



# Manager's Guide to Competitive Sourcing

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# Managers Guide to Competitive Sourcing

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## WHAT DO YOU NEED TO KNOW?

By now, you've heard a lot of things about Competitive Sourcing -- from newspaper articles to tidbits of conversation in the hallway -- but what is it really? Moreover, as a manager, what do you need to know?

This guide is a compilation of facts, sources, and aids to help you understand the Competitive Sourcing process and its requirements. It is not the definitive source on the subject-- numerous resources are readily available. The Federal Acquisition Council's objective is not to duplicate those resources, but to enhance and support agency efforts. This guide is just the beginning of learning and managing the changes that will accompany Competitive Sourcing initiatives.

Perhaps unlike some other business process reengineering, or performance improvement initiatives, Competitive Sourcing has real implications for you, your employees, and your agency.

## PUBLIC-PRIVATE COMPETITIONS

Competitive Sourcing is about management vigilance. It is a tool to help you benchmark your organization against other possible service providers, to stimulate your own organization to think of ways to change in order to become the best it can be. It is not about contracting out or reducing the Federal payroll. It is about conducting public-private competitions to assess how best to deliver services to the public. Competitive sourcing is about using competition as a way to enhance business results within government agencies.

Work which your agency already "contracts out" is relevant to the Competitive Sourcing process because this work may also be competed and potentially brought back "in-house." The public-private competition process is not focused on giving work away to the private sector. It is a citizen/customer, not pro-business, initiative. The public-private competition process is outcome-neutral. Final decisions about the competition process are based on who can provide the best value to the American public generally and your agency's customer in particular.



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**Public Private Competitions:** Conducting a public-private competition does not assume that the private sector will win the competition. In fact, according to the U.S. General Accounting Office, Government organizations win more than of all competitions. The purpose of holding a competition is to deliver the best value to the agency's customers, or more generally the American public, regardless of "who" performs the function. Experience in state and local governments has shown that no matter "who" wins a competition, the public-private competition process provides on average cost savings/avoidance of 20-30 percent. In one survey of the result of 2,287 competitions at DOD between 1975 and 2001, the average savings was 33%. There is a learning curve effect, since the average savings in studies surveyed that took place between 1994 and 2001, was 42%.

**Outsourcing:** In contrast to public-private competition, "outsourcing" assumes, up front, that the private sector can perform activities better, cheaper, and/or faster than a Government organization.

- "Outsourcing is a decision to obtain services from the private sector without first holding a public-private competition.
- Contracting Out is one possible outcome of a public-private competition. A function is contracted out if the competition process shows that the private sector or some other nonfederal provider can perform the function more efficiently and effectively than the Government.

There are numerous myths surrounding Competitive Sourcing, which are contained in [Appendix 1](#). Another excellent source of information is "**Moving Toward Market-Based Government: The Changing Role of Government as the Provider.**" (June 2003) from the IBM Endowment for Government <http://www.businessofgovernment.org/>. Among the more persistent myths that this analysis debunks with facts are the notions that saving from competition fade quickly, and that decisions to contract out regularly mean significant reductions-in-force.



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## COMPETITIVE SOURCING

Broadly, Competitive Sourcing involves three distinct areas:

- The FAIR Act Inventory, and its compilation
- The Competition Process
- Post-Competition Management and Accountability

As a manager, you could be asked to participate in each of these three areas, to varying degrees, even if you have no involvement with commercial activities.

The one certainty about Competitive Sourcing is that it will produce change in all parts of an agency, not just the business unit undergoing a competition. Unlike other business process reengineering or performance improvement initiatives, Competitive Sourcing has real implications for you, your employees, and your agency.

## THE FAIR ACT INVENTORY

The FAIR Act Inventory is an annual requirement that Congress created in 1998 through the Federal Activities Inventory Reform Act (P.L.270).

- Agencies must submit to OMB, by June 30 every year, a listing of all activities that are either commercial or inherently governmental in nature, in response to the FAIR Act and OMB guidance. Together, the lists should accurately and completely represent all the activities that an agency performs, and so all the FTEs in the agency.
- According to the FAIR Act, activities that are commercial in nature are suitable for a public-private competition to ensure that the best value is delivered to the American taxpayer.



