

November 2008

# DEPARTMENT OF LABOR

## Better Cost Assessments and Departmentwide Performance Tracking Are Needed to Effectively Manage Competitive Sourcing Program



GAO

Accountability \* Integrity \* Reliability



Highlights of [GAO-09-14](#), a report to congressional committees

## Why GAO Did This Study

Competition between federal and private organizations to provide services—referred to as “competitive sourcing”—can be one way to help achieve greater efficiency in government. Under guidance from the Office of Management and Budget (OMB), competitive sourcing has been implemented at various executive branch agencies over the years. As required under the Consolidated Appropriations Act, 2008 and directed by House Report 110-231, this report examines the use of competitive sourcing at the Department of Labor (DOL). Specifically, GAO examined the comprehensiveness and reliability of DOL’s performance and cost assessments in accordance with OMB and DOL guidance as well as the impact of competitive sourcing on certain DOL workers. To address these issues, GAO reviewed relevant statutes, guidance, reports and personnel actions; and interviewed OMB and DOL officials and 60 DOL staff, grouped by role, in four locations.

## What GAO Recommends

GAO recommends that OMB direct federal agencies to report all costs associated with competitive sourcing and that DOL track all such costs. OMB said it would work with the next administration as it considers GAO’s recommendation. DOL said it would wait for guidance from OMB before tracking all costs. GAO also recommends that DOL implement systems to track performance and review the accuracy of its savings reports. DOL agreed to implement these systems.

To view the full product, including the scope and methodology, click on [GAO-09-14](#). For more information, contact George Scott at (202) 512-7215 or [scottg@gao.gov](mailto:scottg@gao.gov).

## DEPARTMENT OF LABOR

### Better Cost Assessments and Departmentwide Performance Tracking Are Needed to Effectively Manage Competitive Sourcing Program

## What GAO Found

DOL first began conducting public-private competitions as part of its competitive sourcing program in fiscal year 2004, and since that time, it has set up performance and cost reporting systems to monitor progress in meeting the goals of competitive sourcing—that is, to obtain high-quality services at a reasonable cost and to achieve outcomes that represent the best deal for the taxpayer. For the most part, we found that DOL’s policies and procedures were followed in conducting competitive sourcing activities; however, a number of weaknesses inhibit DOL’s ability to reliably and comprehensively assess whether competitive sourcing achieves the outcomes promised.

- DOL lacks a departmentwide process for tracking and addressing deficiencies and recommendations for improvements that are identified in postcompetition accountability reviews.
- Though consistent with OMB guidance, DOL excluded a number of substantial costs in its reports to Congress—such as the costs for precompetition planning, certain transition costs and staff time, and postcompetition review activities—thereby understating the full costs of this contracting approach.
- DOL’s savings reports are not reliable: a sample of three reports contained inaccuracies, and others used projections when actual numbers were available, which sometimes resulted in overstated savings.

Because of these and other weaknesses, DOL is hindered in its ability to determine if services are being provided more efficiently as a result of competitive sourcing. Moreover, though not a representative sample of DOL personnel, in GAO’s interviews with 60 employees involved with five competitions (including employees who assisted with competition activities, as well as employees whose positions were affected by the competitions), most said that they were dissatisfied with how the competitive sourcing process was implemented and that it had a negative impact on morale. Overall, DOL’s competitions have resulted in few job losses or salary reductions. Among the 314 workers who experienced a personnel action, 263 were reassigned to new positions with the same title and pay or were promoted. In addition, of the 16 workers who were demoted, 14 were able to retain their same grade or pay. At the same time, certain groups have been impacted more than others. For example, though small in numbers, all 22 of those who were either demoted or laid off were African-American, while 10 of the 15 workers who were promoted were Caucasian.

OMB recently issued new guidance that directs agencies to use a variety of tools to manage their commercial activities, including—but not limited to—competitive sourcing. However, unless agencies are required to comprehensively track all the costs associated with competitive sourcing, it will be difficult to assess which tool may provide the best outcome in terms of efficiency in the management of commercial activities.

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## Abbreviations

AFGE	American Federation of Government Employees
DOD	Department of Defense
DOL	Department of Labor
FAIR Act	Federal Activities Inventory Reform Act of 1998
FTE	full-time equivalent
MEO	most efficient organization
OMB	Office of Management and Budget
PCAR	postcompetition accountability review
USDA	Department of Agriculture

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United States Government Accountability Office  
Washington, DC 20548

November 21, 2008

The Honorable Tom Harkin  
Chairman  
The Honorable Arlen Specter  
Ranking Member  
Subcommittee on Labor, Health and Human Services,  
Education, and Related Agencies  
Committee on Appropriations  
United States Senate

The Honorable David R. Obey  
Chairman  
The Honorable James T. Walsh  
Ranking Member  
Subcommittee on Labor, Health and Human Services,  
Education, and Related Agencies  
Committee on Appropriations  
House of Representatives

Since 1955, the federal government has encouraged competition between federal and private sector organizations to provide specific services—an initiative referred to as “competitive sourcing.” Since 2001, competitive sourcing has been one of the key elements of the President’s Management Agenda, implemented under guidance from the Office of Management and Budget (OMB) in Circular No. A-76. Over the years, GAO has reported on a number of issues related to competitive sourcing at various executive branch agencies,<sup>1</sup> including the extent to which there are plans and guidance to help agencies implement the competitive sourcing program effectively and whether savings are likely to be achieved.

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<sup>1</sup>These agencies include, for example, the Department of Defense (DOD) and the Department of Agriculture (USDA). See GAO, *DOD Competitive Sourcing: Some Progress, but Continuing Challenges Remain in Meeting Program Goals*, [GAO/NSIAD-00-106](#) (Washington, D.C.: Aug. 8, 2000) and *Forest Service: Better Planning, Guidance, and Data Are Needed to Improve Management of the Competitive Sourcing Program*, [GAO-08-195](#) (Washington, D.C.: Jan. 22, 2008).

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The Department of Labor (DOL) began conducting public-private competitions in fiscal year 2004.<sup>2</sup> From fiscal years 2004 through 2007, DOL held 28 competitions involving 1,029 full-time equivalent (FTE)<sup>3</sup> government positions designated as commercial,<sup>4</sup> such as training specialists, information technology specialists, and maintenance mechanics. DOL planned to compete nearly 700 additional FTEs during fiscal years 2008 and 2009; however, these plans have been put on hold pursuant to federal law.<sup>5</sup> Given that DOL employees have won all but three of the competitions DOL has held, Congress is interested in determining whether competitive sourcing has achieved increased efficiency or cost savings at DOL. In addition, since competitive sourcing may also result in government employees being reassigned or losing their jobs, Congress expressed concern over DOL's implementation of this initiative and its implications for the federal workforce.

As required under the Consolidated Appropriations Act, 2008 and as directed by the House Committee on Appropriations,<sup>6</sup> this report examines the use of competitive sourcing at DOL. The House Committee on Appropriations directed that we review the extent to which DOL has established a reliable and comprehensive system to track costs, savings, and the quality of work performed by contractors, as well as DOL's adherence to the principles adopted in 2002 by the Commercial Activities

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<sup>2</sup>In fiscal year 2003, DOL completed 28 studies as part of its competitive sourcing program, but these were all "direct conversions"—that is, functions converted directly to private sector service providers with no assessment of DOL employees' capabilities to provide these services in-house. This practice was no longer permitted following issuance of the revised OMB Circular No. A-76 in May 2003.

<sup>3</sup>Full-time equivalent (FTE) is the basic measure of the staffing of federal civilian employee positions. It is the total number of hours worked (or to be worked) divided by the number of compensable hours applicable to each fiscal year.

<sup>4</sup>Commercial activities are defined by OMB Circular No. A-76 as recurring services that could be performed by the private sector. They may be funded and controlled through a contract, fee-for-service agreement, or performance by government personnel.

<sup>5</sup>Pub. L. No. 110-161, Division G, Title I, §111 (2007).

<sup>6</sup>The explanatory statement for the Consolidated Appropriations Act, 2008 specified that agencies should be guided by House Report 110-231 (2007), a report by the House Committee on Appropriations. This House Report provided the details of the work GAO was directed to carry out.

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Panel chaired by the Comptroller General.<sup>7</sup> In response, as agreed with your staffs, this report addresses the following:

1. The extent to which DOL established a reliable and comprehensive system to assess the quality of work performed as a result of competitive sourcing.
2. The comprehensiveness and reliability of DOL's assessments of the savings and costs associated with competitive sourcing.
3. The implications of competitive sourcing for certain DOL worker populations, such as women and minorities.

To address these issues, we focused on DOL's competitive sourcing activities from fiscal years 2004 through 2007, including all 28 competitions DOL conducted during this period. We examined relevant statutes, regulations, and OMB guidance on competitive sourcing, DOL internal policies and guidance on competitive sourcing, competition announcements, annual reports to Congress, GAO reports, and related documents. We interviewed DOL officials, OMB officials, representatives from the American Federation of Government Employees (AFGE), two private sector companies, and the president of a leading national private sector trade association representing over 300 companies. To assess the quality of work performed as a result of competitive sourcing, we examined all 18 of DOL's initial postcompetition accountability reviews (PCAR) conducted as of July 2008 and evaluated the structure and content of these reviews according to DOL and OMB policy. To assess DOL's savings and cost reports, we interviewed the agency officials responsible for preparing these reports and reviewed the process they used to compile them. To assess the accuracy of the reports, we reviewed the documents from all 18 initial PCARs and conducted more detailed analyses of the calculations for a simple random sample of three reports for competitions with initial PCARs completed between 2006 and 2007 and interviewed agency officials knowledgeable about these reports. Due to this limited sample size, no inferences can be made about the accuracy of savings and cost reports across all of DOL's competitions. To identify the implications of competitive sourcing for certain DOL worker populations, we analyzed DOL's demographic data on overall departmentwide personnel and compared it with the demographic data for all DOL employees who

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<sup>7</sup>GAO, *Commercial Activities Panel: Improving Sourcing Decisions of the Government; Final Report*, [GAO/A03209](#) (Washington, D.C.: April 2002).



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experienced a personnel action as a result of competitions conducted during fiscal years 2004 through 2007. We also obtained a range of employees' perspectives on the competitive sourcing process by conducting group interviews with 60 DOL managers and employees who either assisted with competition activities or whose positions were affected by five competitions in four locations throughout the United States. We assessed the reliability of the savings, cost, and demographic data by reviewing information about the systems that produced the data and interviewing agency officials knowledgeable about these systems. We determined that the data were sufficiently reliable for the purposes of our report. For a more detailed discussion of our methodology, see appendix I.

We conducted this performance audit from October 2007 to September 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Results in Brief

DOL has made progress developing a system to assess the performance of winning service providers in its competitive sourcing program, but DOL does not track progress in addressing identified deficiencies or recommendations for improving performance at a departmentwide level. DOL developed policy and procedures for conducting performance assessments according to formal review and inspection requirements in OMB Circular No. A-76 and the Federal Acquisition Regulation. In our review of all assessments conducted as of July 2008, we found that DOL's policy and procedures generally were followed in conducting these assessments. For example, the majority of initial assessments reported information on lessons learned. However, DOL does not ensure that deficiencies identified and recommendations made in initial performance assessments are tracked and followed up on at a departmentwide level. Instead, DOL relies on an ad hoc process for addressing deficiencies and recommendations for improvement. As a result, DOL is hindered in its ability to systematically track performance trends or improvements to identified deficiencies departmentwide and to determine if the winning service providers are performing more efficiently than the prior service providers.

DOL's savings reports, while adhering to OMB reporting guidance, exclude many of the costs associated with competitive sourcing and are unreliable. In

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reporting its estimated \$15.7 million in savings due to competitive sourcing from fiscal years 2004 through 2007, DOL excluded a number of substantial items, including the time in-house staff spent on competition activities, precompetition planning, certain transition costs, and postcompetition review activities. OMB does not require agencies to report these costs because they reflect what would be incurred as part of an agency's typical management responsibilities. However, our analysis shows that these costs can be substantial and that excluding them overstates savings achieved by competitive sourcing. For example, we found that including in-house staff time spent on competition activities would have doubled the costs reported for one competition. In addition, DOL competition savings reports are unreliable and do not provide an accurate measure of competitive sourcing savings. All three of the competitions that we randomly selected and analyzed had inaccuracies. For example, DOL excluded contract administration costs from one competition's savings figure, overstating savings by about \$185,000 a year, or 25 percent. In addition to these inaccuracies, DOL used projections to estimate savings for seven of its competitions when actual numbers should have been used, sometimes resulting in overstated savings. In one competition, actual staffing costs were 45 percent higher than those originally projected. Finally, the cost baseline used by DOL to estimate savings was inaccurate and misrepresented savings in some cases, such as when pre-existing, budgeted personnel vacancies increased the savings attributed to completed competitions.

