



Frequently Asked Questions About A-76

1. What is this OMB Circular A-76 I keep hearing about?

OMB Circular A-76 has its roots in the Eisenhower administration. It sets the policies and procedures that executive branch agencies must use in identifying commercial-type activities and determining whether these activities are best provided by the private sector, by government employees, or by another agency through a fee-for-service agreement. The term typically used to describe this process is “competitive sourcing.” On May 29, 2003, the Office of Management and Budget (OMB) unveiled long-awaited revisions to OMB Circular A-76, which went into effect immediately.

2. Why is competitive sourcing such a hot issue?

“Competitive sourcing” is one of five key elements on the President’s Management Agenda. Under competitive sourcing, agencies must study some of the commercial functions currently performed by Federal employees. (When a function has been studied and selected to undergo a public-private competition, it does not mean the function has been predetermined to be contracted out - rather it means that the function will be competed, and only the result of the competition can dictate whether the function will continue to be performed by government personnel will be performed by a private sector source.) Since one possible outcome of these studies is that some government employees may lose their jobs, there is understandably general concern in the Federal workforce.

3. Who is in charge of competitive sourcing in the FAA?

The Administrator created the Office of Competitive Sourcing Acquisitions, ACA, in February 2003 to oversee the

implementation of competitive sourcing initiatives in the FAA.

4. How is competitive sourcing different from privatization?

Under privatization the government relinquishes ownership and control of an operation by divesting itself of the commercial activity, including the associated real property, and becomes a customer that purchases goods and services from a commercial source. In competitive sourcing, the government retains ownership and control of an operation whether government employees or contractors provide the service.

5. How do people know if their jobs are going to be studied?

The new Circular requires an agency to make a formal public announcement for each competition. However, it is possible that an agency will notify affected employees, and the employees’ unions, that their jobs will be part of the study before the formal announcement.

6. Why did the FAA choose to study Automated Flight Service Stations (AFSSs)?

Several internal and external studies found that FAA could provide AFSS services differently and in a more cost effective manner. A competitive sourcing study of AFSSs was determined to offer great benefit to the taxpayer. The following assessments supported the choice:

- FSS functions are severable and distinct, and can therefore be separated for study
- Productivity and unit cost per operation vary greatly between flight service locations
- The FSS function provides an opportunity for efficiency gains through the competitive sourcing process such as:
 - Potential consolidation of facilities
 - Reduction of non-value added activities

7. How many employees are affected by the competitive sourcing competition of AFSSs?

The current estimate of staffing at the stations under competition is just under 3000. This includes trainees, journeymen, supervisors, managers and administrative staff. Other staff such as field maintenance and regional headquarters personnel may be impacted.

8. Why was Alaska excluded from the AFSS Competitive Sourcing Study Process?

Because of the complex nature of studying the FSS function as a whole, FAA management decided to separately study Alaska at a later date due to the unique environmental factors within the state, requiring unique systems and understanding of local topography.

9. If my job is going to be studied, what are the odds that I’ll lose my job?

Experience has shown that the government wins the competitions at least half of the time. As agencies gain more experience with competitive sourcing procedures, it is likely that the government will win an even greater percentage of the competitions.

10. What good, if any, comes from competitive sourcing?

The government spends billions of dollars every year for commercial services provided by government employees. Competition can result in savings to taxpayers of an average of 30 percent, whether government employees or private sector employees ultimately do the work. This means there is enormous potential for savings, with no reduction in quality of service.

11. What’s the difference between a commercial function and an inherently governmental function?

An inherently governmental function is an activity that is so intimately related to the public interest as to mandate performance by government personnel. These activities require the exercise of substantial discretion in applying government authority and/or in making decisions for the government. A commercial activity is a service that could be performed by the private sector, because it is not so intimately related to the public interest. Commercial activities can be subject to competition.

12. How do government employees know whether they are commercial or inherently governmental?

The FAIR Act -the Federal Activities Inventory Reform Act- requires executive agencies to identify both the commercial and inherently governmental activities performed by Federal employees and submit them to the Office of Management and Budget (OMB) yearly. After OMB reviews and approves each agency’s “FAIR Act Inventory”, the agency must post it on its public web site. Keep in mind that the inventory reflects functions, which are not the same thing as

positions. One single employee may perform both inherently governmental and commercial functions.

13. When will the FAA’s 2002 FAIR Act inventory be available?

The FAA’s final 2002 FAIR Act inventory, part of the DOT inventory, has been released and is available on the DOT website <http://dot.gov/ost/m60/fairact/>.

