

TESTIMONY

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BEFORE THE
COMMITTEE ON GOVERNMENTAL AFFAIRS
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Introduction

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you to discuss the Administration's Competitive Sourcing Initiative and related efforts involving the delivery of government services.

Last summer, the President unveiled five government-wide management reforms. The President's vision is guided by the principles that government should be results-oriented, not process-oriented; citizen-centered, not bureaucracy-centered; and, market-based, promoting competition rather than stifling innovation. Any doubts about the seriousness of this effort were erased in the President's 2003 Budget document, which devotes considerable attention to these reforms and rates agencies through the use of a scorecard. The Director of the Office of Management and Budget (OMB) is focused on the improved management of the Federal Government, and one of the issues he has identified is the thousands of commercial jobs that have never been exposed to the rigors of competition. That's what the competitive sourcing initiative sets out to address – one step at a time. Competitive sourcing is not about outsourcing or downsizing the Federal Government. The initiative is about competition and results. The President has asked OMB to infuse the spirit of competition and performance throughout the Federal Government - without regard to whether the public or private sector wins a competition. When a commercial function performed by the public sector undergoes competition, performance is enhanced and costs are cut. Experience demonstrates that the use of public-private competition consistently reduces the cost of public performance by more than 30 percent.

The Benefits of Competitive Sourcing

Every study I have ever seen concludes that public-private competitions generate significant savings – not only here but also around the world. Competition also results in better value and improves performance by bringing viable, responsive, innovative and cost-effective competitors (public and private) to the table. The competitive sourcing initiative will continue to result in significant performance improvements. Regarding savings, DoD has estimated savings from competitive sourcing of over \$11 billion. Without service or logistical support reductions, these funds will be available for redirection into other DoD priorities. Whether we are looking to reduce costs, improve performance, improve accountability, or increase efficiency, the dynamics of competitive sourcing provide the keys to success.

Data developed by DoD indicates that between 1995 and 2001 DoD conducted 781 public- private competitions. The results of these competitions are encouraging and support our government-wide program:

57 percent of decisions favor the in-house group and 43 percent the outside offeror (whether public or private)

67 percent of all contracts awarded by A-76 are small business awards. Sensitive to the impact on federal employees who lose their jobs, DoD reports minimal “Reductions in Force” (RIFs) attributable to A-76. Only 8 percent of total DoD RIFs have undergone severance from federal service due to an adverse A-76 action.

Recognizing the Challenges with A-76

Public-private competition is not easy and the A-76 process has its share of detractors. Government employee unions, the private sector, and many Senators on this Committee have a long history with the competition of commercial functions performed by government employees.

With frequency, I meet with Members of Congress to discuss the very real impact that this process has on their constituents. I also hear from Members who want the Federal Government to limit competition with the private sector. In fact, even OMB, the “keeper” of A-76, finds fault with the process, and I am actively seeking input to improve the process.

Problems commonly cited include the potential for conflicts of interest, and the unique procedures established for comparing the public and private offers. The criticism that the public sector gets “two bites at the apple” reveals a frustration that the private sector believes causes some to avoid the competition altogether. We acknowledge the frustration and agree that the process takes too long. There are also valid concerns about the fairness of the current appeals process. The private side can appeal decisions to GAO and the courts, but the public sector does not have this right. The Department of Defense estimates the average duration of a single function A-76 competition at 24 months, and 32 months for multi-function cost comparisons. A three-year competition to determine who should provide commercial services hurts everyone involved. Employees are demoralized, and it is expensive for private firms. Delay hurts the entire process: agencies are reluctant to perform additional studies, firms say they are less likely to go through the process again, and the department loses the chance to improve performance and achieve and redirect needed savings.

Significant portions of the military budget go not to “war-fighting” but to infrastructure and overhead. The logistics that keep our armed forces housed, trained and mobile are essential to our success on the battlefield. At the same time, there are numerous opportunities to (a) meet the President’s competition goals, and (b) maintain and improve “non-war-fighting” capabilities. Through competition, goals such as the creation and maintenance of a mobile force can be met. A logistics operation that operates effectively and efficiently means our troops are more effective. To a significant degree, the problems cited have at their root the difficulty in assessing the true cost of the government service. Pending long-term improvements in government cost accounting, performance measurement and full cost budget integration, it is unlikely that we will be able to completely remedy the situation in the short-term.

