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To: David C. Childs A-76comments/OMB/EOP@EOP  
cc:  
Subject: Comments to Circular No. A-76 revised

<<December 19, 2002.doc>>

December 19, 2002

Mr. David C. Childs  
Office of Federal Procurement Policy  
Office of Management and Budget  
725 17<sup>th</sup> Street, NW  
New Executive Office Building, Room 9013  
Washington, DC 20503  
Dear Mr. Childs:

The AECOM Companies with over 8000 employees in the U. S. and 14,000 employees worldwide supports OMB's initiative to revise the processes that the Federal Government uses to procure current government performed commercial activities (items). The revisions to OMB's Circular No. A-76 dated November 19, 2002 are steps in the right direction.

The AECOM Companies are multi-disciplined, multi-practice firms that provide Architecture, Engineering, Program Management, Construction Management and other Professional Services for the built environment. Our companies are both domestic and international and service clients using conventional design/bid/build and alternative project delivery approaches. Our companies are leading edge companies which provide the ideas, innovative approaches, designs, and related services for infrastructure, the built environment, environmental protection, and transportation projects.

Our companies and our thousands of employees enthusiastically applaud the underlying premise behind the revisions to Circular No. A-76 that all activities currently performed by the Federal government are presumed to be commercial in nature unless they are justified as inherently governmental.

Our comments are in the following areas of the proposed revision to OMB Circular No.A-76:

1. Architectural-Engineering (A-E) Services;
2. Public-Private Competition Terminology;
3. Government entities working for other Government entities;
4. Public-Private Competition Costs.

## 1. Architectural-Engineering (A-E) Services;

The definition of "Commercial item" in FAR 52.202.1 does not fit, or is not applicable to A-E Services. We therefore suggest that A-E Services be excluded from Circular No. A-76. This is consistent with the procurement of these unique services which is done through "Qualifications Based Selection" (QBS) as prescribed under (40 USC Section 541 et seq known as "The Brooks Law.")

## 2. Public-Private Competition Terminology

The terms "private sector source" and "private sector," both used throughout the Circular mean "a private, for profit individual, association, partnership or corporation." We strongly support the thrust of the Circular No. A-76 revisions, that state and local government units, universities, other tax exempt, or not for profit entities should not be eligible to compete for commercial activities. The terms need to eliminate potential confusion and controversy.

## 3. Government entities working for other Government entities

We strongly support eliminating non-competed "work for others" activities such as Inter and Intra-Services agreements (ISSA) as well as Inter-Governmental Service providers. Inter and Intra Services Agreements preclude the private sector from being considered to provide the services. Inter-Governmental Service Providers enable Federal Agencies to aggressively and unfairly market their services to our clients - state and local governments.

## 4. Public-Private Competition Costs

We firmly believe that the 12 percent overhead factor established by OMB for Federal Agencies grossly understates the true costs. An A-E firm's overhead costs are established by DCAA audits in accordance with the FARs. If Federal Agencies are to be permitted to compete with private sector firms for A-E services, OMB should establish requirements for accounting practices to be able to compare "apples to apples" and develop comparable overhead factors that reflect the true costs incurred by Federal agencies. These costs should be commensurate with all of the costs incurred by private sector firms.

In conclusion, the AECOM Companies strongly support OMB's initiative to revise OMB Circular No. A-76 and related policy documents. Thank you for this opportunity to comment on them.

Sincerely yours,

Raymond W. Holdsworth

President

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