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To: David C. Childs A-76comments/OMB/EOP@EOP  
cc: See the distribution list at the bottom of this message  
Subject: Comments on Revised OMB Circular A-76 (draft of 11/14/02):

The Department of Agriculture (USDA) Farm Service Agency (FSA) appreciates that OMB has made an effort to create a faster, easier and more level playing field for the cost comparison process by issuing a revision to the Circular A-76. We believe you have succeeded in incorporating many improvements, however, we have some concerns about the revised circular and offer the following comments and recommendations.

**Effective Date:**

Item 7 of the cover letter states that "This Circular is effective upon publication in the Federal Register and shall apply to all direct Conversions and for Standard competitions where the solicitation date is on or after January 1, 2003.

While we understand OMB's point of view that time limits are needed for the conclusion of a comparison we feel the 12-month timetable for competition and award will be very difficult to accomplish in all cases for a standard competition. FSA proposes that the time frame be expanded from 12 months to 18 months.

We also believe that a grandfather clause is needed for current ongoing competitive studies. The current proposal makes the new rules effective for all competitions where the solicitation date is on or after January 1, 2003. Solicitations are not issued until the end of the process. A current study, which has been abiding by the current A-76 provisions, could be well past 8 months from the public announcement start date but not yet ready to issue a solicitation. Upon implementation of the new rules that study would immediately be in violation of the regulations.

FSA proposes that the Circular become effective upon publication in the Federal Register and shall apply to all Direct Conversions and for Standard Competitions where the public announcement date is on or after January 1, 2003. For Standard Competitions that had a public announcement prior to January 1, 2003, a solicitation must be issued within 12 months of January 1, 2003.

**Timeframes:**

Agencies were on track under the President's initiatives to compete 50 percent of the commercial activities by 2007. Item 4 on the cover letter states that "all commercial activities performed by Government personnel should be subject to the forces of competition, as provided by this Circular. This requirement would double our cost comparison activities and requires extensive resources to conduct cost comparison and to administer contracts.

With the increase in the number of comparisons that agencies will be required to conduct this is an additional cost to the tax payers that would not be borne otherwise and it is entirely possible that the cost of competition may exceed any savings to be obtained from the competition. If the goal is to make the most business sense the number of competitions should remain limited so significant costs will not be incurred by agencies in implementing competitive sourcing,

FSA proposes that this requirement not exceed the 50 percent goal as outlined in the President's management initiatives.

**Non-FAIR Act Inventory:**

Attachment A, paragraph B.1 requires agencies to inventory commercial positions not subject to the FAIR Act. This is a considerable additional burden on our shrinking resources and adds a minimal benefit. We believe the focus should be on complying with the FAIR Act and, therefore, agencies should not be required to conduct an additional inventory of positions that, by definition, are not subject to the primary focus of this Circular, namely, implementing the FAIR Act.

**Impact on Workforce:**

The requirement in Attachment B, section 5 b (2) to re-compete a successful in-house MEO after the contract performance period (3 to 5 years) will change the nature of the Federal civil service workforce. This comes at a time when the Federal sector is under fire to attract, hire and retain the best and the brightest and to manage human capital in a proactive manner. In order to meet those goals consideration should be given to continuing an MEO's performance after the performance period provided: (a) the activity continues to be an existing government requirement; (b) the activity continues to be furnished at a cost that is most cost effective; (c) the MEO is meeting requirements of the PWS as demonstrated by the QCP and QASP; and (d) continuation of the MEO performance is advantageous to the Government.

Thank you for your consideration of our comments. If you have any questions, please contact my office at (202) 720-3438.

John Williams,  
Deputy Administrator of Management,  
Farm Service Agency  
United States Department of Agriculture

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