The most significant hurdles cannot be fixed with legislation or regulatory action. The challenge we’ve seen from some former competitions has been a lack of commitment from particular managers to make A-76 work and to hold accountable those who implement this process. A senior Army official put it graphically: “asking a garrison to do an A-76 is like giving a pig a knife and asking it to make pork chops.”

Laying the Groundwork for Future Success

In the short-term, OMB’s A-76 competitive sourcing program is one tool in the Administration’s efforts to improve performance, expand efficiency, improve accountability and generate savings. The Circular provides an established framework to determine if and when a commercial activity should be converted to or from in-house, contract or Inter-Service Support Agreements (ISSA) performance. The Circular also provides detailed guidance for the calculation of the in-house offer for comparison with

the private sector, recognizing that federal accounting and budget procedures do not now enable a direct comparison of private sector costs with those of federal agencies.

Since I was confirmed last May, I have been studying alternatives and process improvements. Achieving agreement on a strong set of reforms supported by the key stakeholders remains a challenge. Nonetheless, the Administration has developed and strengthened its relationships with key players, such as the public employee unions and the private sector, and we will continue to work with these groups to make significant and lasting process improvements. In addition, OMB anticipates simplifying the current cost comparison process by replacing it with a budgeted measure of full agency costs.

Public-private competitions should not be one-time events nor should they be conducted only when the function is being performed in-house. To ensure that the taxpayer continues to receive the best deal and the best value, we need to periodically reexamine our decisions to outsource, to retain functions in-house or to use cross-servicing agreements. At the government's discretion, competition should be used on a recurring basis to review the particular function and to determine who can best provide required services.

This Administration is committed to achieving improved performance for the taxpayer through a focus on competition and accountability. There are several improvements that we are seriously considering that would improve the current process. Some of these include:

- . Authorization of a public/private competition project that would be based on procedures found in the Federal Acquisition Regulation that would preserve the cost comparison methodology.

- Establish MOUs for in-house winners.

- Use of centralized management teams to conduct A-76 competitions.

- Use of DoD costing models for all agencies.

- Award of incentives to in-house winners.

- Clarification of conflict of interest guidance.

- Requiring in-house cost estimates to be audited by independent parties.

- Simplifying the current cost comparison process by replacing it with a budgeted measure of full agency costs.

Implementing Changes to Make the FAIR Act Inventories More Useful

The "Federal Activities Inventory Reform Act of 1998, otherwise known as the FAIR Act, requires federal agencies to prepare and submit to OMB, by June 30 of each year, inventories of the commercial activities performed by federal employees. OMB is required to review each agency's inventory and consult with the agency regarding content. Upon completion of this review and consultation, the agency head must transmit a copy of the inventory to the Congress and make the inventory publicly available.

The FAIR Act has been underutilized. Generally, the executive branch has not used this information as intended - to improve the management of government activities. The compilation of these numbers must be more than a "paper exercise." In past years, reams of paper, inventories in hard copy, were sent to OMB. FAIR Act information was not put into a database. This year, the inventories will be entered into an OMB database. This database will facilitate a more thorough and consistent review of functions by agency as well as government-wide.

Again this year, agencies will be requested to submit a separate report that lists the agency's civilian inherently governmental positions. OMB will analyze this

data as part of its overall management responsibilities, but it will not be subject to the FAIR Act's administrative challenge and appeal process.

Management and Oversight of Service Contracts

An essential ingredient of the procurement process is a strong commitment to sound contract management. Good service contracting calls for an emphasis on contract administration skills, monitoring contractor performance, and ensuring that taxpayers receive the benefits of the contract bargain. Services, by their very nature, are more difficult to describe than goods, and require the exercise of a greater level of judgment in the contracting process.