DOL's competitions rarely resulted in lost jobs or salary reductions for DOL workers, but many experienced changes to their jobs, and those we interviewed who were involved in the process reported negative impacts on morale. In the 28 competitions DOL held during fiscal years 2004 through 2007, a total of 314 employees experienced formal changes to their jobs (that is, changes reflected in personnel actions). Of these employees, 248 were reassigned to different positions within DOL at the same federal grade and salary level, and 15 were promoted to a higher federal grade level. Another 16 were demoted to a lower federal grade level, but these employees generally retained the same salary they had before the competition due to grade or salary protection provisions. Of the remaining workers who left DOL, 29 left voluntarily through retirement or with a monetary separation incentive. Only 6 employees were laid off from the federal workforce. Among those 314 workers who experienced a personnel action of some type, 47 percent were African-American (including all those who were either demoted or laid off), 60 percent were women, and 89 percent were 40 years old or older—significantly higher proportions than their representation in the general DOL workforce overall. DOL management stated that they made their best efforts to treat

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well those employees whose jobs were competed. For example, they offered reassignments, voluntary early retirement options, separation incentives, and other services for career transition. Nevertheless, in our interviews with DOL employees who assisted with competition activities or whose positions were affected by the competitions—though not a representative sample—we found that employees who were satisfied, as well as those who were dissatisfied, with the competitive sourcing process reported negative impacts on morale for themselves and others.

We have previously reported that other federal agencies—the Department of Defense (DOD) and the Department of Agriculture’s (USDA) Forest Service, in particular—did not develop comprehensive estimates for the costs associated with competitive sourcing. This report identifies similar issues at DOL. Without a better system to assess performance and comprehensively track all the costs associated with competitive sourcing, DOL cannot reliably assess whether competitive sourcing truly provides the best deal for the taxpayer. We are recommending that the Director of OMB require agencies to systematically report all costs associated with competitive sourcing. In addition, we are recommending that the Secretary of Labor take the following three actions:

- implement a consistently applied, departmentwide system to track identified deficiencies and recommendations for improvement in each of the competitions and the competitive sourcing program overall;
- implement a system to track the full costs associated with managing its commercial management activities, including—but not limited to—all costs associated with competitive sourcing; and
- develop and implement a review process to ensure the accuracy of competitive sourcing savings reports to Congress.

OMB and DOL provided written comments on a draft of this report, which are reprinted in appendixes VI and VII, respectively. In comments on our draft, OMB concurred with our conclusion that all agencies can maximize savings and performance benefits by ensuring that appropriate internal controls are in place to monitor results. DOL agreed with our recommendation to implement a departmentwide system to track identified deficiencies and recommendations for improvement, as well as our recommendation to conduct an internal review process to ensure the accuracy of its savings reports. DOL expressed concerns about our recommendation to implement a system to track full costs related to competitive sourcing in the absence of governmentwide guidance from OMB to do so. We continue to maintain that

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federal agencies like DOL need to track all costs associated with competitive sourcing so that they can accurately determine if competitive sourcing is the most cost-effective tool for managing certain commercial activities. This is a separate issue from our recommendation that the Director of OMB require federal agencies to report all costs associated with competitive sourcing. We maintain that reporting all costs would enhance the transparency surrounding the estimates of savings from competitive sourcing and provide for accountability in connection with sourcing decisions—one of the principles of the Commercial Activities Panel. OMB questioned the need for reporting all costs associated with competitive sourcing but said that it would work with the transition team so the next administration will be fully informed about the costing policies for competitive sourcing as it considers our recommendation.

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## Background

### Commercial Activities Panel: Principles to Guide Competitive Sourcing

As listed in the panel's final report issued in 2002, federal sourcing policy should adhere to the following principles:

1. Support agency missions, goals, and objectives.
2. Be consistent with human capital practices designed to attract, motivate, retain, and reward a high-performing federal workforce.
3. Recognize that inherently governmental and certain other functions should be performed by federal workers.
4. Create incentives and processes to foster high-performing, efficient, and effective organizations throughout the federal government.
5. Be based on a clear, transparent, and consistently applied process.
6. Avoid arbitrary full-time equivalent or other arbitrary numerical goals.
7. Establish a process that, for activities that may be performed by either the public or the private sector, would permit public and private sources to participate in competitions for work currently performed in-house, work currently contracted to the private sector, and new work, consistent with these principles.
8. Ensure that, when competitions are held, they are conducted as fairly, effectively, and efficiently as possible.
9. Ensure that competitions involve a process that considers both quality and cost factors.
10. Provide for accountability in connection with all sourcing decisions.

Federal agencies rely on a mix of public and private sector sources to perform a wide variety of commercial activities, such as information technology, building maintenance, property management, and logistics. Competitive sourcing is the term used to describe the strategy under which agencies use competitions between public and private sector organizations to identify the most cost-effective provider of commercial activities. In 2001 and 2002, the Comptroller General convened a Commercial Activities Panel to study the policies and procedures governing competitive sourcing. This panel included officials from federal agencies, federal labor unions, and private industry. The panel unanimously approved a set of 10 principles (see sidebar), and a supermajority of two-thirds of the panel members adopted an additional set of recommendations that they believed would significantly improve the government's policies and procedures for making competitive sourcing decisions.<sup>8</sup>

Virtually all acquisition of private sector services is governed by the Federal Acquisition Regulation, which covers such topics as recognizing the needs of the agency and planning how to address those needs through award and administration of a contract. In addition, the use of competitive sourcing for work activities currently performed by federal workers must be conducted in accordance with OMB Circular No. A-76. This circular provides agency management with a structured process to compare the public and private sector approaches to, and costs of, performing work activities with the stated goal of obtaining maximum value for taxpayers'

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<sup>8</sup>See [GAO/A03209](#).

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dollars by taking advantage of competitive forces. Further, in July 2008, OMB issued a memorandum on commercial services management recognizing that agencies should improve the operation of their commercial functions using a variety of techniques—such as business process re-engineering efforts and strengthened oversight of contractors—in addition to competitive sourcing.<sup>9</sup>

## Competitive Sourcing Process

### **Inherently governmental activities**

Functions that are so intimately related to the public interest that they require performance by federal government employees. These functions normally fall into two categories: the exercise of sovereign government authority or the establishment of procedures and processes related to the oversight of monetary transactions or entitlements.

### **Commercial activities**

Recurring services that could be performed by the private sector. OMB specifies a list of more than 700 functions that are deemed commercial and thus potentially subject to competitive sourcing.

The first step in the competitive sourcing process is for agencies to determine which activities are suitable for competition. In accordance with the Federal Activities Inventory Reform Act of 1998 (FAIR Act)<sup>10</sup> and OMB Circular No. A-76, federal agencies categorize all of the activities performed by their employees as either inherently governmental (not subject to competitive sourcing) or commercial (potentially subject to competitive sourcing). OMB Circular No. A-76 then directs agencies to further categorize their commercial activities according to six “reason codes,” with only one code signifying suitability for competitive sourcing that year.<sup>11</sup> Agencies are allowed considerable discretion in how they categorize their activities, subject to review by OMB.

Once the annual inventory is complete, agencies then select which activities will be competed and begin planning the associated competitions. In this stage, agencies separate the selected activities into groups and develop a full description of each group—called a “statement of work”—that will serve as a guide to potential bidders on what will be required by the final contracts or letters of obligation.<sup>12</sup> Agencies also develop quality assurance plans and cost estimates to be used as standards against which to evaluate the performance of the winning service provider and the cost savings achieved by the competition.

Agencies next announce the competition and receive bids, then select the winning bid and award the contract. Private sector firms may submit bids, much as in any federal procurement. In competitive sourcing, government

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<sup>9</sup>OMB, *Memorandum for the President's Management Council: Plans for Commercial Services Management* (Washington, D.C., July 11, 2008).

<sup>10</sup>Pub. L. No. 105-270 (1998).

<sup>11</sup>For a description of these six “reason codes,” see appendix II.

<sup>12</sup>A letter of obligation is a formal agreement that an agency implements when a competition results in the in-house work group (government service provider) winning the competition and performing the work.

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### Announcing a Competition

Under the FAIR Act, when an agency considers contracting with a private sector source to perform a commercial activity, it generally must use a competitive process to select the source. The FAIR Act also requires OMB to issue guidance on the administration of this requirement. According to OMB Circular No. A-76, agencies are to announce all competitions through the federal website *FedBizOpps.gov* and include basic information about the competition, such as the work activity being competed, the number of government personnel performing the activity, and the end date of the competition. Agencies also must determine whether to use a streamlined or a standard format for their competitions:

- **A streamlined competition** is a simplified competition process that may be used with activities of 65 or fewer FTEs, requiring less analysis and documentation than a standard competition. In-house bids for streamlined competitions may be based on the incumbent “as is” organization, but agencies are encouraged to develop a more efficient organization.
- **A standard competition** is a more formal competitive process that may be used when more than 65 FTEs are involved (but may also be used when fewer than 65 are involved). Bids are required to include quality control plans, and agencies are required to develop plans to measure the winning service provider’s performance. In-house bids for standard competitions are to include a most efficient organization (MEO) and more detailed analysis and documentation than for a streamlined competition.

agencies also develop an in-house bid, or “tender,” under which agency employees will perform the work if the in-house government bid wins the competition. The staffing plan identified in the in-house agency bid is referred to as a “most efficient organization” (MEO). The MEO is not usually a representation of the incumbent organizational structure “as is,” but more commonly, it reflects a smaller, restructured version of the incumbent government organization doing the work.

Generally, the lowest cost provider that is technically acceptable is awarded the contract, but factors other than cost may be considered in some circumstances. If a contractor (private sector service provider) wins the competition, certain federal worker protections are required, such as the right to “first refusal” in which the private sector service provider winning the competition generally must first offer any new employment openings under the contract to qualified government employees who were (or who will be) adversely affected as a result of the awarding of the contract. If the in-house government service provider wins the competition, other federal worker protections apply, such as those governing grade and salary retention rights.

Once the competition is complete and the letter of obligation or contract is awarded, agencies are required to monitor the performance of the winning service provider on an ongoing basis and must report findings to both Congress and OMB, regardless of whether the winner is the in-house government service provider or a private sector service provider. For example, federal law requires agencies to submit annual reports to Congress on competitions announced and completed.<sup>13</sup> In addition, OMB Circular No. A-76 and other guidance directs agencies to monitor postcompetition performance of the winning service provider and to track the actual costs of the performance.<sup>14</sup> (See appendix III for more details.)

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<sup>13</sup>Pub. L. No. 108-199, §647(b) (2004).

<sup>14</sup>OMB provided guidance on postcompetition oversight in a memorandum to the President’s Management Council: *Validating the Results of Public-Private Competition* (April 13, 2007).

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## Competitive Sourcing at DOL

Within DOL, the Office of Asset and Resource Management is responsible for planning and conducting the FAIR Act inventories of commercial and inherently governmental activities.<sup>15</sup> It is also responsible for managing DOL's competitive sourcing program, including the planning, monitoring, and evaluation of potential opportunities to improve effective and efficient program delivery at DOL. For example, this office coordinates the PCAR for each competition.<sup>16</sup> According to DOL policy and procedures, an initial PCAR is normally conducted by an independent review official after the first full year of performance following a competition, with annual PCARs thereafter for the duration of the contract, in order to meet formal review and inspection requirements in OMB Circular No. A-76 and the Federal Acquisition Regulation.<sup>17</sup> The competition process at DOL is illustrated in figure 1.

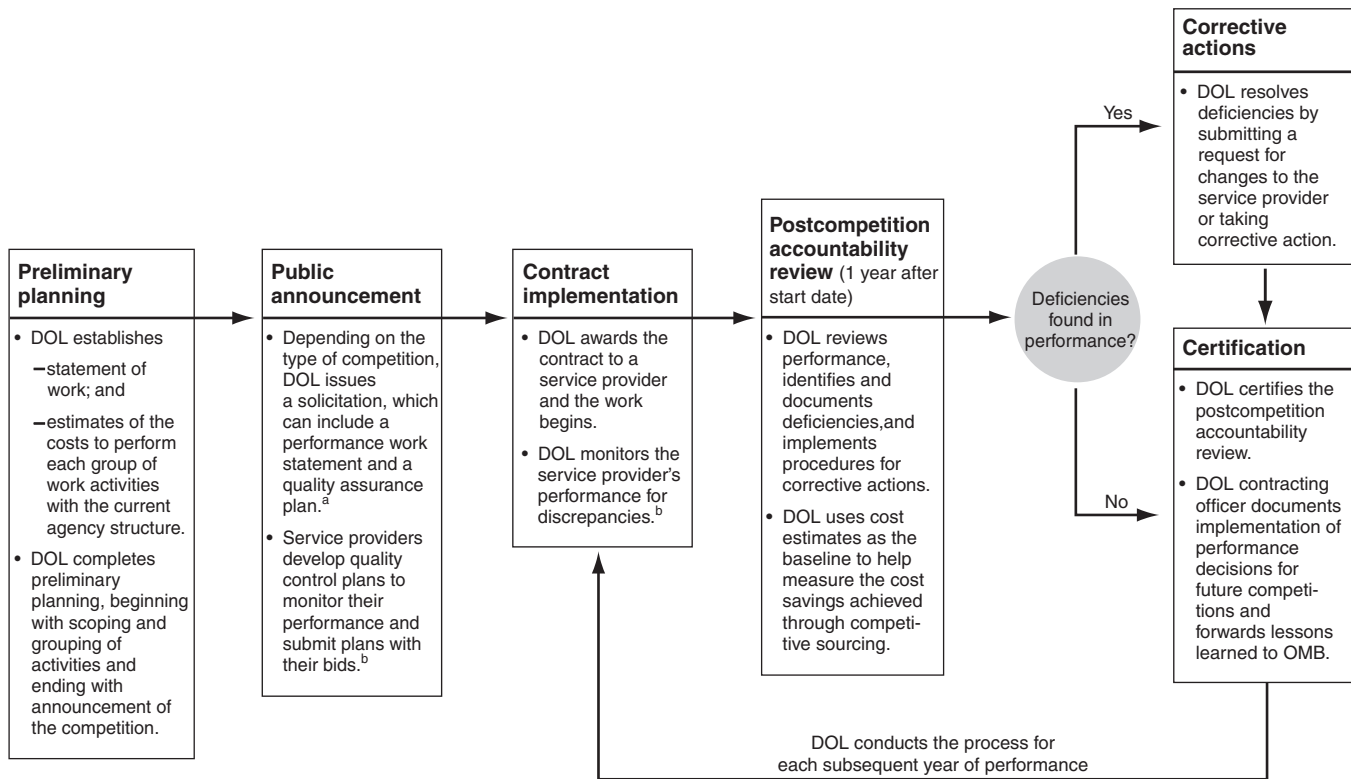
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<sup>15</sup>See appendix II for DOL's categorization of commercial activities for fiscal year 2006.