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The compilation of the FAIR Act inventory is more than an administrative exercise. The FAIR Act inventory defines the universe of possible competitions. As a manager, your change management skills are a key means of ensuring fairness<sup>1</sup> and integrity in the creation of the FAIR inventory –

- Let your staff know when and how FAIR Act information will be used.
- Provide an opportunity for input into the decision. Engage your employees – it’s a best practice – and explain the process to them. Ask them to review their position descriptions to make sure activities and contributions are accurately captured.
- Be clear about how decisions will be made, and who will make them.
- Explain the thoughts behind a decision when it has already been made.
- Clarify and explain roles, responsibilities, performance standards, and expectations.
- Stay engaged – few priorities are more important than communicating to your employees about this initiative and how it will impact them.
- Your employees may remember, or have heard rumors about the “streamlining” of Federal agencies in the mid-1990’s, which had the simplistic goal of cutting Federal employment. Some of them may have even been through the privatization push in the early 1980’s. They may quite understandably, but just as incorrectly, view Competitive Sourcing as a return to the past. Your words and deeds as a manager must communicate how the present is different from the past.
- Identify the Challenge and Appeal authorities.

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<sup>1</sup> Chan, Kim W. and Renee Mauborgne. “*Fair Process: Managing in the Knowledge Economy.*” Harvard Business Review. December 2002.

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- Ask for support from your agency's centralized Competitive Sourcing office in explaining implications and next steps. Employees may ask, "Am I safe because I was coded an 'I/G' (inherently governmental)?" or "Am I a target because I am a 'C' (commercial)?" This process requires that your employees understand:
  - The inventory doesn't target specific employees. The focus of the inventory is on activities. The submission to OMB does not contain names. The inventory analysis (What is "C" or "I/G"?) is typically done on a position-by-position basis because it makes it easier to crosswalk activities and resources (staff) required to perform those activities.
  - Competitions are created and packaged based on functions. Many people perform activities that are a mix of commercial and inherently governmental tasks. The determination is made based on activities performed.
  - Every activity is reviewed. Where an individual winds up before, during, and after a competition depends on many factors that can be best addressed through your human resource advisor.
  - Being designated a "C" doesn't mean that a person will lose their job tomorrow. A position may be classified as "C" but may not be subject to a competition for a variety of reasons. Rely on your Agency's Competitive Sourcing staff to explain your agency's study selection process for your organization.

The centralized support staff in your agency will also provide criteria and guidance to ensure consistency within the process. Consistency is achieved not by treating everyone the same (e.g., All positions in a particular series are "C"). Consistency is achieved through methodically and systematically applying the criteria specified.



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## COMPETITION PROCESSES

Two types of competitions are authorized in the OMB Circular A-76, which governs the competition process (<http://www.whitehouse.gov/omb/circulars/index-procure.html>):

- Standard
- Streamlined

The key differences between the two types of competitions are size, duration, and cost differential.

- Standard competitions are generally conducted for 65 FTEs or more, can take up to 12 months to complete and require the private sector or other nonfederal bidder to show that there is either a cost differential of 10 percent of personnel-related costs, or a savings of \$10 million less than the Government's bid, in order to contract out the work. A 6-month study extension may be approved by a senior agency official.
- Streamlined competitions may be conducted for activities that involve 65 or fewer full-time equivalents (FTEs) and are generally required to be completed within 90 calendar days, although a 45 calendar day extension may be approved by a senior agency official. Streamlined competitions do not require the nonfederal competitor to exceed a specified percentage cost-saving threshold before a function can be contracted out if that is shown to be more cost effective.

Numerous sources of information (guides, training, FAQs) exist that discuss the specifics of both streamlined and standard competition processes. A good starting point for these resources is the Department of Defense document repository A-76 Share! (<http://emissary.acq.osd.mil/inst/share.nsf/>) In using it, make sure material is dated after May 29, 2003, the effective date of the new Circular A-76, or it may not be current.