14. Can an agency’s FAIR Act inventory be challenged?

Yes. Section 3 of the FAIR Act established a two-tiered administrative challenge and possible appeals process that permits interested parties to challenge the inclusion or the omission of an activity from the FAIR Act inventory. Section 3(b) of the FAIR Act defines “interested party” in more detail and Attachment A describes the “Inventory Challenge Process”.

15. What is the basic process for conducting a competitive sourcing competition?

A competitive sourcing standard competition begins with Preliminary Planning Phase that results in a clear understanding of the scope of services that will be subjected to competition. Once the public announcement is made to affected employees that their function is being subjected to competitive sourcing, the Acquisition Phase commences. The acquisition phase is conducted like a major FAA acquisition subject to the FAA’s Acquisition Management System (AMS) guidelines for conducting the competition. The key products developed during the Acquisition Phase are a Performance Work Statement (PWS) that specifies the requirements of the scope of services subject to competition and the Screening Information Request (SIR). The PWS is rolled into a solicitation and this is the document that all offerors use to formulate a proposal. Meanwhile, the MEO Phase gets underway, during which a government team develops an Agency Tender.

One product of the Agency Tender is the Most Efficient Organization (MEO), representing the government’s future organization model for delivering the services under competition. The MEO typically involves streamlining of the existing organization and is designed to place the government in the best competitive position against the private sector bidders. The government’s own bid (the Agency Tender), private sector offers and public reimbursable tender (other Federal agencies) must be based upon the same PWS and submitted at the same time specified in the solicitation. The agency then selects a service provider based on formal offers

submitted in response to this agency contract solicitation.

16. What team structures typically exist to facilitate the competitive sourcing competition process and what roles does each team typically play?

The following team structures are typical but not mandated by the revised Circular:

- Acquisition Team - The A-76 competition process requires the issuance of a solicitation, evaluation of offers/tenders and award of either a contract or letter of obligation. The Acquisition Team is plans the acquisition process, collects and prepares all of the documentation to effectively accomplish the competition. The Contracting Officer is a member of the Acquisition Team and is ultimately responsible for issuing the solicitation
- PWS Team - The PWS Team documents the performance requirements reflective of the service area under competition. This team develops the PWS and the Quality Assurance Surveillance Plan that will become part of the acquisition materials. This team may also be asked to participate in preparing other procurement documents such as the Acquisition Plan, Source Selection Evaluation Plan, other parts of the solicitation, etc.
- MEO Team - The MEO Team is charged with restructuring the current government organization to develop a Most Efficient Organization (MEO) that adheres to the requirements in the solicitation. This team develops the Agency Cost Estimate, Phase-in Plan, and Quality Control Plan.
- Executive Steering Group - Generally this group is comprised of executive managers that are responsible for the organization. They provide high-level guidance as well as establish agency policy.
- Source Selection Evaluation Board (SSEB) - The SSEB evaluates all proposals for cost and technical competency and may recommend to the Source Selection Authority (SSA) which offer/tender should be selected.

17. Remind me again, what is a PWS?

The Performance Work Statement (PWS) is similar to a statement of work but it is performance based. It defines what work or services are required; how much is required; and how well the work must be performed. It does not define how the work is to be done, or what equipment or processes should be used.

18. How will detailed processes and procedures be considered in the PWS?

The PWS will be written in a performance-based format, meaning that the government is more concerned with the outcome of a particular requirement rather than how the service provider performs the work to achieve that outcome. Performance-based contracts promotes innovation which ultimately should lead to cost savings for the government. With this in mind however, there are times when a certain process or procedure must be followed for reasons such as safety, enforcement, or security. There are different approaches to developing this kind of requirement. Sometimes, the requirement will state that the service provider shall perform the function in strict accordance with a particular regulation or order.

19. What is the team structure for the PWS phase of the AFSS competition?

The AFSS PWS Team consists of a variety of A-76, AFSS subject matter experts, and acquisition specialists. The team includes an AFSS manager, SUPCOM endorsed operations supervisor, regional 510 specialist, three NAATS bargaining unit members, a team lead and an acquisition expert from the ACA organization, as well as A-76 consulting support. The team will rely on input from the AFSS workforce through facility visits and data calls.

20. How can the workforce participate in the competitive sourcing process?

The workforce can actively participate in PWS development by providing input to designated participants of the regional functional scoping workshops. Employees may also be asked to contribute ideas toward MEO development. It is important to note, however, that PWS development and MEO development are separate activities, and should not be confused. Adversely affected employees cannot participate in source selection activities including the development of evaluation criteria and serving on the source selection process.

