

OFFICE OF MANAGEMENT AND BUDGET**Performance of Commercial Activities**

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Proposed change to the OMB circular A-76 revised supplemental handbook.

SUMMARY: . The Office of Management and Budget (OMB) publishes a request for agency and public comments on proposed changes to the OMB Circular A-76, Performance of Commercial Activities, Revised Supplemental Handbook. The proposed changes eliminate the "grandfather clauses" at Part 1, Chapter 2, paragraph A.5 and paragraph 5.a., of the Handbook. The Handbook would then be changed to expand public-private competition for all Inter-Service Support Agreements (ISSAs), by requiring competitions on a recurring 3-5 year review cycle, similar to the competitions required for the renewal of service contracts with the private sector. These changes are an important first step in OMB's efforts to expand competition, improve service quality, and enhance agency accountability by integrating budgeting and performance.

OMB is requesting public and agency comment on these revisions. OMB expects that the expanded competition requirements of the Circular will encourage the service requesting or customer agencies to take full account of their support agreements, the alternative levels of service available, and the most efficient and cost effective private sector or other public offeror.

DATES: Agency and public comments on the proposed changes are due to OMB not later than August 16, 2001.

ADDRESSES: Address all comments to the Office of Federal Procurement Policy, NEOB Room 9013, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, FAX Number (202) 395-5105.

Availability: Copies of the OMB Circular A-76, its Revised Supplemental Handbook, currently applicable Transmittal Memoranda and additional information regarding the Federal Activities Inventory Reform Act (FAIR Act) and its implementation may be obtained at the OMB home page. The online address (URL) <http://www.whitehouse.gov/OMB/procurement/fair-index.html>. Paper copies of this information can also be obtained by contacting the Office of Federal Procurement Policy, NEOB, Room 9013, Office of Management and

Budget, 725 17th Street, NW, Washington, DC 20503, Telephone No. (202) 395-7579.

FOR FURTHER INFORMATION CONTACT: Mr. David C. Childs, Office of Federal Procurement Policy, NEOB Room 9013, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Telephone No. (202) 395-6104.

SUPPLEMENTARY INFORMATION:**Background**

The activities of most Federal agencies can be divided into two categories, *program activities*, which provide goods and services directly to the agency mission recipients, e.g., Federal transfers of funds, grants, services and credit to the public and *support activities*, which provide administrative, professional and logistical support to an agency itself in meeting its mission requirements.

The number and amount of support activities are wide-ranging. They include personnel services; safety and health services; security; legal services; financial management services; information technology, automated data processing, and communications services; mail and messenger services; public affairs; publications, reproduction, graphics, and video services; library services; scientific facilities; research and analytical services; office and commissary supplies; office and grounds maintenance; procurement and contracting services; services to acquire, maintain, rent, and operate plant and equipment; and more.

Many support activities are financed by their own direct appropriations and provided to the programs, without charge, in their own agency and even to other agencies. Others are provided for a price by agency franchise, working capital, or other revolving funds on a reimbursable basis. Even when a reimbursable rate or price is charged by a providing agency, it may not cover the full cost of the goods and services provided to programs—in part because the support activity agencies themselves are not charged for the full cost of the resources they use or get some financing from direct appropriations, and in part because their prices may include cross-subsidies and other pricing strategies to expand their volume of business.

It is for this reason that the March 1996 A-76 Supplemental Handbook introduced, for the first time, the requirement to compete for new or expanded reimbursable work on the basis of an A-76 cost comparison. A-76 competitions can be a key driver to encourage agencies to understand the

real cost of their programs. They also serve to invite private sector and other public offerors into the mix of possible offerors, by competing on a level playing field.

However, the March 1996 A-76 Supplemental Handbook did not require reimbursable support service providers or their customers to undergo competition for this work on a recurring basis. In effect, while competitions for work that is performed by contract are on a recurring 3-5 year review cycle, work performed by a reimbursable support activity provider (ISSA) has not been required to undergo recurring competition once that agency is awarded the work. In addition, a policy decision was made that the March 1996 A-76 Supplemental Handbook would not require recurring competitions for existing reimbursable support activity work—work that was already performed under an ISSA before October 1, 1997. As a result, a large and increasing amount of commercial work is being performed under reimbursable service agreements without the benefits of recurring competition. These reimbursable service agreements are not competing with the private sector or with other public offerors who might be able to provide higher levels of service at less cost.

As a result, OMB hereby proposes to revise the A-76 Supplemental Handbook at Part 1, Chapter 2 paragraph 5 and paragraph 5.a, to delete the "grandfathering clauses" that permit reimbursable agreements for commercial services to continue indefinitely and without competition and to replace them with a requirement that all ISSA's be recompeted every 3-5 years or as otherwise permitted by related procurement regulations for comparable types of commercial work (see Competition-in-Contracting Act (CICA) and the Federal Acquisition Regulations). OMB recognizes that the burden of this requirement falls to the customer or consuming agency to conduct these competitions. It also falls to the prospective reimbursable service provider to submit an A-76 comparable offer, in accordance with Part 1, Chapter 2 paragraph B, for the renewal of existing service agreements or for the award of new or expanded work.

