



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEPUTY DIRECTOR
FOR MANAGEMENT

April 13, 2007

MEMORANDUM FOR THE PRESIDENT'S MANAGEMENT COUNCIL

FROM: Clay Johnson III
Deputy Director for Management

SUBJECT: Validating the Results of Public-Private Competition

The purpose of this memorandum is to provide guidance to help agencies substantiate that savings are achieved and performance is improved through public-private competition. Effective post competition oversight will ensure agencies and taxpayers receive the expected benefits from competition. It also reinforces public trust and confidence in the competitive sourcing initiative.

With your leadership, every agency covered under the President's Management Agenda (PMA) has developed an infrastructure for the reasoned use of public-private competition. Since FY 2003, these infrastructures have been used to compete a wide range of commercial activities. Competitive sourcing offices project that competition decisions to date will generate performance improvements and savings of close to \$7 billion over the next 5-10 years. To ensure these benefits are realized, agencies must give the same quality attention to the implementation of competition decisions as they have to the establishment of infrastructures to facilitate competition.

The attached guidance describes agency responsibilities related to the tracking of costs and performance data and the review of such data to identify if cost savings and performance objectives are being realized. The guidance also establishes a requirement for all PMA agencies to develop plans for the independent validation of a reasonable sampling of competitions. A number of PMA agencies already have conducted validations. The establishment of plans in accordance with this guidance will institutionalize this practice. These are critical steps to ensure the long-term success of the competitive sourcing initiative.

This guidance should be read in conjunction with the post competition accountability requirements found in OMB Circular A-76 (Attachment B). Satisfaction of these responsibilities will be taken into consideration by OMB when evaluating the post competition standards for success on the PMA scorecard.

I appreciate your support on this important matter. Questions regarding this memorandum may be referred to Mathew Blum, Associate Administrator in OMB's Office of Federal Procurement Policy, at 202-395-4953.

Attachment

cc: Competitive Sourcing Officials
Chief Acquisition Officers
Chief Financial Officers

Post Competition Accountability Responsibilities

I. Tracking competition results.

A. Definition of tracking.

Tracking refers to an agency's responsibility to document, in writing, actual costs, savings, and the quality of performance by a service provider selected from a public-private competition for all performance periods stated in the solicitation. See ¶ E.2 of Attachment B to OMB Circular A-76.

B. Scope of tracking.

At a minimum, an agency shall:

- (1) track and record the phase-in date(s) of the selected service provider;
- (2) track and record the actual cost of phase-in of the selected service provider for purposes of comparison to the projected phase-in costs, as identified on the standard competition form or streamlined competition form (SCF/SLCF);¹
- (3) track and record the actual cost of performance² of the service provider for each period of full performance stated in the solicitation for purposes of comparison to the baseline costs of the activity;
- (4) report actual fiscal year savings;
- (5) track and record performance information regarding the service provider's performance based on the quality assurance surveillance plan (QASP) for each period of full performance stated in the solicitation;
- (6) document variances and reasons for variance between (a) actual costs and estimated costs recorded on the SCF/SLCF and (b) performance of the service provider and performance standards identified in the performance work statement (PWS); and
- (7) ensure post competition actions -- e.g., modifications to a contract, letter of obligation (LOO), or fee-for-service agreement; cure notices; other actions taken as a result of validations and reviews -- are accurately and adequately documented.

¹ The SCF and SLCF are forms generated by COMPARE that calculate costs and identify a performance decision in accordance with the requirements of Circular A-76.

² Notwithstanding ¶ E.4 of Attachment B of the Circular, agencies need not adjust the actual cost of performance to account for cost assumptions that were included in the agency cost estimate in accordance with Attachment C to make the performance decision. However, variances between actual costs and estimated costs should be explained.

OMB's Competitive Sourcing Tracking System (CSTS) provides data fields to record the information described in (B) (1) and (4). OMB intends to create data fields in CSTS to record the information described in (B) (2), (3), (5), (6) and (7). In the meantime, agencies shall document this information, in writing, and retain it in the competition file.

II. Validating competition results.

A. Definition of independent validation.

Independent validation refers to the process of confirming projected savings and performance improvements through the use of organizations or individuals independent of the organization that is responsible for performance of the work and those who track performance or conduct day-to-day administration of the contract, letter of obligation, or fee-for-service agreement, or who otherwise have a conflict of interest.

Suitable sources to conduct an independent validation may include, among others: an agency's inspector's general office, competitive sourcing office, offices that perform similar independent analyses, or a contractor other than one that provided consulting services to the agency tender official and MEO team during the course of the competition.

B. Scope of validations.

Validations shall, at a minimum: (1) assess the completeness and accuracy of cost and performance data; and (2) evaluate the effectiveness of post competition management actions.

C. Validation plans.

By July 31, 2007, all PMA agencies should have a plan in place to ensure the independent validation of a reasonable sampling of covered competitions. A covered competition is one that has been conducted under the PMA where at least one period of full performance will have been completed by the end of FY 2007. Agencies may incorporate competitions with performance periods that are completed after this date, as appropriate. Covered competitions do not include streamlined competitions where the selected service provider is the "as-is" agency organization or other competitions exempted by law from post competition accountability.

Agencies shall work with OMB to identify an appropriate sampling of competitions to be included in the validation plan.³ Generally speaking, the competitions in the sample should represent at least 25 percent of the total savings projected from the covered competitions. In selecting competitions for validation, agencies should consider factors such as the impact of the activity on the agency's operation, the projected savings of the competition, and the results of any prior management reviews.

³ Agencies will receive credit for validations meeting the general criteria of this guidance that were completed or initiated prior to the issuance of this document.

The final plan shall include a schedule identifying the competitions that will be validated and the timeframe for validation. Validations identified in the plan should be completed on dates identified but no later than September 2, 2008.

D. Review of other competitions.

Competitions that are not covered by the agency's independent validation plan and are not otherwise exempted by law from post competition accountability shall be reviewed as part of the agency's management oversight activities. Reviews may be conducted by the organization that is responsible for the activity being performed. However, as a general matter, the reviewing official should be separate from the individuals who either track competition results or perform day-to-day administration of the contract, letter of obligation, or fee-for-service agreement.

1. Scope of reviews.

Reviewing officials shall ensure information on post competition actions has been properly recorded and corrective action taken by the responsible official (e.g., the contracting officer) when required. Corrective action is not required for reasonable variances between estimated costs recorded on the SCF/SLCF and actual cost or between performance standards identified in the PWS and actual performance. Examples of reasonable variances may include those created by inflation, official wage rate changes, cost assumptions made in accordance with the Circular, and official, documented modifications to the contract, letter of obligation, or fee-for-service agreement.

2. Timing of reviews.

Reviews shall be conducted for each performance period stated in the solicitation (except for performance periods covered by an independent validation) and completed within 90 days after the last day of each performance period stated in the solicitation.