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Subject: Draft Revised A-76 Circular Comments

Forwarded below and as an attachment are the Coast Guard's comments regarding your proposed Circular A-76. We look forward to working with you in finalizing the Circular. Please feel free to contact me or my Competitive Sourcing Program Coordinator, Bill Wissman at TEL: 202-267-0718 or E-mail: wwissman@comdt.uscg.mil <<mailto:wwissman@comdt.uscg.mil>>.

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- OMB Proposed Circular Comments Final.doc

COMMENTS ON DRAFT OMB CIRCULAR A-76 DATED NOVEMBER 14, 2002
FEDERAL REGISTER/VOL. 67, NO. 223/ TUESDAY, NOVEMBER 19, 2002

COMMANDANT (G-CFP)
U. S. COAST GUARD
WASHINGTON, D. C.

GENERAL COMMENTS

1. The resources required to implement the new provisions of the proposed OMB Circular A-76 are significant. The three areas of particular concern to the Coast Guard are the expanded inventory requirements, Inter Service Support Agreements (ISSAs) competition requirements, and the implementation of post award accountability for work retained in-house. The Coast Guard recommends OMB consider the additional agency resource requirements associated with the new Circular provisions.
2. Despite numerous references to “savings” throughout the proposed Circular, no standard measurement methodology of those “savings” is provided. Due to the significant additional costs of implementing the proposed changes and the recurring costs associated with post award accountability, identifying savings versus additional costs could be subject to interpretation. As such, the Coast Guard recommends the proposed OMB Circular A-76 include guidance to define how agencies should track savings and costs generated through competitive sourcing.
3. In transitioning to the requirements of the new circular, the new Department of Homeland Security (DHS) does not currently have an infrastructure in place to handle Competitive Sourcing issues. The DHS’s first obligation is to become organized, among other things, to prevent terrorist attacks in the United States and to reduce the vulnerability of the United States to terrorism. Developing a DHS strategic view for Competitive Sourcing to ensure the most for our A-76 investment does not appear to be a “day one” issue. Recommend OMB engage the new Department, at the appropriate level, to determine the relative priority of competitive sourcing during the critical stages of standing up the new organization.

ATTACHMENT A

The proposed Circular’s requirement for a Non-FAIR Act commercial inventory, with commensurate increase in the Inherently Governmental Inventory, presents a considerable burden. For example, with the addition of military and non-appropriated positions, Coast Guard inventories will grow seven fold from 2002 submissions. With personnel management requirements unique to the military, such as sea-shore rotations, there is no clear-cut benefit to justify the additional cost of managing the inventories. The Coast Guard recommends the requirement for new inventories be deleted such that

agencies can focus on implementing the FAIR Act without diverting resources to other areas.

ATTACHMENT B

Federal Acquisition Regulations (FAR) 36.601-3 (implementation of the Brooks Act) requires sources for contracts for architect-engineering (A&E) services be selected in accordance with the procedures in this subpart rather than as prescribed in Parts 13, 14, and 15 of the FAR. In short, the Brooks Act requires A&E services source selections be based on technical merit vice cost/price. However, all four of the available source selection procedures included in the proposed Circular A-76 (B-6, (4)) are based on cost/price. Given the apparent conflict between the Brooks Act and proposed A-76 procedures, to be in compliance with law and regulation, it is recommended that the proposed A-76 Circular address the applicability of Brooks Act covered services in conducting A-76 competitions.

ATTACHMENT D

1. The proposed Circular's requirements regarding intra-agency ISSA competition subverts the authority of the agency head to direct work and unduly restricts the flexibility of the agency to conduct business efficiently by taking advantage of services already being provided within that agency. The Coast Guard recommends deletion of the requirement for intra-agency ISSA's to be competed.
2. The proposed Circular allows for competition waivers when granted by the Deputy Director of OMB via specific written approval for existing ISSAs. The Coast Guard recommends a similar waiver process be included in the proposed Circular for new ISSAs.
3. The proposed Circular requires "customer" agencies to submit ISSAs for competition. This requirement could lead to a scattered approach to obtaining like services at the intra and inter agency levels. This could potentially hinder an agency's ability to receive a standard set of services throughout that agency via an ISSA. The Coast Guard recommends a process be added to the proposed Circular to allow a "vendor" agency to apply for designation as a "preferred vendor" after undergoing a successful competition. Agencies would then be free to enter into ISSA's with that "preferred vendor" without undergoing another competition. This effectively balances the Economy Act philosophy with the competitive philosophy of the Circular.