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To: David C. Childs A-76comments/OMB/EOP@EOP  
cc:  
Subject: OMB

December 16, 2002

National Association of Government Employees  
Affiliated with the Service Employees International Union, AFL-CIO  
159 Burgin Parkway  
Quincy, MA 02169

Mr. Mitchell E. Daniels, Jr., Director  
Office Management and Budget  
Executive Office of the President  
Washington, D.C. 20151

Dear Director Daniels:

As the National President of NAGE/SEIU Local 5000 representing 47,000 public employees I ask you to recall to your memory when our President George W. Bush stood in the midst of the civil servants at GROUND ZERO with his arm around their leader and stated "I WILL NEVER FORGET".

I am writing in response to the recent "OMB Proposed Revision to Circular A-76" published in the Federal Register November 19, 2002 which I view as an attempt to expand the privatization of the most sensitive functions of our federal government. I wish to state my serious concerns that many of the plans for expanded privatizations will adversely affect hundreds of thousands of the hard working public employees of this United States Of America. These workers have devoted their entire lives to the service of our nation and I am alarmed that private profiteers will attempt to take they're jobs away from them (May I add jobs their doing very well) and/or reduce salary and benefits. These profiteers will initially come in at a substandard rate and after a period of time will increase their contract price which will inevitably be more costly for taxpayers.

Included in the list of employees that would be subject to these threats of privatization are long time employees who possess the knowledge, experience, loyalty, patriotism, and devotion to their respective agencies and the United States Government. Additionally a large number of these employees are veterans of the armed forces and or individuals who have served with distinction in the war against terrorism. In our collective effort to fight terrorism internationally let us not create domestic terrorism for our workers here at home.

I believe at a time when the President is calling everyone to join together in solidarity it would be a sin to take advantage of working people to gain profit for private businesses in the name of homeland security. I further believe that the best way to make our nation stronger and more secure is to

ensure that every worker in America has a job with dignity where he or she is justly compensated to make sure they can adequately provide for their families.

Please review attachments for additional comments which reference specific language to the aforementioned proposed revision.

Sincerely,

David Holway  
National President

- A-76Comments2.doc

## **NAGE - Specific Comments and Questions on the Proposed Revision of OMB Circular A-76**

### **1. Cover Memorandum**

**A specific title should be prescribed for the “4.e official”**

### **2. Attachment A (Inventory Process)**

**If a “customer agency” obtains inherently governmental work through an ISSA (Interservice Support Agreement) with another agency, can the providing agency use the customer’s inherently governmental determination to cover its federal personnel directly performing the ISSA?**

### **3. Attachment B (Public-Private Competition)**

**Administrative Appeal process excludes unions or employees from appealing the Performance Decision**

**Recommendation: There should be a role for effected employees & union in the appeal process.**

**What will be the Impact on existing labor contracts?**

**Recommendation: Agencies should reestablish labor-management partnerships in order to give unions a practical role in the competitive process.**

**Recommendation: There should be a clear standing for effected employees and/or their unions in order to appeal competitive sourcing decisions.**

**Time line: The draft circular states that the "standard competition" shall not exceed 12 months from public announcement to performance decision, unless a deviation is granted. A one time six month extension may be granted by the ASN if approved by the Deputy Director,OMB.**

**B-20 states SSEB will be appointed by the Source Selection Authority. Page F-4 states the Contracting officer is responsible for the selection of the SSB. Seems top be a contradiction need to clarify.**

**Independent Review. Elimination of the independent Review prior to submission of the government's Agency Tender (formerly Management Plan).**

**Comment: Will the Source Selection Authority then be responsible for ensuring that the Agency Tender is completed in accordance with OMB Circular A-76 regulations? Would this not create more burden on the Contracting office?**

**Post Competition Accountability. New requirement to maintain the currency of the PWS and monitor actual cost of performance. This is defined as updating a revised PWS no later than the end of each performance period to reflect requirements and scope changes made during the performance period; and adjusting actual costs as necessary to compare to estimated costs submitted in the "Agency Tender" (i.e.government management plan), Allowing for scope, inflation and wage rate adjustments made during that performance period.**

**Comment: Activities are not resourced to perform these tasks. This is a workload issue that is not factored into our MEOs/residual organizations.**

**Who would be required to perform these tasks? Would they not be inherently governmental QA staff?**

**Follow-On Competition. New requirement to perform follow on competition by the end of the last performance period.**

**Comment: This again is a major resource issue and would lead to continuous turnover within the functional areas. Recruitment and retention would be extremely difficult under these conditions. Recommend extend period of time between competitions or provide for use of streamlined procedures.**

**Comment: Since studies conducted are of varying nature and scope how can one time frame be used when the size of the study (example a total base-wide commercial activity study) be feasible. A full time staff would have to be in place in order to accomplish the study in time. The 12-month performance period for study and competition is not realistic for complex activities**

**Contracting Officer: New requirement that the Contracting Officer will be responsible for designating the PWS team.**

**Comment: PWS Team should be responsible/accountable to the activity commander for completing the study. Contracting officer should only be providing assistance to the team not appointing the team. The activity commander should appoint the team.**

**“Best value competition” & “Agency Tender”:** how can employees be sure management is acting in good faith?

#### **4. Attachment C (Direct Conversion)**

**Should the movement of current employees into commercial functions within an activity be done under adverse action procedures?**

#### **5. Attachment D (Commercial Interservice Support Agreements)**

**We need a clearer definition of “recurring service”**

**We will need a clearer definition of “interagency”**

**Public Reimbursable sources must compete for work vs. private vendors; once the work has been determined to be done within the Public Reimbursable source, the positions which are assigned to perform this “commercial” work may have to be competed.**

**Recommendation: the PRS workforce should be exempt from A-76 competitive sourcing requirements since its**

**work and existence depends upon successful competition.**

**Public Reimbursable source employees supporting an inherently governmental activity for a customer should be exempt from A-76 competitive sourcing requirements and those PRS employees classified as inherently governmental under the FAIR Act.**

**“bait & switch” – non-compliance with tender**

**Recommendation: Any government “customer agency” solicitation should be open to Public Reimbursable Sources (PRS) on an even footing with private vendors.**

**Recommendation: New/existing government work performed by contractors should be subject to public-private competition under A-76 rules**

## **6, Attachment E (Calculating Competition Costs)**

**The added new administrative burden within agencies to carry out A-76 requirements will consume most “savings”**

## **7. Attachment F (Glossary and Definition of Terms)**

**Definition of Commercial Activity includes “Recurring Service”. Does this exclude services which do not recur and are “one of a kind”, such as research and development activities?**

**Definition of Interested Party allows unions and employees to challenge the Fair Act Inventory, but gives them no role in appealing the results of a cost competition.**