The proposed recurring ISSA competition requirement would not apply—at this time—to reimbursable support agreements within a single agency. The head of the agency must maintain flexibility to manage mission resources. The proposed competition requirement would only apply to reimbursable agreements between one department or executive agency and

another non-mission agency, e.g., between the Environmental Protection Agency and the Department of Commerce, between the Agriculture Department's National Finance Center and the Department of Justice or between the Office of Personnel Management and the Department of Housing and Urban Development for the provision of background investigation services. It would not apply to services provided within the reimbursable service providers host agency or any such agreement within the Department of Defense.

OMB also recognizes that the proposed requirement to conduct competitions on a level playing field and on the basis of the full cost of performance to the taxpayer poses other budgetary challenges. The President's FY 2002 Budget includes a proposal to integrate performance and budget data. Three major changes are presently envisioned. They include: (1) identifying high quality outcome measures, accurately monitoring the performance of programs, and integrating this presentation with associated cost, (2) changes to create a market based government, of which this initiative is a part, to open the government's activities to more competition, and to require agencies to budget for costs in a way that will simplify cost comparison for A-76 competition, and (3) full integration of financial (finance, budget, and cost), program, and oversight information, and processes. The government's chief financial officers have endorsed as a long-term goal that program and financial officers work in partnership, to achieve the full integration of financial (finance, budget, and cost), program, and oversight information and processes. The Administration will soon transmit legislative proposals to support changes in the way costs are charged in the budget to permit the consideration of full budget costs in a cost comparison. However, in the interim, while competitions and the decisions to award shall be based upon comparisons conducted in accordance with the A-76 Revised Supplemental Handbook, the reimbursable costs charged to a customer agency, if a public reimbursable service provider wins such a competition, will rely on budget based reimbursable rates, prepared under current law.

OMB requests comment on the proposed revisions.

Sean O'Keefe,
Deputy Director.

Executive Office of the President

Office of Management and Budget

[Circular No. A-76 (Revised) Proposed Transmittal Memorandum No. 24]

June 26, 2001.

To the Heads of Executive Departments and Agencies

From: Sean O'Keefe, Deputy Director
Subject: Performance of Commercial Activities

This Transmittal Memorandum implements changes to the OMB Circular A-76 Revised Supplemental Handbook in furtherance of the President's FY 2002 Budget Blueprint commitment to expand the level of competition for the acquisition of commercial support work required by the Federal Government and to establish a competitive baseline in preparation for the integration of other budgeting, performance and accountability initiatives. The March 1996 Revised Supplemental Handbook was issued through Transmittal Memorandum No. 15 (61 FR 14338). The March 1996 Revised Supplemental Handbook was further revised to implement the requirements of the Federal Activities Inventory Reform Act through Transmittal Memorandum No. 20 (64 FR 33927) and Transmittal Memorandum No. 22 (65 FR 54568). Transmittal Memorandum No. 23 (66 FR 14943) provided updated labor and non-labor related escalation factors for use in A-76 cost comparisons.

OMB is making two changes to the A-76 Revised Supplemental Handbook. First, Part 1, Chapter 2, paragraph 5 and paragraph 5.a. are deleted. Paragraph 5 has permitted agencies to consolidate administrative, logistical and other commercial support activities through the transfer of work to Inter-Service Support Agreements (ISSAs), within and between agencies, without cost comparison if the consolidation was accomplished prior to October 1, 1997, and if the consolidation did not involve the conversion of work to or from in-house or contract performance. Paragraph 5.a., has exempted existing reimbursable support work and the renewal of related ISSAs from the cost comparison requirements of the Circular. However, paragraph 5.a. also established a government-wide requirement that all new and expanded ISSAs shall be justified on the basis of a cost comparison, conducted in accordance with the requirements of the

Circular and Supplemental Handbook, unless as otherwise provided by the Supplemental Handbook or by law.

In order to emphasize the need to expand the level of competition required and to establish a consistent baseline for the acquisition of commercial support, OMB is revising Part 1, Chapter 2, paragraph 5, to read as follows:

"5. Reimbursable support service providers within the Federal Government are providing a large and an increasing amount of commercial work to Federal program activities (customers) under reimbursable service agreements and without the benefits of recurring competitions. These ISSAs are not competing with the private sector or with other public offerors who might be able to provide higher levels of service at less cost. Therefore, not later than October 1, 2001, each customer agency shall establish a recurring schedule for all work performed for it on a reimbursable basis by another agency for competition. ISSAs shall be recompeted every 3-5 years or as otherwise permitted by related procurement regulations for comparable types of commercial work (see Competition-in-Contracting Act (CICA) and the Federal Acquisition Regulations). These competitions shall permit offers from the private sector, the current reimbursable service provider and other public offerors, as appropriate. In addition, all new or expanded work required by a customer agency shall be submitted to competition, as provided in this Chapter."

A conforming change is also hereby made to Part 1, Chapter 2, paragraph B.1, as follows: "1. The prospective providing agency will furnish the requesting agency a firm price or reimbursable rate for the existing, new or expanded workload * * *."

This change is effective immediately. Current A-76 and FAIR Act implementation guidance can be accessed at OMB's home page at: <http://www.whitehouse.gov/OMB/procurement/fair-index.html>.

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OFFICE OF MANAGEMENT AND BUDGET

Draft Report to Congress on the Costs and Benefits of Federal Regulations

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of extension of public comment period.

SUMMARY: On May 2, 2001, OMB published a notice and request for comments for its Draft Report to Congress on the Costs and Benefits of Federal Regulations. The comment period was scheduled to end on July 2, 2001. This notice extends the public