<sup>16</sup>See appendix IV for DOL's checklist for conducting PCARs.

<sup>17</sup>OMB Circular No. A-76 directs agencies to monitor performance for all performance periods stated in the solicitation; maintain the currency of the contract file in accordance with Subpart 4.8 of the Federal Acquisition Regulation; and monitor, collect, and report performance information consistent with Subpart 42.15 of the Federal Acquisition Regulation.

**Figure 1: The Competition Process at DOL**



Sources: DOL officials and GAO analysis of DOL and OMB documents.

<sup>a</sup>Planning documents for streamlined competitions without an MEO may include an abbreviated version of the performance work statement.

<sup>b</sup>For streamlined competitions without an MEO, it is optional for service providers to develop quality control plans and monitor their own performance.

Beginning in fiscal year 2004, DOL’s strategy for identifying and selecting work activities for competitive sourcing competitions involved starting out small in scope and gradually expanding its efforts over time. DOL’s first competitions in fiscal year 2004 involved mostly small groups of FTEs within a single DOL office (see table 1).<sup>18</sup> By fiscal year 2007, DOL had expanded its public-private competitions to include functions involving a

<sup>18</sup>As noted earlier, DOL completed 28 studies as part of its competitive sourcing program in fiscal year 2003, but these were all “direct conversions” to private sector service providers that did not involve assessments of DOL employees’ capabilities to provide these services in-house.



greater number of FTEs across multiple DOL offices. In addition, the number of private sector bids decreased over time. For a complete listing of DOL's fiscal year 2004 through 2007 competitive sourcing competitions, see appendix V.

**Table 1: Competitive Sourcing at DOL, Fiscal Years 2004 through 2007**

	Fiscal year				Total
	2004	2005	2006	2007	
Number of competitions	6	9	6	7	<b>28</b>
Number of competitions involving two or more DOL offices	0	1	1	4	<b>6</b>
FTEs prior to competition ("as is")	69	159	144	657	<b>1,029</b>
Type of competitions					
Number of streamlined competitions	5	5	6	0	<b>16</b>
Number of streamlined competitions with an MEO	0	2	0	2	<b>4</b>
Number of standard competitions	1	2	0	5	<b>8</b>
Number of private sector bids <sup>a</sup>	14	5	0	1	<b>20</b>
Winning bids					
Number of competitions won by private sector	1	1	0	1	<b>3</b>
Number of competitions won by government MEO	5	8	6	6	<b>25</b>

Source: GAO analysis of DOL documents.

<sup>a</sup>Numbers of private sector bids are from DOL's annual reports to Congress on completed competitions. However, these reports did not include two competitions that DOL reported elsewhere as completed competitions that were awarded to private sector service providers; thus, the numbers of private sector bids reported in this table have been increased to reflect the winning bidders in these two competitions. Additional private sector bids may also have been received for these competitions that are not reflected.

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## DOL Has Established a Performance Assessment System but Does Not Track Deficiencies or Recommendations for Improvement Departmentwide

DOL has made progress developing a system to assess the performance of winning service providers in its competitive sourcing program. DOL's system, as outlined in its policy and procedures issued in 2005, directs DOL offices to ensure that (1) records are maintained for independent review of the competition, (2) all assessments contain criteria to measure performance, and (3) lessons learned are reported. In our review of all assessments conducted as of July 2008, we found that these policies and procedures generally were followed and that these assessments provide key information for DOL policymakers to evaluate the effectiveness of its competitive sourcing program. However, we found that DOL lacks a departmentwide process for tracking and addressing deficiencies and recommendations for improvement.

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## DOL's System for Assessing Performance Shows Progress

In 2005, DOL issued policy and procedures for conducting PCARs—DOL's system for monitoring performance in accordance with OMB Circular No. A-76 and the Federal Acquisition Regulation. We examined all of DOL's initial PCARs completed as of July 2008 (18 total), and we found that DOL's policy and procedures generally were followed in conducting the reviews. Most initial PCARs were completed in a timely manner and most records were maintained for review. Criteria to measure performance were established for half of the competitions, and the majority of initial PCARs included lessons learned.

## Most Initial PCARs Completed in a Timely Manner

According to DOL policy and procedures and DOL officials, initial PCARs are normally conducted approximately 1 year after the first full year of performance for each competition. As of July 2008, we found that DOL had completed 18 of these reviews, based on the 21 competitions that were completed during fiscal years 2004 through 2006.<sup>19</sup> Of the 3 competitions that did not have an initial PCAR, one case involved a fiscal year 2005 competition that, according to DOL officials, had been delayed in implementation. The initial PCAR for this competition was later completed in September 2008. The second case was DOL's very first fiscal year 2004 competition to be won by a private sector service provider, and at the time, DOL had not yet issued the policy and procedures for conducting PCARs. In the last case, the contract was terminated a few months before the initial PCAR was expected to be completed.

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<sup>19</sup>As of July 2008, DOL had not yet conducted any of the PCARs for the seven competitions from fiscal year 2007 (these reviews were expected to be completed at various times during fiscal year 2008).

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In addition to calling for initial PCARs, DOL's policy also calls for annual PCARs thereafter. As of August 2008, we found that DOL had completed two annual follow-up reviews of the 14 cases where 1 year or more had elapsed since the initial PCAR. In 4 cases, implementation of the competitions had been terminated.<sup>20</sup> In the remaining 10 cases, the follow-up reviews were still pending; in 6 cases, 2 or 3 years had elapsed since the initial PCAR was completed. A senior DOL official explained that DOL interpreted OMB guidance as calling for follow-up reviews only for certain standard competitions. However, as noted by OMB officials, OMB's guidance states that all competitions should still be reviewed as part of the agency's management oversight activities (unless otherwise exempted by law). Thus, in all of these cases, follow-up PCARs should be completed annually in accordance with DOL's policy for performance monitoring.

#### Most Records Maintained for Review

Following issuance of DOL's policy and procedures in 2005, DOL officials generally maintained the records needed for conducting PCARs, but this was not the case at the outset of DOL's competitive sourcing program. Independent review officials noted that they were unable to fully assess four competitions completed in fiscal year 2004 because of missing documentation. For example, these reviewers noted that records such as the initial solicitation and public announcement of the competition, backup cost information, and the performance decision were missing. DOL officials explained that these fiscal year 2004 competitions were the department's first under its competitive sourcing program and that they experienced a learning curve. They said that the missing files for all of these competitions have been recovered and corrective actions such as recreating the files have been taken. The independent review officials for all four PCARs also noted that the files had been recreated for each of their competitions. Subsequent reviews of other competitions completed in fiscal years 2005 through 2007 did not cite similar problems.

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<sup>20</sup>Implementation of four competitions was canceled as a result of §6602(b) of Pub. L. No. 110-28 which classified all federal employees at the Mine Safety and Health Administration as inherently governmental, thus making them ineligible for inclusion in competitive sourcing activities.

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## Criteria to Measure Performance Established for Half of the Competitions

### Quality Assurance and Quality Control Plans

To assist agencies with monitoring the performance of winning service providers for standard competitions, OMB Circular No. A-76 directs agencies to ensure that

- a **quality assurance surveillance plan** is developed to document the methods used to measure the performance of the winning service provider against the requirements of the statement of work, and
- a **quality control plan** is included in all bids to describe the internal staffing and procedures that the prospective provider will use to meet the quality, quantity, timeframes, responsiveness, customer satisfaction, and other service delivery requirements in the statement of work.

According to the PCARs, criteria to measure performance had been established for half of the competitions reviewed. OMB Circular No. A-76 calls for quality assurance and quality control plans to be established to assist agencies with monitoring the performance of winning service providers for standard competitions. Although OMB Circular No. A-76 does not specify a requirement for streamlined competitions, DOL's policy and procedures call for streamlined competitions to establish quality assurance plans or, at a minimum, abbreviated work requirements, with quality control plans optional in some cases.<sup>21</sup> Of the 18 initial PCARs completed as of July 2008, we found that independent reviewers identified a lack of quality assurance plans in nine cases and a lack of quality control plans in seven cases (all of which were streamlined competitions). In three of the nine cases lacking quality assurance plans, reviewers noted the difficulty in assessing the performance of a winning service provider without any kind of general standards or requirements that may be used to measure performance. In addition, in one case that had established a quality control plan, the independent review official commented that the service provider who had won the competition was not utilizing the quality control plan.

## Majority of Initial PCARs Reported Lessons Learned

The majority of the 18 initial PCARs completed as of July 2008 reported information on lessons learned: 13 provided this information, but the remaining 5 did not. OMB Circular No. A-76 calls for agencies to allocate resources to effectively apply a clear, transparent, and consistent competition process based on lessons learned and best practices. DOL policy and procedures also state that reporting lessons learned in a competition should be documented in each PCAR. Yet, a senior DOL management official stated that DOL considers providing lessons learned in a PCAR to be a best practice, rather than a requirement, and that the "lessons learned" often can be found elsewhere in the body of the review. However, in three initial PCARs, reviewers noted specifically that there were no lessons learned identified or reported in any part of the reviews. In one other follow-up PCAR, the reviewer noted that lessons learned were not formally documented, but the in-house organization has effectively applied lessons learned after the competition decision.

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<sup>21</sup>DOL policy and procedures call for streamlined competitions with an MEO to establish quality assurance and control plans, as they would for a standard competition. For streamlined competitions without an MEO, an abbreviated version of the quality assurance plan is provided, while quality control plans are optional.

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## DOL Lacks a Departmentwide Process for Tracking and Addressing Deficiencies and Recommendations for Improvement

DOL does not ensure that deficiencies identified and recommendations made in initial PCARs are tracked and followed up on at a departmentwide level. Instead, DOL relies on an ad hoc process. As a result, DOL is hindered in its ability to systematically monitor performance trends and determine if the winning service providers are performing more efficiently than the prior service providers.

OMB Circular No. A-76 directs agencies to maintain a database to track the execution of competitions through completion of the last performance period (or cancellation of the competition), and to post best practices and lessons learned. In addition, guidance on internal controls from OMB, GAO, and others typically points out that taking a more systematic approach to identifying weaknesses and needed improvements enhances the accountability and effectiveness of an agency's programs. For example, OMB Circular No. A-123 directs agencies and individual federal managers to take systematic and proactive measures to identify needed improvements and to take corresponding corrective action to improve the accountability and effectiveness of their programs. OMB Circular No. A-123 also directs agencies to carefully consider whether systemic weaknesses exist that adversely affect internal control across organizational or program lines.<sup>22</sup> With respect to internal controls, GAO has issued standards which state that assessing the quality of performance over time is a key aspect of internal control monitoring in a government agency and that managers need to compare actual performance to planned or expected results throughout the organization and analyze significant differences.<sup>23</sup> In addition, GAO's Commercial Activities Panel report states that methods to track success or deviation from objectives are required to ensure accountability.

All of DOL's 18 initial PCARs completed as of July 2008 contained recommendations for improvements for each of their competitions. The recommendations included suggestions such as modifying the performance work statement to more accurately reflect the workload of the winning service provider, developing educational briefings, and providing an example of a completed PCAR in DOL's policy and

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<sup>22</sup>OMB Circular No. A-123 provides guidance to federal managers on improving the accountability and effectiveness of federal programs and operations by establishing, assessing, correcting, and reporting on internal control.

<sup>23</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

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procedures for conducting performance reviews. But DOL does not track such recommendations at the departmentwide level. According to a senior DOL official in the Office of Asset and Resource Management, it is the responsibility of each individual DOL office—such as the Mine Safety and Health Administration or the Office of Administrative Law Judges—to document and respond to deficiencies and recommendations noted in the initial PCARs. Information about whether any deficiencies have or have not been addressed is maintained only at the individual office level.

