

January 2008

FOREST SERVICE

Better Planning, Guidance, and Data Are Needed to Improve Management of the Competitive Sourcing Program





Highlights of [GAO-08-195](#), a report to congressional requesters

Why GAO Did This Study

Competitive sourcing is aimed at promoting competition between federal employees and the private sector as a way to improve government operations. Key work activities—those that are either inherently governmental or core to the agency's mission—are generally exempt from competitions. In fiscal year 2004, Congress began placing spending limitations on the Forest Service's competitive sourcing program because of concerns about how the program was managed. Also, like other agencies, the Forest Service must report annually to Congress on the savings achieved from any competitions it conducted.

GAO was asked to determine the extent to which the Forest Service has (1) plans and guidance to help implement its competitive sourcing program effectively and (2) sufficient cost data to ensure that it complied with its spending limitations and accurately reported its savings to Congress for fiscal years 2004 through 2006. To answer these objectives, GAO examined the agency's strategic plan, guidance, and available cost data for competitive sourcing and interviewed key agency officials.

What GAO Recommends

GAO is recommending that the Secretary of Agriculture direct the Chief of the Forest Service to take certain management steps to improve its competitive sourcing program. In commenting on a draft of this report, the Forest Service generally agreed with GAO's recommendations.

To view the full product, including the scope and methodology, click on [GAO-08-195](#). For more information, contact Robin M. Nazzaro at (202) 512-3841 or nazzaror@gao.gov.

FOREST SERVICE

Better Planning, Guidance, and Data Are Needed to Improve Management of the Competitive Sourcing Program

What GAO Found

The U.S. Department of Agriculture's Forest Service lacks a realistic strategic plan and adequate guidance to help ensure that it can effectively implement its competitive sourcing program. For example, the Forest Service's current strategic plan is unrealistic because it does not take into account the likely availability of personnel and funding resources needed to implement the plan. Furthermore, the Forest Service lacks sufficient guidance on identifying key work activities that should be excluded from competitions. Although Forest Service officials do not believe that inappropriate work activities have been included in competitions that it has held, without clear guidance the Forest Service remains at risk of doing so. The agency also lacks a strategy on how to assess the cumulative effect that competitions could have on its ability to fight wildland fires and respond to other emergencies. Outsourcing a large number of federal jobs to the private sector could, over time, reduce the number of available responders.

For fiscal years 2004 through 2006, the Forest Service lacked sufficiently complete and reliable cost data to (1) demonstrate its compliance with statutory spending limitations on its competitive sourcing activities and (2) accurately report competitive sourcing savings to Congress. Regarding compliance with spending limitations, the Forest Service did not collect cost data on all activities related to competitive sourcing because it believed that some costs were not subject to the limitations. For example, the Forest Service did not collect data on employees' salaries related to studying the feasibility of conducting a competition—a key component of its competitive sourcing process. GAO has interpreted the statutory spending limitations to generally apply to all costs attributable to the Forest Service's competitive sourcing program. Moreover, because the Forest Service's cost data used to determine compliance with statutory spending limitations were not reliable, the Forest Service cannot know if it exceeded the limitations. Regarding the savings achieved from its competitions, the Forest Service reported to Congress a savings totaling over \$38 million between fiscal years 2004 and 2006. However, the Forest Service could not provide GAO with sufficient data or the methodology it used to calculate savings derived from competitions. In addition, GAO found that the Forest Service did not consider certain costs, which were substantial, in its savings calculations. As a result, Congress may not have an accurate measure of the savings from the Forest Service's competitive sourcing competitions during this period.

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Abbreviations

CSO	competitive sourcing officer
CSPO	Competitive Sourcing Program Office
FFIS	Federal Financial Information System
FTE	full-time-equivalent staff
ICS	Incident Command System
IT	information technology
MEO	Most Efficient Organization
NWCG	National Wildfire Coordinating Group
OCFO	Office of the Chief Financial Officer
OMB	Office of Management and Budget
PWS	performance work statement
USDA	U.S. Department of Agriculture

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United States Government Accountability Office
Washington, DC 20548

January 22, 2008

Congressional Requesters

The 2001 *President's Management Agenda* includes a governmentwide initiative—known as competitive sourcing—that aims to improve government efficiency and reduce the costs of government programs by promoting competition between federal employees and private sector organizations.¹ The competitions determine who should perform commercial activities—activities performed by the government that are also regularly performed in the commercial marketplace, such as information technology (IT), maintenance and property management, and logistics. These competitions compare the public and private sector costs of performing an activity and may result in outsourcing federal jobs to the private sector. In its competitive sourcing strategic plan, known as the Green Plan, the Forest Service, an agency within the U.S. Department of Agriculture (USDA), sets forth the agency's goal to conduct 14 precompetition studies in 5 years to evaluate the feasibility of subjecting nearly two thirds of its total workforce to competitive sourcing competitions.

