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To: David C. Childs A-76comments/OMB/EOP@EOP  
cc:  
Subject: Proposed Revision of Circular A-76, Performance of Commercial Activities

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## COMMENTS ON NOVEMBER 19, 2002 REVISIONS TO CIRCULAR A-76

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December 19, 2002

Ms. Angela Styles  
Administrator  
Office of Federal Procurement Policy  
Eisenhower Executive Office Building  
Room 352  
Washington, D.C 20503

RE: Performance of Commercial Activities

Dear Ms. Styles:

We appreciate this opportunity to provide these joint comments on the November 19, 2002, “proposed revision to Office of Management and Budget Circular No. A-76, Performance of Commercial Activities” (67 Fed. Reg. 69769-69774).

We commend the Office of Federal Procurement Policy (OFPP) for seeking to improve Circular A-76, which has long lacked credibility within both industry and the public sector. We strongly support the thrust of the revisions to A-76, as they will help open up jobs to all Americans, including small businesses. Entrepreneurs and workers will have new opportunities to seek work previously unavailable to the private sector and it will help eliminate unfair government competition. In so doing, the government will gain crucial access to innovative and contemporary solutions. We particularly support the inclusion of a policy statement that all activities are “presumed to be commercial” unless specifically justified otherwise, as this reinforces and supports the longstanding policy of both Democrat and Republican Administrations to rely on the private sector for the provision of commercial goods and services.

The revisions also represent a real step toward implementation of the recommendations of the Commercial Activities Panel (CAP), which unanimously agreed to a set of sourcing principles that focus on results, and on a process that is more fair, transparent, and accountable for all parties. The CAP noted that the government already has an established mechanism that applies these principles – the Federal Acquisition Regulations (FAR). The CAP specifically recommended conducting public-private competitions using a FAR-based system, and the

proposed revisions to the Circular would, for the first time, apply both key FAR concepts to all public-private competitions and a best value process for a limited subset of them.

We also support the provisions that eliminate unfair competition under Agency-to-Agency arrangements. The revisions significantly restrict the current practice of permitting Federal agencies to obtain commercial work non-competitively from other Federal agencies and for state and local governments.

Despite the commendable progress that has been made, there are a number of areas in which we believe the proposed revisions need additional work in order to fully realize the vision of a fair, transparent and accountable process. Those areas include, but are not limited to, more equitable treatment of public and private sector offers, eliminating unnecessary restrictions on the use of real best value processes, making more broadly available the many acquisition strategy options offered by the FAR, and establishing clear timelines for further revisions. These areas will be the focus of detailed comments from a number of the organizations listed below, and we urge your careful and thoughtful attention to them.

We applaud the revisions as an important beginning, and look forward to continuing to work with you on additional modifications to better achieve the President's competitive sourcing policy.

The organizations listed below represent over one million industries, companies, associations and individuals, including small businesses and minority-owned firms. Many of the associations and companies will be submitting more substantial comments and recommendations for further improvements to the Circular. Should you have any questions, please contact Cathy Garman of the Contract Services Association of America (703-243-2020) or Renee Wentzel of the Professional Services Council (703-875-8059) who serve as our principal contacts.

Sincerely,

*Aerospace Industries Association\* Airport Consultants Council\* American Congress on Surveying and Mapping\* American Council of Independent Laboratories\* American Council of Engineering Companies \* American Electronics Association\* American Institute of Architects\* Associated General Contractors of America\* Business Executives for National Security\* Contract Services Association of America\* Design Professionals Coalition\* Electronic Industries Alliance\* Information Technology Association of America\* Management Association for Private Photogrammetric Surveyors\* National Association of RV Parks and Campgrounds\* National Defense Industrial Association\* National Society of Professional Engineers \* Professional Services Council\* Small Business Legislative Council\* Textile Rental Services Association of America\* The National Auctioneers Association\* United States Chamber of Commerce*



A-76 Rewrite(COPlatter12-02).