At our request, DOL officials from individual offices were able to provide information for a sample of six competitions that described how they had followed up on some of the issues reported in the initial PCARs. For example, DOL officials stated that after tracking the findings from one PCAR, they decided to conduct a follow-up work management study that provided a blueprint for undertaking a series of programmatic and quality assurance surveillance improvements. Senior DOL officials also told us that they have an executive steering committee, with members from its competitive sourcing, human resources, and labor management relations offices, that meets weekly to discuss items that need to be adjusted in competitive sourcing competitions. However, as one DOL senior management official acknowledged, they do not always follow up on all of the problems that they keep on file. Thus, DOL’s ad hoc system does not currently take a systematic approach to identifying weaknesses and needed improvements to enhance the effectiveness and accountability of its competitive sourcing program across the organization, as called for by OMB guidance and GAO internal control standards.

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## DOL Competitive Sourcing Cost Reports Are Not Comprehensive or Reliable

DOL’s savings reports for competitive sourcing, while adhering to OMB guidance,<sup>24</sup> exclude a number of substantial costs and also are unreliable. OMB’s guidance directs agencies to exclude certain costs associated with the competitions, such as some staff costs and costs incurred before the competition’s announcement. These costs can be substantial. In addition, DOL’s savings reports are unreliable for a number of reasons. For example, we found cases of inflated savings reports due to calculation errors, the use of projections rather than actual costs, and the use of baseline costs that were inaccurate and misrepresented actual savings.

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<sup>24</sup>The term “guidance,” as used in this report, generally refers to OMB memoranda M-08-02, M-07-01, M-06-01, and M-05-01 regarding agency reports to Congress.

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## Savings Reports Are Not Comprehensive

DOL's savings reports to Congress are not comprehensive because they exclude substantial costs associated with the competition process. Although these reporting practices conform to OMB's guidance for competitive sourcing, reporting costs in this way does not comprehensively assess competitive sourcing as a tool to manage a particular commercial activity, compared with other possible management tools.

The Consolidated Appropriations Act, 2004,<sup>25</sup> established a requirement for all executive agencies to report on their competitive sourcing efforts for the prior fiscal year. As part of this law, Congress requires agencies to report

- the incremental cost directly attributable to conducting the competitions, including costs attributable to paying outside consultants and contractors;
- an estimate of the total anticipated savings, or a quantifiable description of improvements in service or performance, derived from completed competitions; and
- actual savings, or a quantifiable description of improvements in service or performance, derived from the implementation of competitions completed after May 29, 2003.

In its oversight role for competitive sourcing, OMB issues a yearly memorandum providing guidance to agency heads on how to develop this report. From 2004 through 2007, these memos have directed agencies to exclude certain costs that are associated with the competition process (see table 2).

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<sup>25</sup>Pub. L. No. 108-199 (2004).

**Table 2: Incremental Competition Costs to Be Included and Excluded in Annual Reports to Congress**

Included <sup>a</sup>	Excluded	Not expressly included or excluded
<ul style="list-style-type: none"> <li>• Costs of consultants or contractors who participated in the conduct of the reported competitions.</li> <li>• Travel, training, and other costs directly attributable to the conduct of the reported competitions.</li> <li>• Costs of staff hired specifically to work on a particular competition or competitions or fill in for employees temporarily working on a competition.</li> <li>• Employee overtime costs (where overtime costs are tracked).</li> </ul>	<ul style="list-style-type: none"> <li>• Any costs incurred prior to the public announcement of the competition.</li> <li>• Costs of in-house staff spent on the competition during normal working hours.</li> </ul>	<ul style="list-style-type: none"> <li>• Certain transition costs to the new provider, such as organization re-engineering costs and employee separation payments.<sup>b</sup></li> <li>• Costs related to postcompetition accountability reviews.</li> </ul>

Source: GAO analysis of OMB Memoranda M-08-02, M-07-01, M-06-01, and M-05-01.

<sup>a</sup>OMB also directs agencies to report the labor costs of providing central direction and oversight (costs that cannot be attributed to individual competitions) as fixed costs in their reports to Congress.

<sup>b</sup>OMB guidance does not direct agencies to include or exclude transition costs as part of competition costs; however, it does direct agencies to exclude these costs when calculating savings.

OMB officials told us that their policy directs agencies to exclude certain costs because these costs reflect what would be incurred as part of an agency’s typical management responsibilities. For example, OMB directs agencies to exclude the costs of precompetition planning and agency staff time spent on competition activities, as these activities can help the agency identify and correct performance gaps and improve efficiency and should be taking place whether or not the agency is conducting any competitions. Additionally, OMB officials explained that transition costs associated with competitions should be excluded because such costs also occur with other management processes, such as new program re-engineering and separation payments provided to employees who are displaced by a downsizing. Similarly, they explained that the costs associated with conducting PCARs should be excluded because these reviews help organizations identify and correct performance gaps in their work groups and should be considered as part of normal business



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operations. OMB officials commented that they do not believe that excluding these costs has a major impact on an agency's ability to determine the cost-effectiveness of competitive sourcing as a management tool.

However, because OMB's guidance directs agencies to exclude certain costs, the full cost associated with DOL's competitive sourcing program is not transparent. Since 1990, we have reported that improvements in the completeness and accuracy of savings reports of competitive sourcing could help present a more comprehensive picture of program costs and benefits and help determine the most cost-effective use of resources. For example, in our reviews of the competitive sourcing programs at DOD and USDA's Forest Service, we recommended that these agencies improve the way they account for and report costs associated with their competitive sourcing programs.<sup>26</sup>

In this review, we found similar issues with the comprehensiveness of DOL's savings reports. Specifically, DOL reported a total of \$15.7 million in savings and \$4.3 million in competition costs for all of its completed competitions for fiscal years 2004 through 2007. While DOL reported these savings in conformance with OMB guidance, we found that the excluded costs attributable to competitive sourcing over this period were substantial, and—importantly—it is not clear that these costs would be incurred when using a commercial management tool other than competitive sourcing.

For example, consistent with OMB guidance, DOL excluded costs attributable to the time in-house staff spent on assisting with competition activities (staff not dedicated to central oversight of DOL's competitive sourcing program).<sup>27</sup> While these staff are already paid by the government, their time spent away from regular work duties represents a cost that is attributable to the competition process. We were not able to obtain specific estimates on the number of hours that such staff members spent on competition activities, since DOL does not require its offices to record this information. However, employees in one office who were at the GS-12

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<sup>26</sup>GAO, *OMB Circular A-76: DOD's Reported Savings Figures Incomplete and Inaccurate*, GAO/GGD-90-58 (Washington, D.C.: March 15, 1990) and GAO-08-195.

<sup>27</sup>Costs attributable to staff dedicated to central program oversight activities full time—unlike temporarily detailed staff—are to be included in the cost reports, according to OMB guidance.

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level or higher estimated that they worked a total of 2,263 hours on one competition. Including these staff costs would have doubled the costs reported by DOL for this competition. Employee responses in our interviews suggest that the amount of time employee staff spent assisting on competitions varied greatly, with some staff members spending little, if any, time on competition activities and others who reported spending one-quarter to one-half of their total working time over the course of a year.

According to OMB's guidance, agencies should also exclude costs incurred during the preliminary planning phase of a competition, such as the use of contractors, as well as other costs that are directly related to the conduct of the competition (see table 2). DOL employed private sector consultants to conduct precompetition planning, including feasibility studies before the competition phase, and to conduct PCARs following the competition. DOL also employed private sector consultants for other activities related to competitive sourcing, such as to conduct business and industry analyses to determine the likelihood of generating private sector offers and to review the government positions open for bidding to determine if they had been appropriately designated during the FAIR Act inventory process.

In addition, OMB guidance does not require agencies to include many of the transition costs directly associated with generating savings from competitive sourcing activities, such as the costs of voluntary separation payments<sup>28</sup> and system re-engineering costs. For example, according to DOL data, in calendar year 2006, 14 employees were provided voluntary incentive payments due to competitive sourcing that totaled \$350,000. Including these costs would have increased total completed competition costs by 32 percent for the year. In addition to these costs, one competition utilized a newly re-engineered process to decrease total staff hours and to help generate a reported \$3.3 million in savings from fiscal year 2005 to fiscal year 2007. The costs of full-time staff hours spent on the re-engineering process were not shown as costs of competitive sourcing, and DOL did not have information on the amount of staff time used.

Finally, OMB guidance does not require agencies' savings reports to include the costs of monitoring performance after the winning service

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<sup>28</sup>Under the Voluntary Separation Incentive Payment Authority (also known as buyout authority), agencies that are downsizing or restructuring are allowed to offer employees lump-sum payments up to \$25,000 as an incentive to voluntarily separate.

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provider begins its activities. However, we found that the PCARs are often conducted by contractors or consultants to monitor competitive sourcing performance for DOL and that they represent a cost in addition to normal federal employee and contractor oversight costs. DOL spent a total of \$126,614 on PCARs conducted by consultants as of July 2008.

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## DOL Savings Reports Are Not Reliable

In addition to excluding costs, DOL's savings reports are unreliable. We reviewed the process DOL uses to compile its reports for a sample of competitions. We found a number of calculation errors in the sample; we also found cases where DOL used projections rather than actual costs to estimate savings or used a baseline that was inaccurate and overstated savings.

### Calculation Errors

We randomly selected three competitions for review to determine the accuracy and reliability of DOL's savings reports. While not necessarily representative of all DOL competitions, these three savings reports contained inaccuracies—with two of the three containing significant errors that inflated the reported savings achieved through those competitions. For example, in the first competition, won by a private sector service provider, DOL reported \$2.7 million in savings from fiscal year 2005 through fiscal year 2007. This savings figure did not include contract administration costs that are directed to be included according to OMB guidance. By excluding these costs, DOL overstated its savings by about \$185,000 per year, or 25 percent. In the second competition, DOL used an incorrect cost value that excluded some employee wage costs when calculating savings. This error inflated the reported savings by almost \$169,000, or 22 percent, for fiscal year 2006. In the third competition, though the inaccuracy was less significant, DOL reported a full year's worth of savings for fiscal year 2006, even though the new provider was not phased in until 7 months into the new fiscal year. DOL officials stated that the savings estimate was an interim figure that was used before the actual costs were updated for fiscal year 2008.

### Use of Projections in Savings Estimates

DOL used projections—rather than actual costs—to report \$9.3 million of its \$15.7 million in savings to Congress, even though OMB guidance specifies that calculating savings based on actual costs rather than projections is preferred. OMB guidance states that agencies may use projections as an interim estimate but that the actual numbers should be used as soon as they are available.

Savings reports based on projections can be less accurate than reports using actual numbers because projections use average salaries for employees estimated during the competition, as well as projected staffing

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and hours that do not always reflect true personnel costs. Projections also exclude “retained pay,” which is pay to employees who receive grade demotions but keep their original pay due to worker protections. By using projections, these costs are excluded from competition savings reports but would be included if actual costs were used. For example, in one competition won by the in-house agency (MEO), 8 of the 9.3 full time employees<sup>29</sup> in the MEO received retained pay after the competition. In total, a DOL review noted that retained pay for these employees caused the actual personnel costs to be 45 percent higher than the original estimated costs for the MEO. By using projections rather than actual values in estimating savings, DOL excluded the higher actual personnel costs for fiscal years 2004 and 2005, even though actual numbers were available.

#### Inaccurate Baseline

Of the 18 initial PCARs that we reviewed, 8 noted that organizational or workload changes had occurred. For example, in one instance, a DOL office lost 45 FTE positions in fiscal year 2006 due to budgetary reasons, with 8 of these lost positions designated for an activity being competed and that, at the time, was in the source selection phase. This reduced the designated FTEs for this competition from 32 to 24. As noted in the PCAR, the private sector service provider who won this competition was chosen on the basis of the smaller 24-employee demand. However, the final savings figure—the difference between the original government provider and the winning private sector service provider—was calculated using the baseline cost of the original 32 FTE service provider. A senior DOL official that we spoke with stated that the original baseline was used because the private sector service provider was doing the same level of work that the government service provider had been doing before. However, as noted in the PCAR, actual workload data was not available for this competition. Because of this, it cannot be known for certain if the same level of work was being performed. Using the baseline of 32 FTEs, rather than 24 FTEs, increased reported savings by almost \$2.7 million over the 5-year performance period.

Vacancies within agency workgroups also increased reported savings, though it is unclear if these savings should be attributed to competitive sourcing efforts. For example, in five competitions, the in-house government bid won the competition by maintaining its original “as-is” work group organization, and no anticipated future savings were reported

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<sup>29</sup> A partial FTE was designated for management support.

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because, according to DOL officials, the staff structure did not change. However, in two of the competitions, savings were later reported. In one of these competitions, employee retirements and a decrease in organization workload resulted in vacancies that caused staff wages to be 46 percent lower than those originally projected, and DOL reported savings of \$64,000 for fiscal year 2005 and \$86,000 for fiscal year 2006. In the second competition, savings of \$26,000 were recorded for 1 year, partly due to a vacant position. In addition to staffing vacancies after the competition, vacancies that occur before a competition can inflate reported savings, as the baseline used to calculate savings is determined by the government service provider's budgeted staffing levels for the year of the planned competition. For example, the same competition discussed previously that reported \$3.3 million in savings because of a re-engineered process that decreased workload and required staffing hours, did not change its actual staffing levels at the time of the competition due to pre-existing, budgeted vacancies. Thus, the savings figures based on full staffing levels were inflated.