As a manager, the most important contribution you can make to any competition process is to ensure that your organization is positioned to compete effectively:

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- Communicate with stakeholders regularly. These include affected employees, unions, executive steering committees, and other interested parties. Ensure that your communications with affected employees address emotional and procedural concerns. Ask your human resources office to help you. Conversations are useful; data dumps can be obtained from the web.
- Ensure adequate resources are available to position the Government organization to compete effectively. This may involve obtaining the assistance of a consultant. If you have consultant support, bear in mind that just because a consultant has a good reputation doesn't mean he or she has experience creating a Performance Work Statement (PWS) or creating the Government offer. Make sure any consultants involved with your study are experienced practitioners.
- Go to training, read material on various websites, and call up other agencies about their lessons learned. Using consultants for a PWS or the Government's offer doesn't mean your active involvement is minimized. You need to be as knowledgeable, even more knowledgeable, than the contractor to ensure an accurate and high quality tender, which is the foundation for the Government's offer. Training ideally should be a mix of A-76 specific topics such as the Performance Work Statement (PWS) and/or the Most Efficient Organization (MEO) creation, in-house cost estimation; as well as more general subjects such as Activity Based Costing; Performance Based Service Acquisition; business process reengineering, etc.
- You may need to dedicate staff resources to teams working on the performance work statement or most efficient organization.
- Guard against potential conflict of interests resulting from your participation, or that of your employees, in a study team. For example, would it be a conflict of interest if your employee served on your MEO team, if a member of his/her family works for a potential offeror? Consult your agency's staff in charge of competitive sourcing to help you evaluate potential conflicts like this.



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## POST COMPETITION AND ACCOUNTABILITY

Regardless of who wins the competition, the one certainty about Competitive Sourcing is that it asks you to change an agency's behaviors and practices. If the Government (MEO) organization wins, and keeps the work in-house, employees may not undergo a reduction-in-force (RIF). However, employees may be asked to perform different activities and operate in different ways than before.

As managers, you may need to modify previous approaches to your organization to ensure that the terms of the PWS are being met. The MEO may be required to keep track of its workload and will be held accountable to the performance standards in the PWS – just as a contractor would be. Both the contractor and government personnel must comply with the requirements in the PWS. Regular competition is a requirement.

## OTHER RESOURCES

- Department of Defense A-76 Share!  
<http://emissary.acq.osd.mil/inst/share.nsf>
- Government Executive Magazine – A-76 and Outsourcing Web page  
<http://www.govexec.com/outsourcing/>
- 'The Outsourcing Debate' – Special Issue of Government Executive Magazine. June 2003
- Seven Steps to Performance Based Service Acquisition  
<http://oamweb.osec.doc.gov/pbsc/index.html>
- FAR – Subpart 7.5 Inherently Governmental Functions  
[http://www.acqnet.gov/far/current/html/Subpart\\_7\\_5.html#1049071](http://www.acqnet.gov/far/current/html/Subpart_7_5.html#1049071)



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- Kaplan, T. and Ann Benson. (2003). The Human Resources Role in Managing Organizational Change. Alabama: FPMI. <http://www.fpmi.com/bk/>
- Nelson, R. (2001). Building the Optimum Organization for Federal Agencies. Alabama: FPMI. <http://www.fpmi.com/bk/>



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## NOT THE SAME AS 'OUTSOURCING'

<i>Competitive Sourcing</i>	≠	<i>Outsourcing</i>
Is about conducting a public-private competition to improve value.		Is about buying a service or product from outside the Government.
Assumes that both government and the private sector are capable of performing commercial activities.		Assumes that the private sector can perform activities better, cheaper, and/or faster than a Government organization.
Government organizations compete for work. Competition occurs between private, public and non-profit entities.		Competition is limited to private and non-profit bidders. Incumbent Government organizations do not compete for work.
A function is only contracted to the private sector if it wins a competition – which experience has shown happens less than half of the time.		A function goes to the private sector without the opportunity for the public sector to compete - affected federal employees need to change jobs.