21. How do firewall boundaries affect an employee’s ability to participate?

All regular participants of the competitive sourcing competition will be subject to firewall boundaries to prevent conflicts of interest. Firewall boundaries dictate that personnel cannot participate in the development of work products for both the acquisition (e.g., the PWS) and Agency Tender or MEO teams. Such firewall boundaries assure that no one party gains an unfair competitive advantage, thereby

taining the entire process and weakening the viability of the ultimate decision.

22. How will NAATS be directly involved in the competitive sourcing competition?

NAATS representatives will be able to review and provide input to working drafts of pre-planning documents. Throughout the competitive sourcing competition, NAATS will be an active contributing member of the communications sub-group, helping to organize and disseminate the status of the competitive sourcing competition and address the questions and concerns of employees. NAATS will have an opportunity to be represented on both the PWS and MEO teams, with different individuals on each team.

23. Will our customers be involved in the process?

Customer input will be sought during a number of phases of the competitive sourcing competition.

24. What is the timeline for an A-76 competition?

A standard competition should be completed within 12 months of the date it is publicly announced. The agency's Competitive Sourcing Official can grant a time limit waiver up to 6 months if the standard competition is complex and is approved by OMB.

25. Will OASIS and other systems still be utilized after the Competitive Sourcing process?

In the preliminary phase of the competitive sourcing competition, a decision will be made as to what extent the FAA will offer government furnished systems and equipment to bidding parties; however, bidding parties have an opportunity to choose not to utilize a piece of equipment if usage is not mandated within the PWS.

26. Who wins the competition? The low-cost bidder?

Not necessarily. The new Circular provides several different procedures to determine the winner of a competition and take non-cost factors into account. FAA plans to balance cost with technical approach and risk for the AFSS study.

27. If the government loses a competition against the private sector, do the affected employees have any chance of being hired by the contractor who won the competition?

Yes. The Circular requires that where the agency is the incumbent provider of the service and a contractor wins the competition, the contractor shall give government employ-

ees who have been or will be adversely affected or separated the "right of first refusal" for employment openings under the contract in positions for which they are qualified (so long as no post-government employment conflicts of interest are involved).

While this does not require the contractor to hire any government employee, it prohibits the contractor from hiring anyone else without first offering vacant positions to qualified displaced government employees.

28. How will FAA ensure the quality of service provided by a contractor or MEO?

A service provider's performance is monitored regardless of who wins the competition. The Contracting Officer maintains primary responsibility for assuring the winning bidder meets service quality expectations. The Quality Assurance Surveillance Plan (QASP) sets in place metrics and methods of surveillance carried out by Quality Assurance evaluators. The Contracting Officer may also choose to build specific quality incentives into the contract, such as extensions based on successful accomplishment of objectives.

29. Who monitors the contractors? Will it be the supervisors who will be retained or will there be legitimate job openings for people with experience?

If either the contractor or the MEO wins, there are individuals providing technical and performance oversight as delegated by the Contracting Officer (i.e. COTR) who have specific procedures for monitoring performance. Typically, Quality Assurance Evaluators (QAEs) assist the COTRs. These individuals are appointed by the agency based upon a number of factors to include experience, training and other personnel or bargaining unit restrictions.

30. What is the performance period and will it be re-competed?

After the performance period as established in the contract or letter of obligation, the function is re-competed. The Circular calls for a performance period of 3-5 years. However, the FAA is planning to ask for extension of these limits for the AFSS study.

31. What are the ground rules for contesting performance decisions?

Only a directly interested party may contest standard competition performance decisions. A directly interested party is defined as the Agency Tender Official who submitted the agency tender; a single individual appointed by a majority

of directly affected employees as their agent; a private sector offeror; or the official who certifies the public reimbursable tender. The affected workforce is not considered a directly interested party but is represented by the Agency Tender Official or a single individual appointed by a majority of directly affected employees as their agent.

32. How many FAA competitive sourcing projects are planned or on going?

The AFSS competitive sourcing competition is the first and currently the only FAA competitive sourcing competition. The Office of Competitive Sourcing Acquisitions is focused exclusively on the AFSS study which is the largest and most complex civilian competitive sourcing effort in the Federal government.

33. If the MEO wins, is the current bargaining contract affected?

The current bargaining agreement is not affected by the A-76 Circular. However, it is important to recognize that the Agency Tender and resulting MEO will be constructed as a management decision. In order for the Agency Tender to be competitive with the private sector there may be provisions that run contrary to the existing agreement. Therefore, it is beneficial to work within the current collective bargaining units to discuss alternatives necessary to permit greater efficiencies.