The Forest Service manages about 193 million acres of land—about 30 percent of all federal lands—and has a workforce of about 37,000 full-time-equivalent staff (FTE). The employees are geographically dispersed throughout the nation. In addition to its headquarters in Washington, D.C., the Forest Service has 9 regional offices, 155 forest offices, and about 600 district offices.

The Forest Service's competitive sourcing program is subject to the requirements of the Office of Management and Budget's (OMB) Circular No. A-76 (the circular) and the Federal Activities Inventory Reform Act of 1998 (the FAIR Act).² Generally, the circular sets forth the competitive process an agency must follow to determine whether federal employees or private sector organizations should perform a commercial activity. The

¹The Executive Office of the President and the Office of Management and Budget, *The President's Management Agenda* (2001).

²OMB Circular No. A-76, *Performance of Commercial Activities* (May 29, 2003), and Pub. L. No. 105-270, 112 Stat. 2382 (Oct. 19, 1998).

competitive process can be divided into three stages: (1) a precompetition planning stage that, among other things, determines the scope of the competition; (2) a competition stage that begins with a public announcement of a competition and ends with the selection of the competition's winner; and (3) a postcompetition accountability stage, which involves such activities as monitoring and reporting on the winner's performance. The circular also directs agencies to create a staffing plan—which creates an organization of agency employees that is known as the “Most Efficient Organization” (MEO)—to be used to represent the agency in the competition. After allowing for a transition period, the winner of the competition, whether the MEO or a private sector organization, is subject to the provisions of the postcompetition accountability stage.

The FAIR Act, as implemented by the circular, requires federal agencies to compile and submit to OMB for approval an annual inventory of the activities their employees perform. The inventory must include the number of FTEs that perform each activity and designate whether the activity is inherently governmental or commercial. Inherently governmental activities—such as setting policy or spending funds—are critical to the role and function of government and, therefore, are exempt from competition with the private sector. In contrast, commercial activities—those that are not inherently governmental and could be performed by the private sector—are subject to competitive sourcing competitions, unless the agency exempts the activity. The agency may still exempt a commercial activity if, for example, it deems the activity to be core to the agency's mission (referred to as core-commercial).

In addition, the Consolidated Appropriations Act, 2004, requires executive agencies to report annually to Congress on competitive sourcing activities.³ Among other things, the act requires agencies to report actual savings derived from implementing a competitive sourcing competition. While the act does not provide direction on how to calculate actual savings, OMB does provide this direction through annual guidance.⁴ The Forest Service, through USDA, reported to Congress that it saved over \$38 million in fiscal years 2004 through 2006 as a result of competitive sourcing competitions.

³Pub. L. No. 108-199, Div. F, Title VI, § 647(b), 118 Stat. 3, 361 (Jan. 23, 2004).

⁴OMB memoranda, M-07-01 (Oct. 5, 2006); M-06-01 (Oct. 7, 2005); and M-05-01 (Oct. 15, 2004).

Because of concerns about how the Forest Service was managing its competitive sourcing program, Congress limited the funds that the Forest Service could spend on competitive sourcing activities during fiscal years 2004 through 2007. In fiscal year 2004, the spending limitation was \$5 million; in fiscal year 2005, it was \$2 million; in fiscal year 2006, it was \$3 million; and in fiscal year 2007, it was also \$3 million.⁵ The Forest Service initiated 171 competitions in fiscal years 2002 and 2003, and it has acknowledged that this first experience with the competitive sourcing initiative fell short of expectations. For example, a congressional study noted that nearly half of these competitions involved three or fewer FTEs, and that, as a result, Forest Service officials acknowledged that the competitions were unrealistic, adding that holding competitions involving few FTEs often made it impossible for private sector organizations to compete effectively.⁶ Two of the most important lessons the Forest Service believes it has learned from this experience are that it should (1) centralize responsibilities for competitions to increase control and oversight and (2) plan competitions better by, for example, identifying the appropriate scope of the competition.