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## NOT THE SAME AS 'PRIVATIZATION'

<i>Competitive Sourcing</i>	<i>≠</i>	<i>Privatization</i>
<p>Under Competitive Sourcing, the Government retains responsibility for service delivery, generally retains ownership of assets, and becomes a customer of the private sector if the Government does not win a competition.</p>		<p>Privatization is the transfer of assets or responsibility from the Government to the private sector.</p> <p>Divestiture is the key difference between public-private competitions and privatization.</p> <p>Privatization often includes a wide range of public-private partnerships, such as voucher systems, commercialization, franchising, and public-private partnerships. Even the creation of federal corporations, quasi government organizations, commercialization, and government-sponsored enterprises are often viewed as forms of privatization.</p>



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## COMPETITIVE SOURCING - BACKGROUND

### **What is Competitive Sourcing? Why is it being emphasized?**

- Competitive Sourcing uses competition to help ensure citizens are receiving best value from government. Competitive Sourcing involves conducting public-private competitions that compare the performance of a government organization with that of a private sector or other nonfederal organization.

Contracting out can be the result of a public-private competition. Often, however, a competition does not result in contracting out. Contracting out only occurs if the private sector can perform the function more efficiently and effectively than the Government. Under Competitive Sourcing, experience has shown that the Government retains activities in-house approximately 50 percent of the time. However, based on long and extensive experience in state and local government and the Defense Department, the public-private competition process yields savings ranging from 20-30 percent regardless of who wins, since the competition itself often stimulates new efficiencies within the public sector. Public-private competitions can also be used to bring back in-house work that was previously contracted out if that means a better value for the taxpayer in terms of efficiencies and effectiveness.

Conducting a public-private competition is a highly structured process to ensure that both the private and public sectors compete on a level playing field. Fairness and transparency are essential. A competition determines which service provider can meet agency business requirements at the best price to the public without compromise to quality or performance. Used judiciously, it can be one of the most effective tools for improving performance and cost-efficiencies – regardless of who wins the cost competition. This ability to improve value through competition is why Competitive Sourcing is one of the five elements of the President's Management Agenda (PMA) ([www.results.gov](http://www.results.gov)). Collectively, these five elements are designed to enhance performance and value in the federal sector



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The President's Management Agenda requires that all Federal agencies ultimately compete activities representing most of the number of FTEs listed as commercial in their year 2003 FAIR Act inventories.

## **Why are Federal agencies engaging in competitive sourcing?**

- We are always looking for ways to provide better value to citizens, our customers, and improve our performance. The difference between competitive sourcing and previous initiatives to improve performance in the Government is that competition will be used to compare public sector performance with that of the private sector.

OMB has told agencies they may retain and reinvest any savings generated by competitive sourcing. With routinely tight budgets, this represents an opportunity to create more resources for an agency.

## **Are there FTE reduction goals or targets associated with Competitive Sourcing?**

- No. There are no FTE reduction goals. The focus of competitive sourcing is not to mechanically or mindlessly reduce government workers, but to determine who can deliver the best value to the taxpayer. The competition process may change the amount of staff needed to deliver the service or product even if an activity is retained in-house. The scope and nature of the change required are a result of the competition process and are not guided by any predetermined expectations.

## **Does Competitive Sourcing target blue-collar jobs?**

- No. Competitive Sourcing assesses all of an agency's operations, and activities, and all categories of employees. Inherently governmental activities are reviewed, but not subject to public-private competitions. An agency's commercial activities are reviewed and may be subject to competition regardless of who performs the activities, blue or white collar.

## **What will be studied under Competitive Sourcing?**

- Functions will be selected by your agency's own leadership based on business and mission requirements. Factors that would be considered when making Competitive Sourcing decisions may include, but are not





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limited to, operational risk, potential for performance improvement, potential to improve quality, potential for cost savings, workforce planning, projected employee attrition, and ease of employee recruitment and retention.

### **How does Competitive Sourcing differ from privatization?**

- Some think Competitive Sourcing is synonymous with privatization. This assumption is incorrect. Competitive Sourcing uses public-private competition as outlined under OMB Circular A-76. An A-76 competition involves a decision process that determines who can provide the highest quality service at the best value to society. Competitive sourcing allows government employees to compete for work against non-federal organizations. In contrast, privatization is the process of handing over what had been federal missions to private management, control, and/or ownership. Under privatization, the Government no longer retains responsibility or control over the delivery of privatized goods or services. The competitions involved in privatization and contracting out generally occur only between private sector service providers and do not involve public sector participation.

### **How am I supposed to pay for these studies?**

- Agencies need to budget funds to pay for the out-of-pocket cash costs associated with hiring consultants, or paying any appropriate staff overtime costs. The base salary costs of employees who work on competitive sourcing studies are generally considered part of the normal costs of doing business, like any other task that a manager might assign employees. Contact your agency's budget office to discuss the particulars.