In three separate PCARs, as well as in our interviews with DOL employees, DOL staff were identified as inappropriately contributing to the work assigned to the winning bids, and in some cases, this resulted in overestimating the savings achieved by the competitions. In one case, the bid was won by a private sector contractor, yet the independent reviewer determined that a DOL employee was performing some of the work, noting that "a government employee is assisting a [private sector service provider] employee for up to 1-2 hours per day and could total up to 500 hours on an annual basis. The service provider is being supplemented with the government workforce at this time." DOL officials stated that the government employee was no longer assisting the private sector service provider and that a workload study was being conducted to help address this problem. Additionally, in two cases, staff who were not part of the MEO were found to be contributing to the work assigned to the MEO. For example, in one case, the PCAR indicated that non-MEO workers were found contributing to work within the MEO and that DOL had not included these costs. DOL savings estimates were based on the cost of only the MEO staff; thus, though the non-MEO staff costs were not available, including these costs would have decreased the reported savings of the competition.

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## DOL's Competitions Rarely Resulted in Lost Jobs or Lower Salaries, but Employees Report Negative Impacts on Morale

DOL's competitions reportedly had negative impacts on morale, even though they rarely resulted in lost jobs or salary reductions for DOL workers. Of the 28 competitions DOL held during fiscal years 2004 through 2007, 23 resulted in formal job changes (that is, changes reflected in personnel actions) for DOL employees—most often, reassignments to different positions at the same or higher salary levels. Many of the workers experiencing personnel actions have been minorities and women. DOL management stated that they made their best efforts to treat well those employees who were involved in the process, in adherence with the Commercial Activities Panel principles; nevertheless, employees we spoke with reported negative impacts on morale.

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## Most Affected Personnel Were Reassigned but Kept Their Same Salary Level

In 23 of the 28 competitive sourcing competitions conducted by DOL during fiscal years 2004 through 2007, personnel actions affected the jobs of a total of 314 DOL employees.<sup>30</sup> Most often, the affected employees were reassigned to new DOL positions. About 79 percent (248 workers) were reassigned to new positions at the same federal grade and salary level (see fig. 2). For example, a worker who was a GS-13 safety and occupational health specialist before the competition was reassigned as a GS-13 safety and occupational health specialist after the competition, but was placed under a different agency management structure designed as part of the winning in-house bid (MEO). Another 15 workers were promoted to a higher federal grade with entitlement to any associated salary increases. Of the 16 workers who were demoted to a lower federal grade, 5 retained their same grade and 9 retained their same salaries that they had before the competition, due to grade and pay retention provisions.<sup>31</sup> All the remaining workers left DOL, including 29 who left voluntarily, either through retirement or through a nonretirement separation with an

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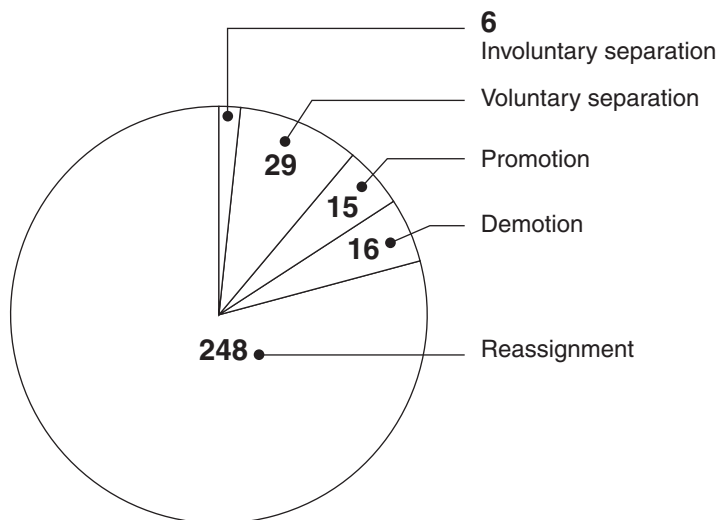
<sup>30</sup>No personnel actions occurred for various reasons in five of the competitions. In three cases, there were no personnel actions because of attrition or because there was no MEO. In one case, the competition was canceled to comply with Pub. L. No. 110-28, §6602 (2007). In one other case, the competitions were suspended to comply with Pub. L. No. 110-161, Division G, Title I, §111 (2007).

<sup>31</sup>Federal regulations provide for an employee's eligibility for mandatory or optional grade and pay retention when an agency moves an employee to a lower-graded position. See 5 C.F.R. part 536. According to data provided by a senior DOL official, all but two of these employees were eligible to maintain either their grade or their pay under these provisions.

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incentive payment, and 6 who were laid off from the agency through a reduction in force.<sup>32</sup>

**Figure 2: Effects of Competitive Sourcing on DOL Workers, Fiscal Years 2004 through 2007**



**Total number of personnel actions: 314**

Source: GAO analysis of DOL data.

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### Many Affected Personnel Were African-Americans, Women, and Older Workers

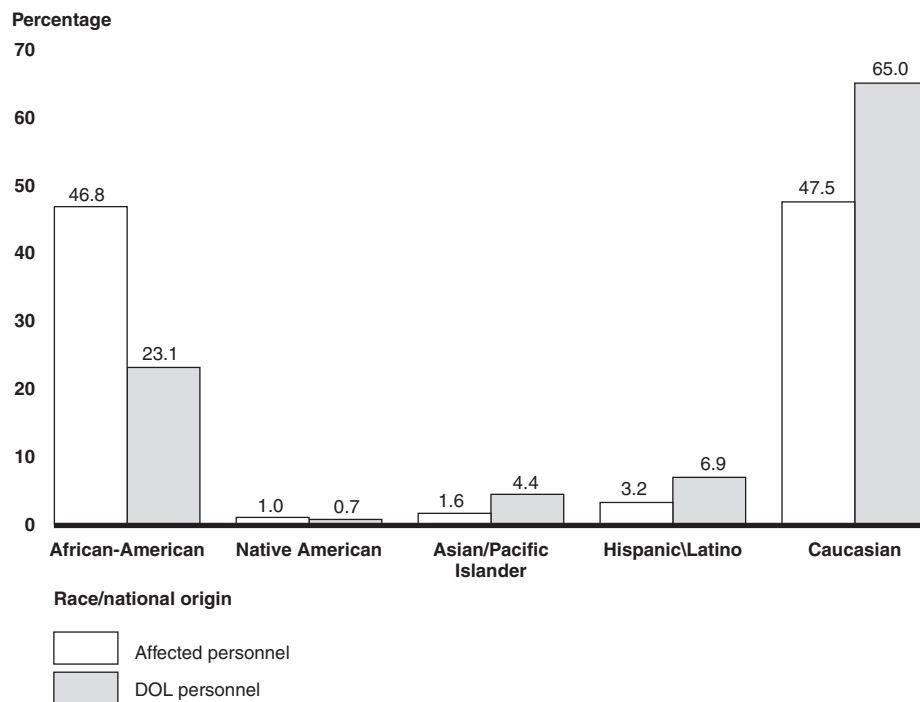
Of the 314 DOL workers who were affected by personnel actions due to competitive sourcing during fiscal years 2004 through 2007, 47 percent were African-Americans, 60 percent were women, and 89 percent were 40 years old or older—much higher proportions than their representation in the general DOL working population overall. It may be that these population groups more frequently hold the commercial positions eligible for competition compared with the general DOL population. However, DOL does not tabulate demographic data by OMB’s list of FAIR Act function code categories for commercial activities, and the data were not readily available. Thus, we were unable to determine if this could be an underlying cause.

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<sup>32</sup>When an agency must abolish positions, federal regulations determine whether an employee keeps his or her present position or whether the employee has a right to a different position. See 5 C.F.R. part 351.

Although DOL does not routinely track the demographic characteristics of those affected by competitive sourcing decisions, agency officials were able to gather these data from various sources in response to our request. A comparison of these data with the demographic profile of DOL personnel overall shows that African-Americans comprised about 47 percent of affected workers, compared with 23 percent of the overall DOL working population. Similarly, Native Americans comprised a greater proportion of the affected workers compared with the overall DOL working population. In contrast, the proportions of affected Caucasian, Hispanic/Latino, and Asian/Pacific Islander workers were lower than their representation in the general DOL working population (see fig. 3). Moreover, among those affected, African-Americans experienced more negative impacts. All 16 workers who were demoted, and all 6 workers who were laid off, were African-American. In contrast, of the 15 workers who were promoted, 10 were Caucasian, 3 were African-American, 1 was Hispanic/Latino, and 1 was Asian/Pacific Islander.

**Figure 3: Race/National Origin of Affected Personnel, Compared with General DOL Personnel, Fiscal Years 2004 through 2007**

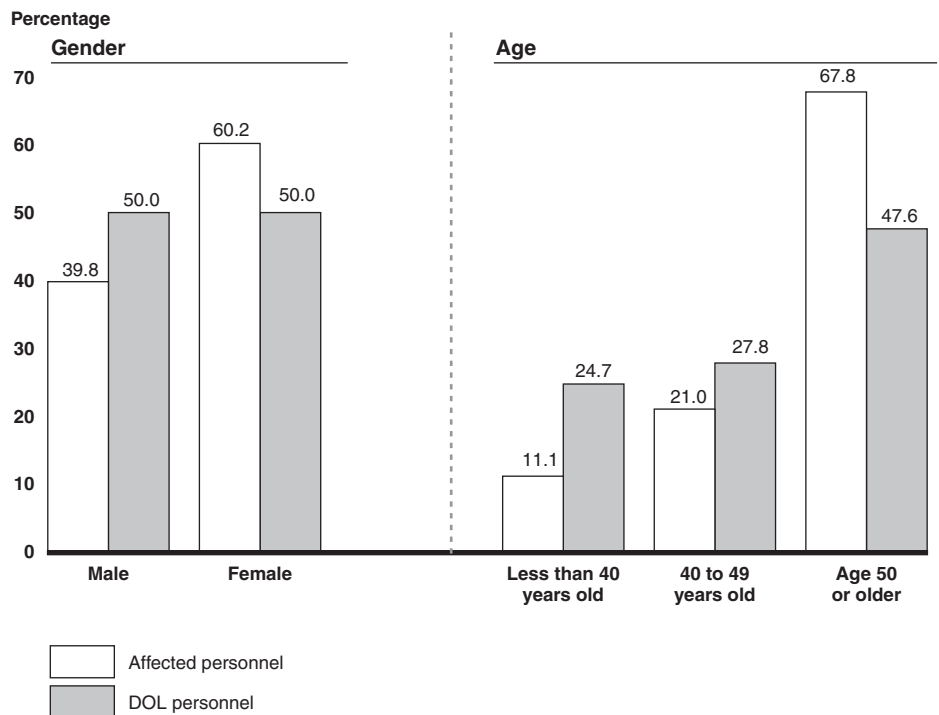


Source: GAO analysis of DOL data.



Similarly, 60 percent of affected workers were women, compared with 50 percent of the DOL working population. Likewise, 89 percent of affected workers were age 40 or over, compared with 75 percent of DOL workers overall, mostly due to the impact of those over age 50. (See fig. 4.)

**Figure 4: Gender and Age of Affected Personnel, Compared with General DOL Personnel, Fiscal Years 2004 through 2007**



Source: GAO analysis of DOL data.

Note: Percentages do not add to 100 percent due to rounding.

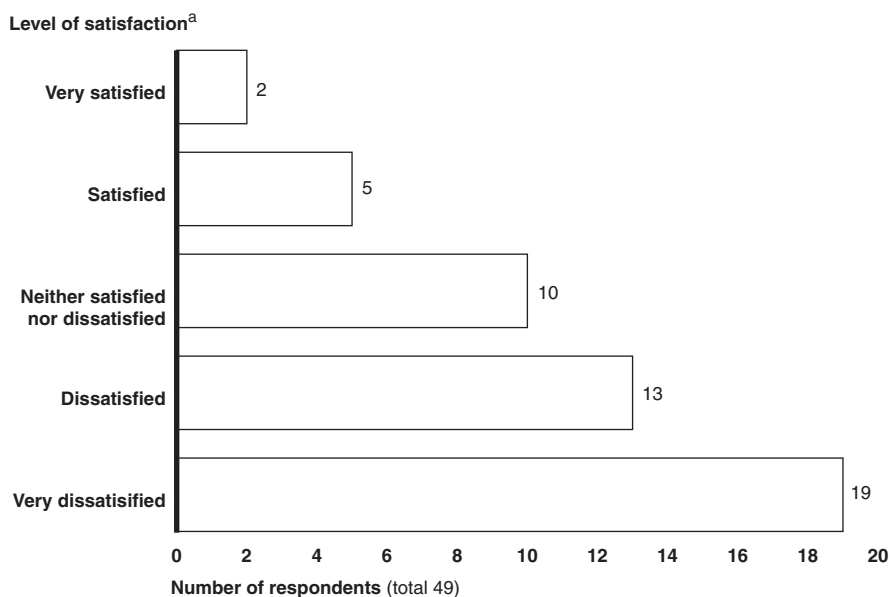
## Selected Employees' Views on Implementation and Morale Issues

Although DOL management stated that they made their best efforts to treat well those employees whose positions were competed in the competitive sourcing process, almost all DOL employees we spoke with who assisted with competition activities, and whose positions were affected by the competitions, reported that the competitive sourcing process has had a negative impact on morale. The Commercial Activities Panel principles include, among other things, that agencies should base their competitions on a “clear, transparent, and consistently applied process” and ensure that, when competitions are held,

they are conducted as “fairly, effectively, and efficiently as possible.”<sup>33</sup>

According to DOL management officials, extensive efforts were made to adhere to these principles. DOL issued a guidebook describing how the process worked, and management officials said they made every effort to find a job for all those affected by a competition. Employees were offered reassignments, voluntary early retirement options, separation incentives, and other services for career transition. However, most employees we interviewed said that they were either dissatisfied or very dissatisfied with how DOL has implemented the competitive sourcing process (see fig. 5). Though not a representative sample of all those involved in the process, these interviews included employees who were responsible for assisting with competition activities, as well as employees whose positions had been competed.<sup>34</sup>

**Figure 5: Interview Respondents’ Reported Satisfaction Levels with the Competitive Sourcing Process**



Source: GAO analysis of interview responses.

