

Renee M Mesterhazy <rmesterhazy@fs.fed.us>  
12/19/2002 07:51:21 AM

Record Type:Record

To: David C. Childs A-76comments/OMB/EOP@EOP  
cc: Tom Martin <tmartin@fs.fed.us>, Julie P Klein <julieklein@fs.fed.us>, Renee M Mesterhazy <rmesterhazy@fs.fed.us>  
Subject: USDA, Forest Service Comments on Proposed Revision to OMB Circular A-76

Comments submitted by:  
Tom Martin  
Acting Director, Competitive Sourcing Program Office  
USDA Forest Service  
1601 N. Kent St  
10th Floor  
Rosslyn, VA 22209  
703-605-0845  
tmartin@fs.fed.us

(See attached file: Comments to OMB on Revised Circular A-76 121302 .doc)

### **First Page, Circular.**

Paragraph 4e. Official is confusing. Clearly there should be one at the near the top of the agency. Not sure who else should be delegated this authority. Also, unclear about the difference between the 4e official and the ATO. Do not agree with the 4e official certifying direct conversion.

Paragraph 4f. The statement “centralize responsibility in one or more offices” is too vague to be helpful. Recommend deleting.

### **Attachment A. Inventory Process.**

Believe that the proposed Inventory Process is too burdensome. Recommend additional guidance in Paragraph B.2 to explain how Function Code definitions may be tailored to reflect agency-specific definition. Recommend additional guidance concerning the “written justification” for Inherently Governmental Activities.

### **Attachment B. Public- Private Competition**

The image of the Standard Competition Process is too confusing. Simplify.

If one of the goals is, “To make the process simpler and easier to understand, including greater reliance on concepts and practices set forth in the FAR that are familiar to, and well tested by the Acquisition community”, why are constraints imposed on the acquisition process, limiting

Contracting Officer's use of a full range of best value techniques? Performing trade-off analysis is appropriate for more than just the minimal applications allowed for in the circular revision.

#### Section A. Limitations and Criteria

1 a. It states that agencies may deviate from Standard Competition procedures if prior written OMB approval is obtained to do so. In my judgment there will be a need for some understanding and negotiation with OMB to apply these requirements in a logical manner particularly in cases where our state and local cooperators are responding to our need for assistance in emergency fire suppression situations and where commercial sources are nonexistent or limited.

2. (1) Can in-house reimbursable units bid on solicitations within the agency?

#### Section B. Designation and Responsibilities:

1 - Not sure what "independent" means. Need clarity. For example, ATO will be independent of the CO.

2 – Contracting Officer: This paragraph delegates the CO to designate the PWS Team. Shouldn't this come from the functional Supervisor of the affected section, ATO, or 4e official? The CO has no Supervisory authority to delegate work assignments to employees of other departments, nor does the CO have any influence on assuring team performance.

3 – Human Resource Advisor (HRA), This paragraph delegates the HRA to "make public announcements at the local level and in FedBizOpps". This should be a function of the CO and Public Affairs Officer.

#### Section C. Standard Competition Procedures:

1. – a. Preliminary Planning for Public Announcement, b. (2) Cancellation of a Standard Competition-

This paragraph states, "Agencies shall publish a notice in the FedBizOpps of any cancellation of A Standard Competition." This should be a function of the CO.

1 b (3). Recommend this paragraph be modified to include additional time for "Multi-Functional Studies." On the average, a multi-function study takes two or three years. The time limit of 12 months is unrealistic for large multi-function or BOS studies. Providing an additional six months is not correct. Multifunction studies should be provided at least 2 years for completion.

The twelve-month timeframe for accomplishing the Standard Competition Process is unduly restrictive considering conducting work analysis, creating performance work statements, and preparing in-house cost estimates are often collateral duties. At a minimum, this should be reevaluated and adjusted to an eighteen-month timeframe.

#### 4 -Source Selection Authority (SSA)

Recommend this paragraph be modified to include that “at least one of the members of the SSA must be “technically qualified” in the field being studied” to ensure selected Service Provider can actually do the job up for bid and not just doing it for a good price.

4 – The Source Selection Process and Performance Decision, a. The Source Selection Process, (3) Negotiated Acquisition, (b) Lowest Priced Technically Acceptable (LPTA) - The SSA should not be conducting discussions or cost or price realism; this is a function of the procurement process as outlined in FAR 15.405 and 15.404-1 respectively and should be accomplished by the CO.

4 - a. The Source Selection Process, (3) Negotiated Acquisition, (a) Exchanges with Offerors or Tenders During Negotiated, Acquisitions -(1)Exchanges between the SSA and the ATO - Would be difficult to address ambiguities through verbal communications, negotiation or discussions when paragraph 1 restricts exchanges between the SSA and the ATO to written correspondence via the CO. The requirement to conduct any interactions between the SSA and the ATO by written medium will only add unnecessary time to an already highly compressed 12-month schedule.

#### 4 b.2 Agency or Public Reimbursable Source Decision

Situations where agencies assist one another in suppression and other emergency work under reciprocal agreement should be immune from meeting ISSA competition requirements described. Depending upon the interpretation, we may have difficulty in addressing situations where we are reimbursing a cooperator for suppression assistance provided that exceeds the value of what we provide them.

5 – Post Competition Accountability, b. Years of Performance and Follow-on Competition, (2) Agency or Public Reimbursable Source Decision. This paragraph states that the head of the requiring organization “exercises option year by approving another year of performance” and “recommends approving another year of performance.” The duties of recommendation and approval should be separated. In addition, exercising an option is a function of the CO as outlined in FAR 17.207.

Many spelling and punctuation errors. For example, Paragraph C.1.b.(1) – Last sentence should have a “.” not “,”.

### **Attachment C. Direct Conversion Process**

#### Section D. Business Case Analysis

1a. Request that the maximum number of civilians to be studied be changed from 50 back to 65.

1e. The Business Case Analysis (BCA) is not a fair alternative. The fifteen day time frame needs to be better defined, i.e. does it begin after a PWS (full or modified) is developed; is the Agency Tender submitted before or within the time frame?

2b. Fifteen days is not sufficient to find and analyze four comparable contracts, let alone develop an agency tender, then find the comparable contracts. Also, the requirement to find four contracts are too restrictive in many smaller market areas, two or three may be sufficient.

#### Express Studies

Albeit not mentioned in this guidance, we fully support the need for such studies and recommend instructions or policy be added to conduct Express Studies. We further recommend that if the Agency's cost is determined to be higher, it should be outsourced. If the opposite is true, then the work should remain In-House. Finally, if the result is neutral, it should be at Management's discretion to keep it In-House or Outsource it.

#### **Attachment E.** Calculating Public-Private Competitions Costs

Paragraph B.1.b.(1) - Last sentence should read "overtime" not "ertime".

Recommend that WINCOMPARE2 be mentioned as the tool to prepare the cost comparison. If not, this document should explain how else it could be done.

#### **Other**

Once this Circular goes into effect, what will be the rules on grandfathering Standard Competition and Streamlined studies that have already been announced?

- Comments to OMB on Revised Circular A-76 121302 .doc