The Forest Service has taken steps to improve the management of its competitive sourcing program in both of these areas. In fiscal year 2003, it strengthened headquarters' oversight of competitive sourcing competitions. In fiscal year 2004, USDA issued guidance directing the Forest Service to perform studies to assess the feasibility of conducting a competition—known as feasibility studies—before committing to a competition. Although not required by the circular, feasibility studies are conducted during the precompetition planning stage and help determine whether to compete an activity. Also, some of the steps required by the circular during the precompetition planning stage are completed as part of the study. In fiscal years 2004 through 2006, the Forest Service completed three feasibility studies. They were for communications activities

⁵Department of the Interior and Related Agencies Appropriations Act, 2004, Pub. L. No. 108-108, § 340(d)(3), 117 Stat. 1241, 1316 (Nov. 10, 2003); Department of the Interior and Related Agencies Appropriations Act, 2005, Pub. L. No. 108-447, div. E, § 332(a)(3), 118 Stat. 2809, 3100 (Dec. 8, 2004); Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. No. 109-54, § 422(a)(2), 119 Stat. 499, 554 (Aug. 2, 2005); and Revised Continuing Appropriations Resolution, 2007, Pub. L. No. 110-5, § 104, 121 Stat. 8, 9 (Feb. 15, 2007) (operates to retain the spending limitation imposed on the Forest Service in the fiscal year 2006 appropriations act).

⁶USDA, Forest Service, Report to Surveys and Investigations Staff, Committee on Appropriations, U.S. House of Representatives, *Implementation of the Competitive Sourcing Initiative at the U.S. Forest Service* (March 2004).

(completed June 2005), the Geospatial Service and Technology Center (completed April 2006),⁷ and fleet management activities (completed May 2006). During this time frame, the Forest Service also completed three competitions, all begun in 2003 and completed in 2004. They were the IT competition (1,200 FTEs, completed July 2004); the fleet maintenance competition (57 FTEs, completed January 2004); and the road maintenance competition (66 FTEs, completed January 2004).⁸

As with the management of its competitive sourcing program in fiscal years 2002 and 2003, the Forest Service's most recent competitive sourcing activities have raised questions about whether the program is being effectively managed. In this context, you asked us to determine the extent to which the Forest Service has (1) plans and guidance to help implement its competitive sourcing program effectively and (2) sufficient cost data to ensure that it complied with its competitive sourcing statutory spending limitations and accurately reported its competitive sourcing savings to Congress for fiscal years 2004 through 2006.

To address these two objectives, we focused on the Forest Service's competitive sourcing activities between fiscal years 2004 through 2006. For the first objective, we examined the Forest Service's Green Plan and how the Forest Service scoped the three competitions it completed during this period. In doing so, we collected and reviewed pertinent OMB, USDA, and Forest Service guidance and documentation, including documentation related to the three completed competitions. In addition, we interviewed Forest Service officials familiar with the agency's competitive sourcing activities to better understand implementation of the program. For the second objective, we examined the appropriations acts for fiscal years 2004 through 2006 to determine which costs incurred by the Forest Service during that period were subject to the spending limitations. We obtained available Forest Service cost data for activities associated with its competitive sourcing program. We assessed the reliability of these data and found them unreliable as a measure of the costs and savings associated with the program. We conducted our work between October

⁷The Geospatial Service and Technology Center is a Forest Service facility primarily located in Salt Lake City, Utah, that provides geographic data and mapping services to all departments within the Forest Service.

⁸There was a fourth competition completed during this time frame that considered 8 FTEs. We excluded this competition from our analysis because it was conducted using the streamlined competition process, which is faster and less complex than the standard competition process that was used for the other three competitions.

2006 and January 2008 in accordance with generally accepted government auditing standards. See appendix I for a more detailed description of our objectives, scope, and methodology.

