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To: David C. Childs A-76comments/OMB/EOP@EOP  
cc:  
Subject: Comments on the Revised OMB Circular A-76

Please find attached an electronic file with the following comments.

Comments on OMB Circular A-76 (Revised)

We have some concern that the process outlined compromises the independence of the SSA with respect to the ATO and the government's tender. Paragraph B.4, page B-4 states that the SSA "...shall be independent of...(2) the ATO..." Paragraph C.4.a.(3).(a).3 is related to the inclusion of the Agency Tender in the competitive range. First the paragraph states that if the Agency Tender is found to be materially deficient upon the SSA's initial review, the ATO will have the opportunity to correct the deficiencies through the FAR by responding to deficiency notices. The process seems equitable to this point. Offer's deemed inadequate undergo a similar process, and those not responding adequately are excluded from the competitive range at this point. Agency Tender's on the other hand appear to undergo a process outside the FAR where the SSA and ATO engage in a dialog where the expectations of both are discussed and if they "cannot reach agreement" a third party is called in to resolve the issue. There appear to be several obvious flaws in this approach:

- If the SSA has indicated the to the ATO his or her specific expectations for a responsive tender it would be essentially directive in nature
- Since agreement or arbitration is dictated, the deficiency notice process will always result in an Agency Tender in the competitive range
- Since the SSA will be evaluating other offers concurrently there will be a perception qualities general or specific other offers are being transferred to the Agency Tender through this process.

In any case, the independence between the SSA and ATO is lost.

Recommend that the Agency Tender be treated like any other offer. If after the exchange of deficiency notices and responses the Agency Tender is not considered adequate it be eliminated from the competitive range in accordance with the FAR, and proposed discussion between the SSA and ATO leading to agreement or arbitration not be included in the process. The independence or appearance of independence between the ATO and SSA is critical to the credibility of this revised A-76 process.

<<Comments on OMB Circular A.doc>>

We believe that the revised "A-76 process" represents a major improvement and should go a long way to resolving the issues that have plagued the outsourcing of commercial activities. Thank you very much for the opportunity to comment.

## Gary Craft

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