<sup>a</sup>Level of satisfaction was determined by analyzing responses to the question: “Overall, how satisfied or dissatisfied are you with how DOL has implemented the A-76 process?” The question was asked of 50 DOL employee participants (1 participant did not respond). The question was not asked of 5 participants, and the responses of 5 senior management officials were not included in the analysis.

<sup>33</sup>For a list of all 10 principles, see the Background section of this report.

<sup>34</sup>For a more detailed description of how the interviewees were selected, see appendix I.

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In general, the employees we interviewed said that the process has harmed morale. For example, some noted that it has led to a lack of trust between staff and management and that these effects appear to be long-lasting. They told us that competitive sourcing had taken away the job security that federal employment used to provide and that this change has harmed the morale of current employees, as well as the agency's ability to recruit future employees. Some said that even though employees may have ended up benefiting from competitive sourcing, many were still unhappy about having been subjected to the process. They noted that they felt they must have done something wrong for their jobs to have been selected for the competition. Others said that they were no longer in positions that they had been trained for or wanted. Several said that if their jobs were competed again, they would leave the agency.

Among those reporting that they were satisfied or very satisfied with the process, several commented on the improved efficiency and effectiveness of the organization after the competition. For example, the employees responsible for overseeing the competition in one location noted that the competition had an overall positive impact on the organization because the winning MEO incorporated a better balance of personnel and resources than what had existed before. According to these employees, they met their goals, saved some money, and came up with a better organization afterward. However, others we spoke with commented that employees are not as willing to put in the extra effort needed to provide high-quality work. For example, some DOL employees told us that the job was still being done but that loyalty and effort has decreased. Moreover, even employees who said they were satisfied with the process noted that there were negative impacts on morale.

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## Conclusions

As the Commercial Activities Panel report describes, the government's goal for competitive sourcing is to obtain high-quality services at a reasonable cost and to achieve outcomes that represent the best deal for the taxpayer. DOL has conducted public-private competitions under its competitive sourcing program for 4 years and has set up performance and cost reporting systems to track its progress in meeting such goals. Yet these systems have a number of weaknesses, and unless these weaknesses are addressed, they will continue to inhibit DOL's ability to reliably and comprehensively assess whether the cost of the work performed by the winning service providers—whether in-house government service providers or contracted private sector service providers—achieves the savings promised through the competitive sourcing process.

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Under OMB's new Commercial Services Management guidance, agencies are encouraged to use the tool that provides the best value and the most efficient process to manage its commercial activities. However, without a better system to track deficiencies and improvements departmentwide and identify all the costs associated with competitive sourcing, it will be difficult to assess whether competitive sourcing truly provides the best deal for the taxpayer. To accurately determine which management tool is most cost-effective in performing a certain activity, agencies need a full accounting of the costs and performance.

Previous GAO reports have cited problems at other federal agencies—DOD and USDA's Forest Service, in particular—because they did not develop comprehensive estimates for the costs associated with competitive sourcing. This report identifies similar problems at DOL. To enhance the transparency surrounding their estimates of savings from competitive sourcing, federal agencies need to track all costs—including planning costs, transition costs, postcompetition monitoring, and the labor costs of all staff who participate in competitions.

We found that DOL does not ensure that identified deficiencies and recommendations are tracked and followed up on at a departmentwide level. Without such departmentwide tracking, DOL is hindered in identifying and monitoring agencywide competitive sourcing performance trends, reliably determining whether all deficiencies or recommendations for improvement have been addressed, or determining whether the new organization is working more efficiently. Moreover, if DOL continues to conduct more competitions that involve multiple DOL offices, the ability to track competitions departmentwide will become increasingly important.

We also found that in a sample of three of DOL's savings reports to Congress, all three contained errors that overstated the savings achieved through competitive sourcing, two of which were significant. Without reliable savings assessments, policymakers do not have the information that they need to determine the effectiveness of competitive sourcing.

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## Recommendations for Executive Action

We are making four recommendations.

In the interest of providing agency decision makers and policymakers with more complete information on the total costs associated with competitive sourcing, we recommend that in addition to the current cost reports that OMB requires agencies to prepare, the Director of OMB should:

- 
- require agencies to systematically report all costs associated with competitive sourcing, including regular FTE staff wages for time spent on planning and conducting competitions, as well as all other precompetition, transition, and implementation costs, including postcompetition monitoring or accountability reviews.

To improve the reliability and comprehensiveness of DOL's performance assessments and savings estimates in its competitive sourcing program, we recommend that the Secretary of Labor take the following three actions:

- implement a consistently applied, departmentwide system to track identified deficiencies and recommendations for improvement in each of the competitions and the program overall;
- implement a system to track the full costs associated with managing DOL's commercial management activities, including—but not limited to—all costs associated with competitive sourcing; and
- develop and implement a review process to ensure the accuracy of competitive sourcing savings reports to Congress.

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## Agency Comments and Our Evaluation

We provided a draft of this report to the Office of Management and Budget and the Department of Labor for review and comment. Both agencies provided written comments on a draft of our report which are reprinted in appendixes VI and VII, respectively. These agencies also provided us with technical comments that we incorporated, as appropriate.

OMB concurred with our conclusion that all agencies can maximize savings and performance benefits by ensuring appropriate internal controls are in place to monitor results but questioned the need for reporting all costs associated with competitive sourcing. OMB stated that certain costs are not necessarily unique to competitive sourcing and would not have a significant impact on the amount of savings. However, as the examples in this report and past GAO reports demonstrate, the lack of complete and accurate savings reports for the competitive sourcing program results in agencies not having a comprehensive, transparent picture of all the costs and benefits associated with the program. Moreover, while not unique to competitive sourcing, some costs could nevertheless vary across the myriad of management tools for improving the delivery of commercial services. Even if OMB does not expect a significantly different result in savings achieved by including these additional costs, agencies need a full accounting of all of the costs associated with competitive sourcing in order to enhance the transparency of their savings estimates and accurately

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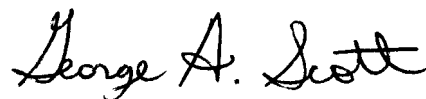
determine if competitive sourcing truly provides the best deal for the taxpayer. OMB stated that it would work with the transition team so the next administration will be fully informed about the costing policies for competitive sourcing as it considers our recommendation.

DOL acknowledged that improving cost assessments and performance tracking can provide better tools for managing their competitive sourcing program and agreed with our recommendation to implement a departmentwide system to track identified deficiencies and recommendations for improvement, as well as our recommendation to develop and implement an internal review process to ensure the accuracy of savings reports. However, DOL expressed concerns about our recommendation to implement a system to track full costs related to competitive sourcing in the absence of governmentwide guidance from OMB to do so. While we recognize that DOL is subject to OMB guidance on reporting costs, we continue to maintain that federal agencies like DOL need to track all costs associated with competitive sourcing—whether they are reported or not—so they can accurately determine if competitive sourcing is the most cost-effective tool for managing certain commercial activities. This is a separate issue from our recommendation that the Director of OMB require federal agencies to report all costs associated with competitive sourcing. We maintain that tracking all costs would enhance the transparency surrounding the estimates of savings from competitive sourcing and provide for accountability in connection with sourcing decisions—one of the principles of the Commercial Activities Panel.

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We are sending copies of this report to interested congressional committees, the Director of the Office of Management and Budget, the Secretary of Labor, and other interested parties. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staffs have any questions regarding this report, please contact me at (202) 512-7215 or [scottg@gao.gov](mailto:scottg@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VIII.



George A. Scott  
Director, Education, Workforce,  
and Income Security Issues

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# Appendix I: Objectives, Scope, and Methodology

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As required under the Consolidated Appropriations Act, 2008,<sup>1</sup> and as directed by the House Committee on Appropriations,<sup>2</sup> this report examines the use of competitive sourcing at the Department of Labor (DOL). The House Committee on Appropriations directed that we review the extent to which DOL has established a reliable and comprehensive system to track costs, savings, and the quality of work performed by contractors, as well as DOL's adherence to the principles adopted in 2002 by the Commercial Activities Panel chaired by the Comptroller General.<sup>3</sup> In response, GAO's review focused on the following:

1. The extent to which DOL has established a reliable and comprehensive system to assess the quality of work performed as a result of competitive sourcing.
2. The comprehensiveness and reliability of DOL's assessments of the savings and costs associated with competitive sourcing.
3. The implications of competitive sourcing for certain DOL worker populations, such as women and minorities.

To address these issues, we examined relevant statutes, regulations, and guidance on competitive sourcing, Office of Management and Budget (OMB) guidance, DOL internal policies and guidance on competitive sourcing, annual reports to Congress, DOL Inspector General reports, GAO reports, and related documents. We interviewed DOL officials and employees, OMB officials, two private sector companies, and the president of a leading national private sector trade association representing over 300 companies. We also met with representatives from the American Federation of Government Employees (AFGE)—a union representing 600,000 federal and D.C. government workers nationwide and overseas—and employee representatives to AFGE from DOL. We focused on DOL's competitive sourcing activities from fiscal years 2004 through 2007. There were no DOL competitive sourcing activities in 2008 for us to review

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<sup>1</sup>Pub. L. No. 110-161, Division G, Title I, §111 (2007).

<sup>2</sup>The explanatory statement for the Consolidated Appropriations Act, 2008 specified that agencies should be guided by House Report 110-231 (2007), a report of the House Committee on Appropriations. This House Report provided the details of the work GAO was directed to carry out.

<sup>3</sup>See GAO, *Commercial Activities Panel: Improving Sourcing Decisions of the Government; Final Report*, [GAO/A03209](#) (Washington, D.C.: April 2002).

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because the Consolidated Appropriations Act, 2008 prohibited funds from that act from being used for carrying out competitions under OMB Circular No. A-76 until 60 days after this report is provided to the Committees on Appropriations for the House of Representatives and the Senate.

To address the first issue, we examined all 18 of DOL's postcompetition accountability reviews (PCARs) completed as of July 2008 for the 28 competitions conducted from fiscal years 2004 through 2007. We interviewed DOL officials, together with one performance review contractor selected by DOL, about their processes for conducting the PCARs, and we evaluated the structure and content of the reviews according to DOL and OMB policy. In addition, we selected a group of six PCARs to evaluate the extent to which DOL management had followed up and addressed the deficiencies and suggestions for improvement that were identified in each of these reviews. The six PCARs were comprised of a simple random sample of 3 PCARs from among the 13 initial PCARs completed between 2006 and 2007, plus a nonrandom sample of three additional PCARs completed between 2004 and 2005 that had examples of significant findings and recommendations that were not present in the three random PCARs selected.

To address the second issue, we interviewed DOL officials responsible for completing these assessments and reviewed the process they used to complete the savings and cost reports. To assess the accuracy of DOL's reports, we reviewed DOL's annual reports to Congress, all 18 of DOL's PCARs completed as of July 2008, and the cost records for the private contractors involved in assisting with the competition process and completing the PCARs. We reviewed the documents from all 18 initial PCARs and conducted more detailed analyses of the calculations provided in the cost reports for the same 3 randomly selected initial PCARs completed between 2006 and 2007, as described above. We chose to focus our sample on PCARs completed during 2006 and 2007 to ensure that the most recent, full records were available for analysis. We examined the savings and costs for these three competitions, including the contract billing for the private sector consultants employed by DOL during the competition, and compared the results to the amounts reported in DOL's annual reports to Congress. We did not examine the accuracy of the reports for the remaining DOL competitions. Due to this limited sample size, our findings should not be used to make inferences about all of DOL's competitions. Finally, we obtained anecdotal evidence of the number of hours that some staff spent on competitive sourcing activities during our group interviews with staff members involved in assisting with the competitions (see below).