Results in Brief

The Forest Service lacks a realistic strategic plan and adequate guidance to help ensure that it can effectively implement its competitive sourcing program. Specifically, the Forest Service's Green Plan does not identify the personnel and funding resources that are likely to be available to implement the plan. These personnel and resource demands are likely to be substantial because the plan proposes to subject all commercial activities—affecting about two thirds of the agency's FTEs—to feasibility studies. This includes a single "catch-all" feasibility study covering 15,000 FTEs that was not included in a draft of the Green Plan because the activities associated with these FTEs did not satisfy the Forest Service's initial screening criteria for identifying good candidates for feasibility studies. The Forest Service added the additional "catch-all" feasibility study to its Green Plan because it was directed by USDA to schedule feasibility studies for all eligible FTEs without taking into account resource considerations. Furthermore, although the Forest Service identified inherently governmental and core-commercial activities in its annual FAIR Act inventories, Forest Service officials responsible for planning the three competitions completed in fiscal year 2004 did not find the inventory data useful for identifying and exempting those activities because, among other things, the officials believed that the classifications used in the FAIR Act inventories did not capture the actual work activities Forest Service employees carried out. Although the officials said they received little guidance on how to supplement the FAIR Act inventories or how to identify inherently governmental and core-commercial activities, they do not believe that these inappropriate activities were included in the competitions because of the relatively small size and clearly commercial nature of these competitions. However, without clear guidance, and in light of its plans to examine the activities of two thirds of its workforce, we believe that the agency is at risk of subjecting inherently governmental and core-commercial activities to future competitive sourcing competitions. In addition, the Forest Service lacks a strategy on how to assess the cumulative effect that competing activities could have on its ability to fight wildland fires and respond to other emergencies. Forest Service employees play a prominent role in the nation's ability to fight wildland fires and respond to emergencies. Outsourcing substantial numbers of Forest Service jobs to the private sector could, over time, reduce this ability.

For fiscal years 2004 through 2006, we found that the Forest Service lacked sufficiently complete and reliable cost data to (1) demonstrate its compliance with appropriations acts' spending limitations on its competitive sourcing activities and (2) accurately report competitive sourcing savings to Congress. Regarding compliance with the statutory spending limitations, the Forest Service did not collect cost data on all activities related to competitive sourcing because it interpreted the legislation narrowly—believing that some costs were not subject to the spending limitations. For example, the Forest Service did not collect data on the cost of employee salaries related to feasibility studies—a key component of its competitive sourcing process. However, in our view, the appropriations acts' spending limitations, with one exception, apply to all costs attributable to the Forest Service's competitive sourcing program—including, for example, the costs of salaries related to feasibility studies. The one exception to the spending limitations is the cost of activities incurred to carry out the FAIR Act, such as preparing inventories, because this act requires the Forest Service to perform these activities even in the absence of other competitive sourcing activities. (See app. II for our full legal interpretation.) Moreover, the Forest Service failed to ensure the reliability of the cost data that it did collect to determine compliance with statutory spending limitations. As a result, the Forest Service cannot know if it exceeded the appropriations acts' spending limitations, even using its own narrow interpretation of which costs are subject to the spending limitations. Regarding savings reported to Congress, the Forest Service could not provide us with sufficient data or the methodology it used to calculate savings derived from competitions, and, as a result, we could not verify the accuracy of the reported savings. In addition, we found that the Forest Service did not consider certain substantial costs in its savings calculations, and thus Congress may not have an accurate measure of the savings produced by the Forest Service's competitive sourcing competitions. Although OMB provides guidance on how to calculate the savings, the guidance does not specify all of the costs that should be included in the calculations, thus providing the Forest Service with some discretion on which costs to include. Some of the costs the Forest Service did not include in the calculations substantially reduce or even exceed the savings reported to Congress. For example, regarding the IT infrastructure competition, the Forest Service did not include the \$40 million that it cost to make the transition to the MEO. This amount is \$5 million more than the \$35 million in savings that the agency reported to Congress.

We are recommending that the Secretary of Agriculture direct the Chief of the Forest Service to improve how the agency manages its competitive sourcing program to help ensure that it has a realistic strategic plan,

excludes inappropriate activities from competitive sourcing competitions, maintains its capacity to respond to wildland fires, and has the cost data necessary to comply with appropriations acts' spending limitations and to accurately report savings to Congress. In commenting on a draft of this report, the Forest Service generally agreed with our recommendations but had concerns about some of the specific findings and conclusions in the report. The agency's concerns and our responses to them are presented in appendix III.

Background

The Forest Service's mission includes sustaining the nation's forests and grasslands, managing the productivity of those lands for the benefit of citizens, conserving open space, enhancing outdoor recreation opportunities, and conducting research and development. To help fulfill its mission, the Forest Service devotes considerable resources to suppressing wildfires. To coordinate the firefighting efforts of the Forest Service and other federal land management agencies, the interagency National Wildfire Coordinating Group (NWCG) was established.⁹ This group adopted an interagency incident command system (ICS) and firefighting standards for responding to wildland fires. Federal employees in the land management agencies assume specific roles within the ICS, a command structure used at all levels of government and organized around five primary functional areas: command, operations, planning, logistics, and finance and administration.