## COMPETITIVE SOURCING AND MANAGEMENT

### **Why are federal managers so crucial in competitive sourcing?**

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- Federal managers are the link between Federal employees and the Administration. As such, they serve as the vital conduit that makes the Government's employees aware of the Administration's goals and, conversely, make agency leadership aware of employees' concerns.

The Competitive Sourcing initiative may engender unease among some federal employees, particularly when it is falsely regarded as "downsizing" or "outsourcing". It is the Federal manager's role to ensure that the myths about Competitive Sourcing are debunked and Federal employees understand what Competitive Sourcing truly means.

The input of managers is also essential in making the competition process run smoothly. After all, managers help designate employee functions as commercial ("C") or inherently governmental ("I/G"). They help establish the government offer if activities in their offices are competed. Throughout these and related processes, managers will interact with Competitive Sourcing representatives from their agencies and OMB. These sessions provide managers with an opportunity to ask questions so that they may better understand the Competitive Sourcing process. Moreover, it provides managers the opportunity to present and share their own recommendations concerning Competitive Sourcing.

### **Why is competitive sourcing so crucial to federal managers?**

- Federal managers today face a growing array of limitations. Offices throughout the Federal government have staffers performing multiple activities. Ever-present resource constraints require Federal managers to constantly explore how to deliver the best value with available budgets. Competitive Sourcing provides not only the Federal government with savings, but also Federal managers. The savings accrued by Competitive Sourcing, ranging from 20-30%, afford management the opportunity to re-invest in the core mission of their offices.

Competitive Sourcing also affords the opportunity to solve organizational performance challenges. It provides an organization a chance to focus in-house staff on key mission areas instead of working on secondary activities outside of their areas of greatest capability. Because their organizations may become subject to competition, managers will need to make



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strategic decisions concerning how their office functions and what its core mission is. Within the context of Competitive Sourcing, managers have been given the leverage to make these difficult decisions at the office, bureau, and agency level.

Competitive Sourcing incorporates a new force into government: commercial activities competition. Competition is often a destabilizing force that may disrupt the everyday flow of an office. However, this disruption can be seized as a positive rather than a negative. The goal of Competitive Sourcing is not to make waves in an office. Competitive Sourcing is about fostering genuine change. It is a tool for addressing workforce-planning challenges; it unleashes change to foster constant improvement in service delivery. Change inherently involves some disruption of current practice. Managers play the crucial role of ensuring that constructive change occurs. It is only through their proactive participation that the real, positive change envisioned by the Competitive Sourcing initiative will come to pass.

## FEDERAL ACTIVITIES INVENTORY REFORM (FAIR) ACT

### **What is the FAIR Act?**

- The Federal Activities Inventory Reform (FAIR) Act of 1998 (P.L. 105-270), requires the head of each executive agency to submit to OMB by June 30 of each year a list of commercial activities their agency performs. OMB subsequently required agencies to submit a list of inherently governmental activities as well, and reviews and approves both lists.

The law requires that the head of the agency must review the list and decide which activities will be subject to a competition under the guidance of OMB Circular A-76. The Circular guides executive agencies in administering competitions.



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## **How does the FAIR Act relate to A-76?**

- Essentially, the FAIR Act inventory is the planning document from which activities are selected for A-76 (public-private) competitions. The FAIR Act Inventory should fairly, accurately, and completely represent the activities being performed at an agency in meeting its mission. The FAIR Act requires that an executive agency must use a competitive process, under the guidance of OMB circular A-76, to select the source for the performance of commercial activities within its FAIR Act inventory. Whether or not a commercial activity is carried out through the private sector, or through the public sector, the A-76 process ensures that the process is realistic, fair, and transparent.



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## **What is a commercial activity?**

- Simply put, commercial activities are services that are obtainable from a commercial source – for example, activities that are listed in the yellow pages. A more technical definition is found in OMB Circular A-76. Commercial activities fall into two categories:
  - Activities performed in-house by Federal personnel.
  - Contracted activities provided by contractor personnel. OMB defines commercial activities as anything that can be, could be, or should be contracted.