To address the third issue, we analyzed DOL’s demographic data on total personnel departmentwide and on personnel who experienced personnel actions as a result of the competitive sourcing process. We did not assess the demographic characteristics of DOL personnel by OMB’s list of the Federal Activities Inventory Reform Act of 1998 (FAIR Act) function code categories because DOL does not tabulate demographic data in that way and the data were not readily available. To obtain employee views on the process and impacts on morale, we conducted group interviews with 60 DOL employees affected by five competitive sourcing competitions in four locations: Arlington Heights, Illinois; Beckley, West Virginia; San Francisco, California; and Washington, D.C. We selected the four group interview locations in order to obtain perspectives from a range of geographic locations and from competitions of different sizes. Once the four locations were determined, we selected five competitions as our focus: one large competition that affected personnel at all four sites (though mostly personnel in D.C.); one smaller competition in D.C.; and three additional competitions—one that affected a large number of personnel at each of the three sites outside of D.C. (see table 3).

**Table 3: DOL Competitions Selected as the Focus for GAO’s Group Interviews**

Competition (fiscal year)	Agencies involved	Location(s)	Type of competition (fiscal year)	Number of FTEs competed	Number of personnel actions
Grants Management (2005)	Employment and Training Administration (ETA)	DC	Streamlined competition	3	0
Statistical Systems (2005)	Mine Safety and Health Administration (MSHA)	CO, PA, WV	Standard competition	34	28
Training & Education (2006)	Occupational Safety and Health Administration (OSHA)	IL	Streamlined competition with MEO	37	34
Other Legal Support Services (2006)	Office of Administration Law Judges (OALJ)	CA, CO, DC, GA, LA, MA, NJ, OH, PA, VA	Streamlined competition with MEO	50	44
Installation Services (2007)	Office of the Assistant Secretary for Administration and Management (OASAM)/OALJ	CA, DC, GA, IL, MA, MO, NY, PA, TX, VA, WA, WV	Standard competition	59	41

Source: GAO analysis of DOL documents and data.

We then worked with DOL officials to identify a list of employees in each location who assisted with these competitions (competition officials and performance work statement team members who were not dedicated to central oversight of DOL’s competitive sourcing program) and employees

whose positions were part of the work group function that was competed. Some of these employees' positions were included in DOL's in-house "most efficient organization" (MEO) bid (MEO staff), and some were not included (non-MEO staff). We scheduled group interviews at each location, grouping together invitees based on their different roles, and extended invitations to all those on the lists accordingly. A total of 95 invitations were extended across all four locations; however, participation was voluntary and turnout was often low. Overall, 55 DOL employees participated (see table 4). In addition, we held a group session and follow-up interviews with five senior management officials in D.C. for a total of 60 participants. This is not a representative sample, and the results cannot be generalized to either all of DOL or all those affected by competitive sourcing, by location, or by size of competition. Nevertheless, these group interviews present a range of perspectives from across the country and from those involved in different ways with the competitive sourcing process.

We assessed the reliability of the demographic and cost data by reviewing information about the systems that produced the data and interviewing agency officials knowledgeable about these systems. We conducted this performance audit from October 2007 to September 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**Table 4: DOL Employees Participating in GAO's Group Interviews**

Location	Employees assisting with the competitions		Employees whose positions were competed (MEO and non-MEO)	Total
	Competition officials	Performance work statement team		
DC	6	10	4	20
CA	—	—	2	2
IL	2	1	23	26
WV	—	1	6	7
<b>Total</b>	<b>8</b>	<b>12</b>	<b>35</b>	<b>55</b>

Source: GAO.

# Appendix II: DOL's Categorization of Commercial Activities

Once agencies have designated all their activities as either inherently governmental or commercial, OMB Circular No. A-76 requires agencies to further categorize their commercial activities according to six “reason codes” labeled A through F. Only one category—Reason B—signifies suitability for competitive sourcing that year. For example, in fiscal year 2006, DOL categorized about 20 percent of its total full-time employees (FTE) as Reason B: suitable for a streamlined or standard competition (see table 5).

**Table 5: DOL's Categorization of Work Activities, Fiscal Year 2006**

	FTEs	
	Number	Percent
<b>Inherently governmental activities</b>	<b>8,706.50</b>	<b>56.46</b>
<b>Commercial activities</b>	<b>6,713.47</b>	<b>43.54</b>
Reason A: Not appropriate for private sector performance pursuant to a written determination.	2,559.32	16.60
Reason B: Suitable for a streamlined or standard competition.	3,050.90	19.79
Reason C: Subject of an in-progress streamlined or standard competition.	630.25	4.09
Reason D: Performed by government personnel as the result of a standard or streamlined competition within the past 5 years.	306.00	1.98
Reason E: Pending an agency-approved restructuring decision, such as a closure or realignment.	46.00	0.30
Reason F: Performed by government personnel due to a statutory prohibition against private sector performance.	121.00	0.78
<b>Total</b>	<b>15,419.97</b>	<b>100.00</b>

Source: GAO analysis of data from DOL's FAIR Act inventory (2006).

# Appendix III: Required Reporting and Monitoring for Competitive Sourcing

Section 647(b) of Division F of the Consolidated Appropriations Act, 2004 requires agencies to report their competitive sourcing activities to Congress at the end of each calendar year. These reports are to include the total number of competitions announced and completed; the incremental costs directly attributable to conducting those competitions; and the savings—both actual and anticipated—derived from such competitions. In addition, OMB Circular No. A-76 outlines the requirements for monitoring the performance and costs of the winning service provider following a competitive sourcing competition, whether the winner is the in-house government service provider or a service provider from the private sector. (See table 6.)

**Table 6: Reporting and Monitoring Requirements**

Requirement	Controlling statute or guidance	Frequency of reporting	Description of report content
Annual reports to Congress	Section 647(b) of Division F of the Consolidated Appropriations Act, 2004 (Pub. L. No. 108-199 (2004)) and OMB Memorandum M-08-02 (October 31, 2007)	Completed at the end of each calendar year.	These reports must include <ul style="list-style-type: none"> <li>number of affected full-time employees;</li> <li>competition costs;</li> <li>observed savings;</li> <li>projected savings;</li> <li>general description of competitive sourcing process; and</li> <li>number of announced and completed competitions.</li> </ul>
Performance reports and monitoring	OMB Circular No. A-76 (Revised May 29, 2003) and OMB Memorandum for the President's Management Council: <i>Validating the Results of Public-Private Competition</i> (April 13, 2007)	Completed by performance period, as determined by the agency.	Regardless of the selected service provider, an agency shall <ul style="list-style-type: none"> <li>monitor performance for all performance periods stated in the solicitation;</li> <li>implement the quality assurance surveillance plan;</li> <li>retain the solicitation and any other documentation from the streamlined or standard competition as part of the competition file;</li> <li>maintain the currency of the contract file, consistent with the Federal Acquisition Regulation;</li> <li>record the actual cost of performance by performance period; and</li> <li>monitor, collect, and report performance information, consistent with the Federal Acquisition Regulation.</li> </ul> <p>The April 13, 2007 OMB Memo also directs agencies to have a plan in place to independently validate results on a reasonable sampling of covered competitions.</p>

Sources: GAO analysis of documents, as cited above.

# Appendix IV: Postcompetition Accountability Review Checklist

DOL's Office of Asset and Resource Management is responsible for coordinating the PCARs of the winning service providers, in accordance with OMB guidance and the Federal Acquisition Regulation. The following checklist specifies preaudit or review actions that DOL policy and procedures direct officials to document as part of the PCAR. (Note that not all items included in the checklist are applicable for all competitions.)

**Figure 6: DOL Postcompetition Accountability Preliminary Review Checklist**

First Year of Performance			Date:
Re-competition Review			Name:
			Location:
<b>Competition File and Performance Review (FAR Subpart 4.8/OMB Circular A-76)</b>			
<b>Required Documentation</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
Solicitation/Statement of Work			
Quality Assurance Surveillance Plan			
Management Plan			
Quality Control Plan			
Position Descriptions			
Agency Cost Estimate (SCF/SLCF)			
Cost Worksheets (COMPARE)			
Modifications/Approved Deviations			
Letter of Obligation (Current)			
Quality Assurance Evaluations/Inspections			
Prior Review Results (e.g., IR)			
Prior Inspection Results			
<b>Staffing Plan</b>			
Meeting FTE requirements			
MEO/Non-MEO fully staffed			
Staffing corrections			
Training corrections			
Position changes required			
<b>Cost Performance</b>			
Actual costs w/cost estimates (SCF/SLCF)			
All actual costs documented			
<b>Prior Reviews/Actions</b>			
Prior Reviews/Results			
Corrective Actions			
<b>Management and Performance Requirements (FAR Subpart 42.15/OMB Circular A-76)</b>			
<b>Transition Management</b>			
Tasks/Time documented			
Milestones met/adjusted			
Active Oversight (HR)			
<b>Workload Indicators</b>			
Significant changes in workload			
Records documented			
Performance metrics			
Performance monitoring of work			
<b>Meeting/Reporting/Performance Evaluations (if required by PWS/PRS)</b>			
Meetings/reporting requirements			
Customer surveys			
Customer reporting within requirements			
Corrective action required/completed			
<b>Deviations/Discrepancies</b>			
Deviation Request required/developed			
Discrepancies Noted/Waiver Issued			
Corrective Action/Show Cause/Cure Notice			
Re-competition Analysis Required/Waiver			
<b>Review prepared by:</b>			Recommend to exercise option year
Office Of Competitive Sourcing		PCAR	

Source: DOL.

# Appendix V: List of DOL Competitive Sourcing Competitions, Fiscal Years 2004 through 2007

Fiscal year	Competition title	Agencies involved <sup>a</sup>	Type of competition	Location (State)	Number of FTEs in study	Winning bid	Status <sup>b</sup>	
2004	#1	Administrative Services for Finance	OSHA	Streamlined competition	DC	24	In-house	Personnel actions resulted. PCAR completed. Implementation terminated in May 2007.
	#2	Reports Disclosure	ESA/OLMS	Streamlined competition	DC	8	Private contractor	Personnel actions resulted. No PCAR completed. Ongoing.
	#3	Invoice Payments	OASAM	Streamlined competition	CO, DC, GA, IL, MA, NY, PA, TX	11	In-house	Personnel actions resulted. PCAR completed. Ongoing.
	#4	IT Services	OASAM	Streamlined competition	DC	9	In-house	Personnel actions resulted. PCARs completed. Ongoing.
	#5	Conference Center	BLS	Streamlined competition	DC	5	In-house	Personnel actions resulted. PCARs completed. Ongoing.
	#6	Printing & Reprographics	OASAM	Standard competition	DC	12	In-house	Personnel actions resulted. PCARs completed. Ongoing.
2005	#7	Library Services	MSHA	Streamlined competition	WV	5	In-house	Personnel actions resulted. PCAR completed. Implementation terminated in May 2007. <sup>c</sup>
	#8	Grants Management/ Closeout	ETA	Streamlined competition	DC	3	In-house	No personnel actions. PCAR completed. Ongoing.

**Appendix V: List of DOL Competitive Sourcing Competitions, Fiscal Years 2004 through 2007**

<b>Fiscal year</b>	<b>Competition title</b>	<b>Agencies involved<sup>a</sup></b>	<b>Type of competition</b>	<b>Location (State)</b>	<b>Number of FTEs in study</b>	<b>Winning bid</b>	<b>Status<sup>b</sup></b>
	#9 Health Services	MSHA,ETA	Streamlined competition	WV	3	In-house	Personnel actions resulted. PCAR completed. Implementation terminated in May 2007. <sup>c</sup>
	#10 Maintenance Services	MSHA	Streamlined competition	WV	5	In-house	Personnel actions resulted. PCAR completed. Implementation terminated in May 2007. <sup>c</sup>
	#11 Claims Examiners	ESA/OWCP	Streamlined competition with MEO	FL	34	In-house	No personnel actions. PCAR completed. Ongoing.
	#12 Customer Services	ESA/OWCP	Streamlined competition with MEO	CO	20	In-house	No personnel actions. PCAR completed. Ongoing.
	#13 Statistical Systems	MSHA	Standard competition	CO, PA, WV	34	In-house	Personnel actions resulted. PCAR completed. Implementation terminated in May 2007. <sup>c</sup>
	#14 Finance & Accounting	ETA	Standard competition	DC	23	In-house	Personnel actions resulted. No PCAR completed as of July 2008. Ongoing.
	#15 Administrative Services <sup>d</sup>	OSHA	Streamlined competition	DC, IL	32	Private contractor	Personnel actions resulted. PCAR completed. Ongoing.
<b>2006</b>	#16 Docket Clerks	OALJ, ADJ BOARDS	Streamlined competition with MEO	DC	30	In-house	Personnel actions resulted. PCAR completed. Ongoing.

