

December 18, 2002

Mr. David C. Childs
Office of Federal Procurement Policy
Office of Management and Budget
725 17th Street N.W.
New Executive Office Building
Room 9013
Washington, D.C. 20503

Re: NSF Comments on Proposed Revision to OMB Circular No. A-76,
Performance of Commercial Activities

Dear Mr. Childs:

The National Science Foundation is submitting comments on the Office of Management and Budget's (OMB) Proposed Revision to OMB Circular No. A-76, Performance of Commercial Activities, published in the *Federal Register* on November 19, 2002. NSF has a suggested edit to the exceptions for Commercial Inter-Service Support Agreements (ISSAs) delineated on page 1 of Attachment D. Section A, "Applicability" provides five exceptions to the competition requirements for ISSAs. The second exception is for ISSAs that are statutorily mandated. NSF recommends that this exception be revised to also include ISSAs mandated by a Presidential Directive, Memorandum or Order. NSF is concerned that the Circular as presently drafted could conflict with the President's authority to issue Executive Orders or Directives that establish support arrangements among agencies to accomplish important national objectives. In order to avoid any potential conflicts between this Circular and other valid mechanisms for the exercise of Presidential authority, we suggest revising the exception to exempt ISSAs if "(2) the ISSA is mandated by statute or Presidential Directive, Memorandum or Executive Order."

Thank you for the opportunity to comment on the Circular.

Sincerely,

Anita Eisenstadt
Assistant General Counsel