiency were the goal, one would think that public employees working on the best way to carry out the work would be in close contact with those defining the work. However, communication between MEO and PWS teams is prohibited under A-76. This “firewall” hinders reengineering efforts and benefits private bidders. It favors outsourcing of the work over efficiency increases to benefit taxpayers. Imagine what a private manager would have to say to such a restriction on the internal operations of his/her business.

<sup>4</sup> As if this “competition” was not unfair enough, the Bush Administration insisted that Federal employees be denied the same appeal rights enjoyed by private firms. In November, 2003 the bipartisan House-Senate Transportation-Treasury conference committee reported out language granting appeal rights to civil servants. According to GovExec, this language had been vetted with OMB; however, the Bush Administration intervened to strip these rights (see [www.govexec.com/dailyfed/1103/112503a2.htm](http://www.govexec.com/dailyfed/1103/112503a2.htm)). This biased process harms taxpayers as well Federal employees. Post-award contract modifications are **noncompetitive**, which explains such occurrences as the \$2.69 self-locking nut for which the Defense Department paid \$2,185.50.

<sup>5</sup> In the free market, decisionmaking authority and the accountability for those decisions resides with the same individual. If Dan’s Garage cannot compete with Dick’s Auto Body, then Dan’s business fails. After leading the NY Giants to a 4-12 record, Jim Fassel was sent packing. NFL coaches with losing programs don’t get to keep their jobs and oversee replacement players. Under OMB outsourcing, managers responsible for the operation of loosing organizations keep their jobs while their workers are outsourced. Thus, the program puts no pressure on agency decisionmakers to manage for efficiency.

<sup>6</sup> An entrepreneur may implement a highly efficient procedure for turning out a product, but free market forces will still lead to failure if people don’t want the product. Under OMB outsourcing, the question of what work should be done is not asked. Thus, A-76 has the effect of contractually obligating the government to the *status quo*.

<sup>7</sup> Regarding costs, the Forest Service reported an estimate of \$10,000,000 to Congress for its “competitive sourcing” program in FY 2003. After being questioned by the media and Congress, Forest Service headquarters asked its field units to estimate costs, and revised this estimate upward to \$18,200,000. An independent assessment by the Forest Service Council shows that even this latter figure was a gross underestimate, and estimated true costs at over \$72,000,000 ([http://home.centurytel.net/BehindTheCurtain/True\\_Cost\\_Briefing/CostBriefingPaper\\_031008c.doc](http://home.centurytel.net/BehindTheCurtain/True_Cost_Briefing/CostBriefingPaper_031008c.doc)). The 2004 Interior Appropriations Act capped Forest Service expenditures on “competitive sourcing studies and related activities” at \$5,000,000 in 2004. However, OMB has directed the Forest Service to omit the largest cost, staff time, and no accounting system has been implemented. Given this, the cap is meaningless—cost estimates will continue to be bureaucratic fictions. Enron and Worldcom may have cooked the books, but at least they had books. Regarding savings, “GAO cannot prove or disprove that the results of Federal agencies’ A-76 decisions have been beneficial and cost effective (GAO/T-GGD-95-131, see also GAO/GGD-90-58 and GAO-02-498T).” For example, an internal Forest Service

memo attributed “savings” of over \$500,000,000 to streamlined A-76 studies that resulted in retention of agency maintenance functions in-house. According to the memo, no change in organization or cost occurred. “Savings” were calculated as the difference between the cost of the *status quo* and that of the highest estimate obtained from market research. This is akin to shopping for a new car, electing not to buy it, and claiming savings of \$50,000. In the free market, firms that underestimate costs by a factor of four and then offset these costs with imaginary savings do not survive. Only under OMB outsourcing, with the unwitting subsidization of taxpayers, is such a thing possible. Ultimately, with the oversight of a Congressional Appropriations investigative team, these illusionary “savings” were dropped; however, savings of \$4.6 million were still reported to Congress for a computer helpdesk center for which “spending [is] more than [it was] before the Center [was established].”

<sup>8</sup> OMB has consistently mischaracterized the complexity of the work it is forcing agencies to subject to A-76 outsourcing studies. Time after time, OMB has presented landscaping or food preparation services as work typical of that affected by the program. According to OMB, over 400,000 Federal jobs are currently “available for competition.” The vast majority of these civil servants do not cut grass and do not cook. OMB’s misrepresentations on this point belittle the human capital required for the substantially more complex work performed by most of these Federal employees. For example, consider the work performed by the Forest Service Content Analysis Team. This team systematically organized, summarized, and analyzed public comments on proposed projects (typically as described by draft Environmental Impact Statements) as required by the National Environmental Policy Act and Administrative Procedures Act. Agencies receive an average of 2,000 letters on local projects and as many as 3 million comments on national policy issues. The Content Analysis Team established the standard for content analysis procedures approved by the Council on Environmental Quality. These dedicated public employees literally wrote the book on content analysis. The Content Analysis Team was an experimental organization that was highly successful. Their reward: the work was outsourced in FY 2003, and the Federal workforce disbanded. What about the reward for the taxpayer? Before outsourcing, a highly successful team of 59 Federal employees whose average annual salary was \$31,614 performed this work. The residual Federal organization consists of 23 administrative and oversight personnel whose average annual salary is \$49,077. The estimated cost of the outsourced organization actually exceeds that of the Federal workforce after contractor costs are added. Because of their skill and their independence from decisionmakers, and because of the Federal ethics rules that apply to civil service employees, the Content Analysis Team had earned the trust of the public. These analysts have been replaced by a for-profit firm not subject to such stringent ethical rules whose employees will be starting from scratch. Potential conflicts of interest pose a very real problem. On a positive note, however, the outsourced Content Analysis Team employees counted toward OMB’s FY 2003 “competitive sourcing” quota, and doubtlessly improved the career potentials of the agency bureaucrats involved.

<sup>9</sup> Federal acquisition regulations do have provisions to take a firm’s track record into account when evaluating bids. However, because the MEO is a newly formed organization, it has no track record that may be considered. Thus, no past performance credit is given to employees who have performed exactly the work being bid, whereas a firm that will be placing new and untested employees to do the work may receive past performance credits.

<sup>10</sup> Proponents argue disingenuously that impacts will be minimal because civil servants win A-76 outsourcing studies about half of the time. Initially, OMB mandated study of 45% of the commercial Federal workforce over 4 years. Even if Federal employees won half of these studies, this represents approximately 386,000 outsourced jobs. Although Congressional pressure has forced OMB to abandon this crude quota, it has been replaced with bureaucratic strategies that continue to force the outsourcing of unprecedented numbers of Federal jobs (see note 1).

<sup>11</sup> Efficiency incorporates performance in addition to cost. Because the A-76 Circular only considers cost, it cannot provide a basis for claims of increased efficiency. Even in the private sector, where profits provide a quantitative measure of efficiency, independent audits are essential. Similarly, independent audits of cost and performance are the only way to determination the efficiencies of government organizations.