Good service contracting begins with requirements personnel who have a sound understanding of the nature of the services to be acquired. Contracting professionals, no matter how well trained, cannot substitute for the program personnel who determine requirements, understand what constitutes quality performance, and monitor overall contractor progress. Agency program and requirements personnel stand at the "front line" of administering service contracts. In this regard, even the most capable program manager cannot succeed without a sound statement of work for the services to be acquired.

Unfortunately, statements of work are often process driven, telling a contractor "how to do the work" instead of telling a contractor what the desired outcome should be. However, progress is being made on this front. The Administration is committed to increasing its emphasis on performance-based service contracting; a contracting methodology that emphasizes outcomes over process, including how statements of work are to be written and contractor performance is to be monitored. Starting from a baseline of very few performance-based service contracts being awarded in FY 2000, we are planning an increase in the use of this contracting technique to achieve a total of 20 percent of all service contracts being performance-based by FY 2005. I am forming an inter-agency group to resolve disagreements among the agencies regarding the requirements to qualify a contract as performance-based. I anticipate, as one output of this effort, improved guidance regarding the scope and nature of Performance-Based Service Contracting (PBSC). There must be a common understanding of the definition upon which to build experience and track progress.

In addition to the critical role played by program personnel who establish service contracting requirements, government agencies, particularly DoD, have an extensive management system in place to oversee specific aspects of the service contracting process. Contracting officers, of course, are responsible for overall contract management, including enforcement of contract terms and conditions and approval of contractor payment. Assisting the contracting officer, depending on the complexity of the contracted work, are additional personnel such as contract auditors and quality assurance representatives. For example, at DoD, the Defense Contract Audit Agency and the Defense Contract Management Agency fill these critical roles, respectively. These agencies make various recommendations to the contracting officer concerning contract cost allowability, progress payment requests, and whether contractor progress toward meeting contract goals is within the terms and specifications of the contract.

Resources to Achieve Effective Contract Management

As is well known to this Committee, the Federal Government is facing a "human capital" challenge. Contracting is no exception to this challenge. Various studies have suggested that a substantial percentage of the overall government work force may be eligible for retirement by 2005.

Maintaining and developing our work force to oversee all contracts, and

service contracts more specifically, will be a continuing challenge. However, I have reason to be optimistic on this front. First, both the Defense Acquisition Work Force Improvement Act and the Clinger-Cohen Act substantially increased the professional training requirements for contracting and acquisition personnel. By every objective measure, our acquisition work force today is better qualified and trained than ever before. And, as new personnel are hired they must meet new stringent qualification requirements.

The challenge ahead is to ensure that both defense and civilian agencies maintain comparability in qualification and training requirements for acquisition personnel. We are working with the Defense Acquisition University and the Federal Acquisition Institute to ensure that contracting personnel at both defense and civilian agencies meet reciprocal training requirements. This will ensure that the government maintains a high quality acquisition training program that is accepted by all agencies.

Overall, the acquisition of services is a difficult issue that will not be easily resolved. The best course of action is to take a holistic approach to the acquisition system by involving, improving, and better integrating the roles played by requirements and contracting personnel. Requirements and contracting personnel make an enormous contribution to the acquisition of high quality services when they work together at an early stage of the acquisition process.

Conclusion

As a group, federal employees are some of the nation's most highly trained and dedicated employees. I was honored to speak at the annual conference of the largest union of federal government employees yesterday as they are spending this week discussing their top priorities with you and your colleagues in Congress. At the same time, I truly applaud the service of our citizens who work as employees in American companies that provide critical services to the Federal Government.

Working with Congress, we seek to have federal agencies reconsider how they accomplish their missions for the benefit of the American people. OMB Circular A-76 needs to be improved and there are improvements that can yield faster and more efficient competitions. Fundamental long-term changes need to be made to the A-76 process as well as the budget process to better reflect the true costs to taxpayers. For now, A-76 remains a key component of our effort to increase performance and realize savings. There is no question as to the very real benefits flowing from public/private competitions.

Competition has made the American economy the envy of the world. The President, through his Management Agenda, wishes to inject this spirit of competition in as many places in the Federal Government as possible. Mr. Chairman, that concludes my prepared statement. I would be pleased to respond to any questions that you might have.

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