There are about 80,000 federal employees and retirees who mobilize to assist state and local organizations to fight fires and respond to national emergencies as needed. These employees must receive standardized training and be certified in specific ICS duties (e.g., communications, aircraft management, and dispatch) before being available to respond to wildfires and other emergencies.

Approximately 30,000 permanent Forest Service employees are ICS-certified, with 10,000 to 12,000 of these employees holding fire-related positions. The remaining 18,000 to 20,000 employees are part of the "Forest Service militia." These are employees who are ICS-certified to fight fires but for whom the militia duty is a volunteer, collateral duty. These

⁹The NWCG draws on employees from the Forest Service and from the Department of the Interior's Bureau of Land Management, Bureau of Indian Affairs, Fish and Wildlife Service, and National Park Service.

militia members will often leave their primary work duties and travel to the incident scene to provide assistance. A militia member may typically spend between 1 to 3 weeks each year fighting wildfires and responding to emergency situations. Militia teams that assisted the Federal Emergency Management Agency following Hurricane Katrina logged as many as 60 to 90 days of duty. As part of their militia duties, Forest Service employees often perform activities related to their regular work duties. For example, when responding to a wildfire, an employee whose regular duties involve IT support might provide this support at the scene of the fire. Employees may also perform militia duties that are unrelated to their regular work duties. For example, an IT employee who is ICS-certified in logistics might be responsible for providing food, supplies, and equipment at the scene of a fire.

Competitive Sourcing Policy and Process

The federal government has had a long-standing acquisition policy that, when permissible and cost-effective, agencies are to rely on the private sector to perform activities that are regularly performed in the commercial marketplace, such as IT, maintenance and property management, and logistics. This policy was laid out in OMB's 1966 Circular No. A-76, which was last revised in 2003.¹⁰ The circular's stated goal is to obtain maximum value for taxpayers' dollars by taking advantage of competitive forces. This policy, described in the 2001 *President's Management Agenda* as competitive sourcing, is one of five governmentwide initiatives intended to improve the federal government's management and performance so that resources entrusted to the federal government are well managed and used wisely.¹¹ In addition, the circular provides agency management with a structured process to compare the public and private sector costs of performing an activity and to select the lowest cost provider through competition. This comparison may result in outsourcing federal jobs to the private sector.

The first step toward competitive sourcing is identifying work activities that are suitable for competition. The FAIR Act, as implemented by the circular, requires federal agencies to annually inventory all of the activities that federal employees perform—the FAIR Act inventory. For the

¹⁰OMB Circular No. A-76, *Performance of Commercial Activities* (May 29, 2003).

¹¹See *The President's Management Agenda* (2001). The five initiatives are strategic management of human capital, improved financial performance, expanded electronic government, budget and performance integration, and competitive sourcing.

inventory, activities are classified as inherently governmental or commercial. Specifically:

- *Inherently governmental activities* are those activities that are so intimately related to the public interest that they require performance by federal government employees.¹² The circular exempts these activities from competition.
- *Commercial activities* are those that are not inherently governmental and could be performed by the private sector. Commercial activities listed in the FAIR Act inventory are subject to the competition process detailed in the circular, unless they are placed in a subcategory of commercial activities that are exempt from competition.
- *Core-commercial activities* are those in a subcategory of commercial activities that are identified to be essential, or “core,” to the agency’s mission.¹³ The circular allows agencies to exempt these activities from competition with sufficient written justification.¹⁴

To determine whether federal employees or private sector organizations should perform commercial activities, the circular establishes the following three-stage competitive process (referred to as an A-76 competition):

- *A precompetition planning stage* that, among other things, determines the scope of the competition. In this stage, the agency determines the commercial activities to be competed and the precompetition cost to perform that activity. It also appoints competition officials who will be in charge of developing, for example, the performance work statement

¹²The FAIR Act, Pub. L. No. 105-270, § 5, 112 Stat. 2382, 2384 (Oct. 19, 1998).

¹³OMB guidance for use of commercial exemption justifications states the following: “As a general matter, a function should be considered core to an agency’s operation only if—and only to the extent that—loss of in-house performance of the function would result in substantial risk to the agency’s ability to accomplish its unique mission.” See OMB, *2005 Inventories of Commercial and Inherently Governmental Activities*, M-05-12 (May 23, 2005).