**Appendix V: List of DOL Competitive Sourcing Competitions, Fiscal Years 2004 through 2007**

<b>Fiscal year</b>	<b>Competition title</b>	<b>Agencies involved<sup>a</sup></b>	<b>Type of competition</b>	<b>Location (State)</b>	<b>Number of FTEs in study</b>	<b>Winning bid</b>	<b>Status<sup>b</sup></b>
	#17 Internal Communications	OSHA	Streamlined competition with MEO	DC	8	In-house	Personnel actions resulted. PCAR completed. Ongoing.
	#18 Training Administration & Instruction	OSHA	Streamlined competition with MEO	IL	37	In-house	Personnel actions resulted. PCAR completed. Ongoing.
	#19 Other Legal Support Services	OALJ	Streamlined competition with MEO	CA, CO, DC, GA, LA, MA, NJ, OH, PA, VA	50	In-house	Personnel actions resulted. PCAR completed. Ongoing.
	#20 National Certification Program	ESA/WHD	Streamlined competition with MEO	CA, IL, PA, TX	11	In-house	Personnel actions resulted. PCAR completed. Ongoing.
	#21 Visual Services (LBU-5)	MSHA	Streamlined competition with MEO	WV	8	In-house	Personnel actions resulted. No PCAR completed because implementation was terminated in May 2007. <sup>c</sup>
<b>2007</b>	#22 Chemical Services (LBU-3)	OSHA	Streamlined competition with MEO	UT	37	In-house	Personnel actions resulted. No PCAR completed as of July 2008. Ongoing.
	#23 Professional & Tech Support (LBU-2)	OSHA	Streamlined competition with MEO	DC, OH	16	In-house	No personnel actions. No PCAR completed as of July 2008 because implementation of competition was suspended. <sup>e,f</sup>



**Appendix V: List of DOL Competitive Sourcing Competitions, Fiscal Years 2004 through 2007**

<b>Fiscal year</b>	<b>Competition title</b>	<b>Agencies involved<sup>a</sup></b>	<b>Type of competition</b>	<b>Location (State)</b>	<b>Number of FTEs in study</b>	<b>Winning bid</b>	<b>Status<sup>b</sup></b>
#24	Installation Services	OASAM, OALJ	Standard competition	CA, DC, GA, IL, MA, MO, NY, PA, TX, VA, WA, WV	59	In-house	Personnel actions resulted. No PCAR completed as of July 2008. Ongoing. <sup>e</sup>
#25	Program Support Services (LBU-6)	ESA, ETA, WB	Standard competition	CA, CT, DC, FL, GA, HI, IL, IN, MI, MS, MO, NE, NY, NC, OH, PA, TX, VA, WI	65	In-house	Personnel actions resulted. No PCAR completed as of July 2008 because implementation of competition was suspended. <sup>e, f</sup>
#26	Finance & Accounting Services	BLS, OASAM, OCFO, OSHA	Standard competition	CA, DC, GA, IL, MA, MO, NY, PA, TX	101	In-house	Personnel actions resulted. No PCAR completed as of July 2008 because implementation of competition was suspended. <sup>e, f</sup>
#27	Economists and Writers (LBU-4)	BLS	Standard competition	DC	51	In-house	Personnel actions resulted. No PCAR completed as of July 2008 because implementation of competition was suspended. <sup>f</sup>
#28	Admin Support Services (LBU-1) <sup>d</sup>	EBSA, ESA, ETA, ILAB, MSHA, OASAM, OASP, OSBP, OSHA, VETS, WB	Standard competition	AL, AR, AZ, CA, CO, DC, FL, GA, IL, IN, KY, MA, MD, MI, MN, MO, MS, MT, NC, ND, NJ, NY, OH, OK, OR, PA, SC, TN, TX, VA, WA, WV	328	Private contractor	No personnel actions. No PCAR completed because contract was terminated in May 2007. <sup>c</sup>
<b>Total</b>					<b>1,029</b>		

Source: DOL reports to Congress and data on affected personnel.

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**Appendix V: List of DOL Competitive Sourcing Competitions, Fiscal Years 2004 through 2007**

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<sup>a</sup>DOL agency abbreviations are as follows:

ADJ Boards	Adjudicatory Boards
BLS	Bureau of Labor Statistics
EBSA	Employee Benefits Security Administration
ESA	Employment Standards Administration
ETA	Employment and Training Administration
ILAB	Bureau of International Labor Affairs
MSHA	Mine Safety and Health Administration
OALJ	Office of Administrative Law Judges
OASAM	Office of the Assistant Secretary for Administration and Management
OASP	Office of the Assistant Secretary for Policy
OCFO	Office of the Chief Financial Officer
OLMS	Office of Labor Management Standards
OSBP	Office of Small Business Programs
OSHA	Occupational Safety and Health Administration
OWCP	Office of Workers' Compensation Programs
VETS	Veterans' Employment & Training Service
WB	Women's Bureau
WHD	Wage & Hour Division

<sup>b</sup>Initial PCARs are normally conducted after the first full year of performance following a competition. Thus, for competitions completed in fiscal year 2007, PCARs normally would be conducted no later than the end of September 2008; however, as noted, several have been suspended.

<sup>c</sup>In six instances, the implementation of completed competitions involving MSHA FTEs was terminated to comply with Pub. L. No. 110-28, §6602 (2007).

<sup>d</sup>DOL did not include these two competitions on the Section 647 lists of "Completed Competitions" that were provided to Congress for fiscal years 2005 and 2007, respectively. They are included here, however, because they were subsequently identified on a spreadsheet of completed competitions provided by DOL.

<sup>e</sup>In four instances, MSHA FTEs were removed from the implementation of completed competitions to comply with Pub. L. No. 110-28, §6602 (2007).

<sup>f</sup>In four instances, the implementation of completed competitions was suspended to comply with Pub. L. No. 110-161, Division G, Title I, §111 (2007).

# Appendix VI: Comments from the Office of Management and Budget



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

DEPUTY DIRECTOR  
FOR MANAGEMENT

October 22, 2008

Mr. George A. Scott  
Director  
Education, Workforce, and  
Income Security Issues  
Government Accountability Office  
Washington, DC 20548

Dear Mr. Scott:

This responds to your October 6, 2008 request for comment from the Office of Management and Budget (OMB) on your draft report "Department of Labor: Better Cost Assessments and Department-wide Performance Tracking Are Needed to Effectively Manage Competitive Sourcing Program." The report includes a recommendation that the OMB Director issue guidance to expand the types of costs that agencies (1) report to Congress as costs of competitive sourcing and (2) consider in evaluating the cost-effectiveness of competitive sourcing as a management tool.

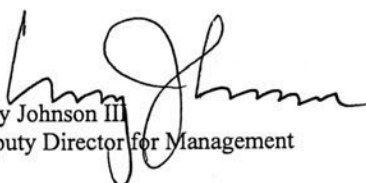
Section 647(b) of Division F of the Consolidated Appropriations Act, Fiscal Year (FY) 2004, P.L. 108-199, establishes general government-wide requirements for reporting costs on competitive sourcing efforts. Section 647(b) requires agencies to identify "the incremental cost directly attributable" to conducting competitions. Consistent with section 647, OMB guidance focuses on out-of-pocket expenses, such as the cost of consultants who provide support to agency officials conducting competitions. The OMB guidance excludes costs that would likely be incurred in closing a performance gap irrespective of whether the agency used competition as part of its process for achieving improved performance and cost-effectiveness. For example, the costs of preliminary planning activities, such as workload assessment and benchmarking, are excluded because these efforts are common to most disciplined management strategies for improving government performance and would likely be needed to effectively close a performance gap whether or not public-private competition was part of the reengineering process.

Your draft report recommends that OMB broaden the scope of costs that agency managers track and consider in evaluating the return on investment from competitive sourcing to include costs that would not necessarily be unique to competitive sourcing, such as preliminary planning costs and costs associated with monitoring a reengineered function. Agencies must plan for these costs, but we question whether they should be used to compare the cost-effectiveness of competitive sourcing to other management tools.

If the additional costs specifically identified by the GAO were included in evaluating the cost-effectiveness of competitive sourcing as a management tool, we believe savings would continue to exceed costs by a significant margin. Based on agency data calculations made in accordance with OMB's current guidance, the incremental cost for competitions conducted between FYs 2003 - 2007 was \$239 million and savings to be realized are over \$7 billion, meaning taxpayers are expected to receive a return of about \$30 for every dollar spent on competition. Our review of the findings in your report on the competitive sourcing efforts at the Department of Labor (DOL) did not give us reason to expect a significantly different result. However, we agree that DOL, and all agencies, can maximize savings and performance benefits by ensuring appropriate internal controls are in place to continually monitor results through all performance periods, and take timely actions, when necessary, to adjust agency operations.

The Administration intends to work with the transition team so that they will be fully informed about the costing policies for competitive sourcing as they consider the GAO's recommendations. I appreciate the opportunity to comment on the draft report.

Sincerely,



Clay Johnson III  
Deputy Director for Management

# Appendix VII: Comments from the Department of Labor

U.S. Department of Labor

Office of the Assistant Secretary  
for Administration and Management  
Washington, D.C. 20210



OCT 23

Mr. Bill Keller  
Assistant Director  
Education, Workforce, and Income Security Issues  
Government Accountability Office  
441 G. Street, N.W., Mail Drop 5K21  
Washington, D.C. 20548

Dear Mr. Keller:

I am responding to your request for comment on the Government Accountability Office's (GAO) draft report entitled, "DEPARTMENT OF LABOR: Better Cost Assessments and Department-wide Performance Tracking Are Needed to Effectively Manage Competitive Sourcing Program" (GAO-09-14), dated November 2008. This letter provides our general comments, observations, and responses to the report's recommendations.

We appreciate GAO's review and assessment of the Department of Labor's (DOL) competitive sourcing program. As recognized in the draft report, the Department is generally in compliance with Office of Management and Budget (OMB) guidance, competitive sourcing policy and procedures promulgated by DOL were generally followed, and the Department made progress in developing a system to assess the performance of winning service providers resulting from A-76 competitions. In addition, it should be noted that the DOL competitive sourcing program has been operating under Congressional restrictions. Specifically, P.L. 110-28, signed on May 25, 2007, classifying Mine Safety and Health Administration (MSHA) employees as inherently governmental, which exempts MSHA from A-76 competitions, and P.L. 110-161, signed on December 26, 2007, prohibits the Department from carrying out public-private competitions under OMB Circular A-76 until 60 days after the GAO provides Congress a report on the use of competitive sourcing at DOL.

At the same time, DOL acknowledges GAO's observation that improving cost assessments and performance tracking can provide better tools for managing DOL's competitive sourcing program. In response to the draft report's recommendations for the Department, beginning in FY 2009 DOL will:

- Implement a Department-wide system to track identified deficiencies and recommendations for improvement in competitions and the program overall; and
- Implement an internal review process to increase the accuracy of competitive sourcing savings reports to Congress [based on the prevailing guidance from OMB].

A final GAO recommendation for the Department suggests that DOL implement a system to track the full costs associated with managing DOL's commercial management activities, including—but not limited to—all costs associated with competitive sourcing. As noted in the draft report, governmentwide guidance on the reporting of costs associated with competitive

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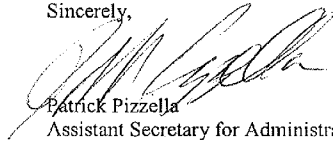
**Appendix VII: Comments from the  
Department of Labor**

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sourcing is provided by OMB. Therefore, DOL's implementation of this recommendation will be subject to OMB's additional guidance concerning the costs to be reported.

Additional technical comments are enclosed for your consideration. The Department appreciates the opportunity to comment on the proposed report. If you have any questions, please contact me or have your staff contact Ed Hugler, Deputy Assistant Secretary for Operations, at (202) 693-4040.

Sincerely,



Patrick Pizzella  
Assistant Secretary for Administration and Management,  
Competitive Sourcing Official

Enclosure

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# Appendix VIII: GAO Contact and Staff Acknowledgments

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## GAO Contact

George A. Scott, (202) 512-7215 or [scottg@gao.gov](mailto:scottg@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Bill J. Keller, (Assistant Director), Kristy L. Kennedy, Margie K. Shields, Nicholas L. Weeks, Jeffrey W. Weinstein, Doreen S. Feldman, Alexander G. Galuten, William T. Woods, and Jessica S. Orr made significant contributions to this report.

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# Related GAO Products

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*Department of Defense: Department of Defense Pilot Authority for Acquiring Information Technology Services under OMB Circular A-76.* [GAO-08-753R](#). Washington, D.C.: May 29, 2008.

*Defense Management: DOD Needs to Reexamine Its Extensive Reliance on Contractors and Continue to Improve Management and Oversight.* [GAO-08-572T](#). Washington, D.C.: March 11, 2008.

*Forest Service: Better Planning, Guidance, and Data Are Needed to Improve Management of the Competitive Sourcing Program.* [GAO-08-195](#). Washington, D.C.: January 22, 2008.

*Federal-Aid Highways: Increased Reliance on Contractors Can Pose Oversight Challenges for Federal and State Officials.* [GAO-08-198](#). Washington, D.C.: January 8, 2008.

*Department of Homeland Security: Risk Assessment and Enhanced Oversight Needed to Manage Reliance on Contractors.* [GAO-08-142T](#). Washington, D.C.: October 17, 2007.

*Defense Budget: Trends in Operation and Maintenance Costs and Support Services Contracting.* [GAO-07-631](#). Washington, D.C.: May 18, 2007.

*Implementation of OMB Circular No. A-76 at Science Agencies.* [GAO-07-434R](#). Washington, D.C.: March 16, 2007.

*Competitive Sourcing: Greater Emphasis Needed on Increasing Efficiency and Improving Performance.* [GAO-04-367](#). Washington, D.C.: February 27, 2004.

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*OMB Circular A-76: DOD's Reported Savings Figures Incomplete and Inaccurate.* [GAO/GGD-90-58](#). Washington, D.C.: March 15, 1990.

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