34. If the Government wins the competition will all employees keep their jobs?

If the MEO calls for less than the current number of positions to perform a function, reductions will be handled in accordance with the FAA's policies and procedures governing Staffing Adjustments and Reduction-in-Force (RIF) (<http://www.faa.gov/ahr/policy/order/orders/33502c.cfm>). This order, 3350.2C, provides that when the number of employees in any organization or occupation must be reduced, management shall make every reasonable effort to place surplus employees in other jobs or regions of the agency with the least possible interruption to their careers and personal lives. Separation of employees by RIF shall take place only after all reasonable alternative actions have failed to solve the surplus problem.

35. How many employees will be separated as a result of a private sector win?

If the performance decision results in a private sector win, all affected employees will be separated unless they are offered other positions in Federal service or they elect to retire.

If the Agency Tender wins the performance decision, the number of affected employees separated will be directly related to the difference in staffing levels between the current and proposed staffing models.

36. If an employee is adversely affected by the competition, does FAA's freedom from Title V restrict employee rights to find placement in another Federal job?

The FAA has an Interchange Agreement with the Office of Personnel Management (OPM), which allows a permanent FAA employee, who previously acquired career status in the competitive service, to apply for positions under a competitive service agency's Merit Promotion Plan (Internal Selection) as long as it is open to Federal employees outside the agency. One's career status in the competitive service may have been earned either with the FAA (prior to its becoming an excepted service agency, April 1, 1996) or with another agency. (<http://www.faa.gov/ahr/policy/hrpm/hroi/emp/intercha.cfm>).

37. What are the retirement options for an employee under the Civil Service Retirement System (CSRS) and the Federal Employee Retirement System (FERS) if his/her job is contracted out, and at what age can he or she retire without a reduction being applied to his or her retirement income?

CSRS and FERS employees may take early or discontinued service retirement at any age with 25 years service, or at age 50 with 20 years service. Optional retirement requirements are age 55 with 30 years, age 60 with 20 years, or age 62 with 5 years. However, there is a reduction of 2 percent per year for each year under age 55 for early or discontinued service retirement for CSRS employees. This reduction does not apply to FERS employees. Please note that if a FERS employee retires at the minimum retirement age plus 10 years of service option, a five percent (5%) per year reduction in annuity, for each year the employee is under age 62, will apply. Employees should contact their local HRO to discuss specific cases.

38. If an employee chooses to take a deferred annuity, is he or she eligible for severance pay?

If an employee is a career employee who has been on the rolls for at least the preceding 12 months prior to separation and is not entitled to an immediate retirement annuity as a Federal employee or member of the uniformed services, he or she is eligible for severance pay. Regardless of whether an employee elects retirement, if he or she is entitled to an im-

mediate annuity (Discontinued Service Retirement, optional retirement or retired military), an employee is not entitled to severance pay. Employees should contact their local HRO with specific questions.

39. Will affected employees receive Saved Pay?

Employees who are in the FG pay plan, and are placed in a lower-grade position as a result of RIF procedures will be entitled to grade and pay retention. Grade retention means, in general, keeping one's grade and pay (increased by the full annual comparability pay adjustment) for a maximum of 2 years from the date an employee becomes entitled to grade retention. Pay retention means, in general, keeping one's pay (increased by one-half of the annual comparability pay adjustment) for an indefinite period of time from the date an employee becomes entitled to pay retention. The provisions of Order 3550.11A, Grade and Pay Retention under the Civil Service Reform Act will be used to administer the benefits to eligible employees.

40. Will employees be entitled to collect unemployment pay?

This answer varies from individual to individual. Each employee must apply for unemployment at his or her local public employment service office. That local office in accordance with state laws will determine eligibility for unemployment compensation.

41. If an employee is separated from Federal service, can the employee retain their government health insurance? Will employees need to pay out of pocket to keep their previous plan?

If an employee is separated from Federal service, there is an option to keep coverage under the Federal Employees Health Benefits Program for 18 months after separation date. If the separation date is due to RIF, the cost of the continued coverage is the same as if still employed. Since federal plans are partially funded by the Government, if separation is voluntary, the cost of the continued coverage is much higher. Retiring employees can retain their FEHB insurance coverage if they meet the five-year eligibility requirement.

For information concerning competitive sourcing, visit the following websites; www2.faa.gov/aba/html_budget/html_cs/index.html, and www.faa.gov/aca.

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