¹⁴Besides core-commercial, there are four other subcategories of commercial activities that are exempt from competition. Commercial activities are exempt if they are (1) subjects of an in-progress A-76 competition, (2) performed by government personnel as the result of an A-76 competition within the past 5 years, (3) involved in agency restructuring, or (4) performed by government personnel due to a statutory prohibition against private sector performance.

(PWS), which specifies the work to be performed by the winning bidder. In addition, agency officials unaffiliated with the PWS create the MEO, which is generally a smaller, streamlined version of the government organization that is currently doing the work.

- *A competition stage* that begins with a public announcement of a competition and ends with the selection of the competition's winner. During this stage, an agency develops and issues a solicitation, receives offers, and follows a process to select the winning bidder.
- *A postcompetition accountability stage* that involves such activities as monitoring and reporting on the winner's performance, whether that winner is the MEO or a private sector organization.

The circular also directs agencies to designate a competitive sourcing official (CSO) with responsibility for implementing the circular who, with certain exceptions, may delegate those responsibilities to other officials in the agency. USDA designated its Chief Financial Officer as its CSO. He and his office, the Office of the Chief Financial Officer (OCFO), provide oversight to USDA and its agencies, including the Forest Service.

In 2002, the Forest Service established the Competitive Sourcing Program Office (CSPO) in its headquarters. The CSPO oversees the preparation of the FAIR Act inventory and provides written guidance to employees throughout the agency. In 2003, competitive sourcing responsibilities were further centralized in the CSPO to include oversight of A-76 competitions and postcompetition reporting. Supporting the CSPO are regional, national forest, and district office staffs.

Forest Service Green Plans and Feasibility Studies

OMB requires that agencies develop a strategic plan—known as a Green Plan—for implementing their competitive sourcing programs.¹⁵ OMB's guidance on how to develop a Green Plan describes it as a long-range plan to ensure that competitive sourcing is a carefully and regularly considered option for improving the cost-effectiveness and quality of an agency's commercial activities. According to the guidance, agencies should include

¹⁵The name Green Plan is derived from the July 2003 OMB standards for evaluating federal agencies' progress in implementing PMA initiatives. These standards describe the degree of each agency's progress as red, yellow, or green, where green is considered fully successful. One OMB standard requires federal agencies to develop a competition plan as a requirement to earn green status for the competitive sourcing initiative.

in the plan a description of how they are going to take timely and effective advantage of competition, a list of activities being announced for competition, an overview of their decision-making process, and a strategy to limit potential constraints on competition. The guidance also requires that agencies update their plans as organizational conditions change. To comply, the Forest Service has periodically submitted its Green Plan to USDA for incorporation into the department-level Green Plan, which is then presented to OMB for approval. Since December 2003, the Forest Service has submitted at least five versions of its Green Plan to USDA. The Forest Service's most recent OMB-approved Green Plan was issued in December 2005 and covers fiscal years 2005 through 2009.

In its Green Plan, the Forest Service proposes conducting a series of competitive sourcing feasibility studies before holding A-76 competitions. Feasibility studies enable an agency to first examine the practicality of subjecting activities to a competition before committing to one. OMB recognizes the value of this step and has recommended in its guidance that agencies conduct feasibility studies to streamline the competitive sourcing process. The OCFO issued guidance in May 2004 on conducting feasibility studies that outlined USDA agencies' responsibilities and specific procedures to be followed during a feasibility study.

The Forest Service typically assembles a team of six to eight employees to conduct a feasibility study. Each study usually involves one or more requests for data from field offices, which may require information from several hundred Forest Service employees. In addition to recommending whether to proceed with an A-76 competition, a Forest Service feasibility study can make other recommendations, such as to reorganize the way in which the Forest Service performs the activity being studied without engaging in an A-76 competition. When the feasibility study is completed, the Chief of the Forest Service reviews the study team's report and recommendations and decides on the best course of action, which may or may not be an A-76 competition.

In fiscal years 2004 through 2006, the Forest Service completed three A-76 competitions (see table 1).

Competitive Sourcing Reporting Requirements and Spending Limitations

Table 1: Forest Service's Completed Competitions, Fiscal Years 2004-2006

Activity	FTEs	Winner announcement date	Competition winner
Information technology infrastructure	1,200	July 2004	MEO
Fleet maintenance	57	January 2004	Private sector contractor
Road maintenance	66	January 2004	MEO

Source: USDA.