## **What is an inherently governmental activity?**

- An inherently governmental activity is a function so intimately related to the public interest of the United States that it requires Federal employees to perform it. Inherently governmental activities include those activities that require either the exercise of substantial discretion in applying Government authority, or the making of value judgments for the government. Typical examples include law-enforcement and awarding contracts. OMB Circular A-76 contains further details regarding the definition of an inherently governmental activity.

Inherently governmental activities broadly fall into two categories:

- The act of governing, i.e., the discretionary exercise of government authority, and
- Determinations relative to monetary transactions and entitlements.

## **Will every function listed in the inventory be competed?**

No. All commercial activities must be inventoried under the provisions of the FAIR Act and OMB Circular A-76. However, over time, the expectation is that most of the commercial activities performed by Federal employees will be competed, although the percentage will vary across agencies depending on the type of commercial activities an agency undertakes.



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The inclusion of a function on the agency's inventory of commercial activities does not mean that the agency is required to compete the function. The FAIR Act requires that each agency review its inventory of commercial activities and mission requirements. Executive agencies conduct a review, which may include a consideration of adequate competition for the activities under review, mission requirements, core capabilities, and other alternatives to competition. Core capabilities (among those designated as Reason Code A in the FAIR Act Inventory) are unique to each agency, and must be decided by the Competitive Sourcing Official for the agency, as required under OMB Circular A-76. It is the positions associated with Reason Code B in the FAIR Act Inventory that an agency is generally expected to compete.

### **Are there activities that cannot be contracted?**

- Yes. These are inherently governmental activities that are so closely related to the public interest that they require performance by Federal government personnel (see OMB Circular A-76 for additional information). For example, a contracting officer must be a Federal employee because he/she can bind the government by signing a contract. Additional information on inherently governmental functions may be found in FAR Part 7.

### **Can work that has been already contracted out be brought back into the Government?**

- Yes. This can happen under a public-private competition. Some business units already have a mix of public and private employees performing work. However, there may be overriding concerns (process and technology changes, human capital, performance issues, etc.) in which the activities that were previously contracted out can be brought back in-house. The mechanism that facilitates this decision is a public-private competition process where costs of contracting out the services are compared to those of performing them in-house.

### **How are decisions made concerning which activities are inherently governmental and which are not?**



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- OMB has provided criteria to be used in determining whether a function is inherently governmental in Circular A-76. Each agency uses the criteria to develop its inventory.

### **Can the inventory be challenged?**

- Under the FAIR Act, “interested parties” can challenge an agency’s judgment about what is included in the inventory within 30 working days after the inventory is published; the inventory is published after review and consultation with OMB. Interested parties include current employees and their representatives, as well as contractors who are actual or prospective offerors to perform the function. Under new rules in the revised Circular A-76, reason code designations can also be challenged.

### **What recourse do affected employees have to challenge the way that their activities have been classified on the FAIR inventory?**

- Interested parties, including current employees and their unions, who are actual or prospective offerors for a function, can challenge both the classification of an activity and the application of the reason codes. Any challenge must be made in writing within 30 working days of the date a notice is published in the Federal Register by OMB that the inventory is available.

### **Has any contractor won an A-76 study by appealing a tentative decision to award the work to the government?**



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- Yes. There have been some decisions by the General Accounting Office's Comptroller General overturning agency A-76 decisions to retain a function in-house. In those cases, the appealing contractor won the study on appeal.
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## OMB CIRCULAR A-76

### **What is the Office of Management and Budget (OMB) Circular A-76?**

- Originally issued in 1955, OMB Circular A-76, Performance of Commercial Activities, is the guidance for executive agencies for the public-private competition process. The competition process is a highly prescribed method for comparing the value of performing a function within the Government to the value of performing a function outside the Government (private, non-profit, or other).

The fundamental concept behind the Circular A-76 is that society gets the greatest value from its Government if commercial functions in the public sector are periodically competed with the private sector. Competition, through the A-76 process, essentially establishes the best way to deliver services for the least cost. The process rests on the belief that competition enhances economy and productivity in the Government, and provides services to the public in the most cost-efficient and effective manner possible.

OMB revised the Circular on May 29, 2003 to expand the program and improve its efficiency.