The Consolidated Appropriations Act, 2004, requires executive agencies, such as USDA, to report to Congress on their competitive sourcing activities for the prior fiscal year, including the total number of competitions announced and completed; the incremental costs directly attributable to conducting these competitions; and the total savings actually, or estimated to be, derived from such competitions. As an agency within USDA, the Forest Service must report this information to USDA for inclusion in USDA's report to Congress.

Congress also limited the Forest Service's funds available for "competitive sourcing studies and related activities" in each year's appropriations act for fiscal years 2004 through 2007, because of concerns about how the Forest Service had implemented its competitive sourcing initiative. Specifically, the spending limitations were \$5 million (fiscal year 2004), \$2 million (fiscal year 2005), \$3 million (fiscal year 2006), and \$3 million (fiscal year 2007).¹⁶

¹⁶See footnote 5.

The Forest Service Does Not Have a Realistic Strategic Plan or Adequate Guidance to Effectively Implement Its Competitive Sourcing Program

The Forest Service lacks a realistic strategic plan and adequate guidance to help ensure that it can effectively and efficiently implement its competitive sourcing program. Specifically, the Forest Service's Green Plan proposes to subject all commercial activities to feasibility studies without identifying the personnel and funding resources that are likely to be available for the studies. Furthermore, Forest Service officials responsible for planning the three competitions completed in fiscal year 2004 told us that they did not find the FAIR Act inventory data useful for identifying and exempting inherently governmental and core-commercial activities, and that they received little guidance on how to supplement the inventory data or how to identify inherently governmental and core-commercial activities without using the inventory data. Nevertheless, Forest Service officials told us that the lack of guidance did not result in competing inherently governmental and core-commercial activities because of the small size and commercial nature of these competitions. However, without clear guidance, we believe that the agency risks subjecting inherently governmental and core-commercial activities to future A-76 competitions. In addition, the Forest Service does not have a strategy on how to assess the cumulative effect that competing activities could have on its ability to fight wildland fires and respond to other emergencies, even though outsourcing a large number of federal jobs to the private sector could reduce the availability of certified responders in the long term.

The Forest Service's Strategic Plan for Managing Its Competitive Sourcing Program Is Not Realistic

The Forest Service's December 2005 Green Plan for managing its competitive sourcing program is not realistic because it does not take into account the personnel and funding resources that are likely to be available to implement the plan, even though it proposes to subject all commercial activities—performed by approximately 24,500 FTEs—to feasibility studies during fiscal years 2005 through 2009. This is a significant increase over the activities it proposed to study in a draft of this plan issued 5 months earlier in July 2005. The July 2005 draft Green Plan scheduled 13 feasibility studies for activities associated with 6,180 FTEs for fiscal years 2005 through 2009. The Forest Service selected these activities by identifying good candidates for feasibility studies and then selecting a level of effort the officials believed could be managed over the next 5 years. For example, in selecting the studies, the officials said they considered the complexity of the studies, the additional workload that would result from conducting them, and the personnel resources required in selecting these activities. The Forest Service used the following nine criteria as the basis for identifying good candidates for feasibility studies:

-
- *Potential for savings.* An activity with greater potential for savings through more effective or efficient performance is considered a stronger candidate for a feasibility study.
 - *Availability of private sector contractors.* An activity performed by a large number of commercial companies is considered a stronger candidate for a feasibility study.
 - *Severability.* An activity that can be performed by an independent business unit is considered a stronger candidate for a feasibility study.
 - *Preferred government performance.* An activity that management prefers to be performed by a government position is considered a weaker candidate for a feasibility study.
 - *Location.* An activity that does not have to be performed locally is considered a stronger candidate for a feasibility study.
 - *Fragmentation.* An activity that is the minor responsibility of a large number of positions, while difficult to compete, may benefit from restructuring and is considered a stronger candidate for a feasibility study.
 - *Centrality of performance.* An activity that is typically performed at a central location is considered a stronger candidate for a feasibility study.
 - *Potential for process improvement.* An activity with a greater potential for improvement through modernization, reorganization, or some other means is considered a stronger candidate for a feasibility study.
 - *Impact on incident support.* An activity that supports emergency situations, such as firefighting, is considered a weaker candidate for a feasibility study.

However, after reviewing the Forest Service’s proposed Green Plan, USDA directed the Forest Service to revise its plan to include all 24,512 commercial FTEs eligible for competition in either a feasibility study or an A-76 competition. In response, the Forest Service issued a revised Green Plan in December 2005, which OMB subsequently approved. The revised plan included a single “catch-all” feasibility study—labeled “All Other Commercial B Activities”—which had 15,000 FTEs associated with it,¹⁷

¹⁷Commercial B activities are commercial activities suitable for competition—they exclude inherently governmental and core-commercial activities.

nearly all of the commercial FTEs not already identified in the draft Green Plan. According to a Forest Service official, the additional feasibility study was added to comply with the USDA directive to include all commercial FTEs in the Green Plan, not because it included activities that might benefit from an A-76 competition. OCFO officials explained to us that USDA agencies have an option to perform feasibility studies to identify good candidates for more targeted feasibility studies, and that this was the purpose of the 15,000 FTE feasibility study. As of September 30, 2007, the Forest Service had not started this study.

As table 2 shows, the Forest Service had completed only five of the nine feasibility studies scheduled to be completed by September 30, 2007. The completed studies account for only 2,580 FTEs of the approximately 19,000 FTEs that were scheduled to be studied by this date.

Table 2: Forest Service’s Schedule for Conducting Feasibility Studies and the Studies’ Status as of September 30, 2007

Activities subject to feasibility study	FTEs	Proposed beginning date	Proposed completion date	Feasibility study begun	Feasibility study completed
Communication	750	April 2005	June 2005	Yes	Yes ^a
Aviation & Other Airborne Activities	500	October 2005	March 2006	Yes	Yes
Fleet Management	135	October 2005	March 2006	Yes	Yes
Geospatial Services & Tech Center	95	October 2005	March 2006	Yes	Yes
Computer Application Development	750	September 2006	March 2007	No	No
NEPA Information Collection & Analysis	1,100	September 2006	May 2007	Yes	Yes
Dispatch/Coordination System	300	September 2006	March 2007	Yes	No
All Other Commercial B Activities	15,000	October 2006	February 2007	No	No
Fire & Aviation Training	300	March 2007	September 2007	Yes	No
Fuels Management Program	500	September 2007	March 2008	No	
Technology or Service Centers	200	April 2008	September 2008		
Safety & Occupational Health	150	September 2008	March 2009		
Engineering Design & Development	900	September 2008	May 2009		
Fire Preparedness Program	500	November 2008	May 2009		
Total	21,180^b				

Source: Forest Service.

^aThe Forest Service used a private consultant to perform the communication feasibility study. The study was completed but not accepted by the Forest Service because it did not meet OCFO requirements.

^bWhile the revised Green Plan states that the agency plans to conduct feasibility studies on activities associated with 24,512 FTEs, the plan actually scheduled only studies for activities associated with 21,180 FTEs, with an additional 130 FTEs scheduled for an A-76 competition concerning communication activities. The remaining 3,202 FTEs are unaccounted for.

In our previous work,¹⁸ we found that effective strategic plans take into account the resources required to implement the plan, such as human capital, technology, and information. While Forest Service officials could not provide us with any documents showing resources involved in conducting feasibility studies, the effort does not appear to be insignificant. According to OCFO guidance, 13 separate steps are involved in conducting feasibility studies, with many of the procedures involving several additional subtasks. Table 3 shows OCFO’s guidance for conducting feasibility studies.

Table 3: USDA OCFO Guidance for Conducting Competitive Sourcing Feasibility Studies

Procedure	Description of activities involved
Business needs assessment	<ul style="list-style-type: none"> Evaluate core public need for activity Identify key factors that affect performance of activity Align activity with agency’s strategic goals and objectives
Assumptions and constraints	<ul style="list-style-type: none"> List all assumptions regarding the work performed for the activity <ul style="list-style-type: none"> For example, scope, timelines, workload requirements, necessary technology, customers, partners, stakeholders, funding, security, and outside support List all constraints regarding the work performed for the activity <ul style="list-style-type: none"> For example, time, budget, organizational, structure, and physical factors
Market research	<ul style="list-style-type: none"> Analyze capabilities of commercial marketplace Determine if alternative sources can satisfy the requirements of the activity Create inventory of all commercial firms that produce, distribute, and support products and/or services similar to activity Ensure that all market research complies with Federal Acquisition Regulation Part 10 requirements

¹⁸GAO, *Congressional Review of Agency Strategic Plans*, [GAO/GGD-10.1.16](#) (Washington, D.C.: May 1997); *Transforming the Civil Service: Building the Workforce Of the Future, Results Of a GAO-Sponsored Symposium*, [GAO/GGD-96-35](#) (Washington, D.C.: Dec. 20, 1995); *Managing for Results: Experiences Abroad Suggest Insights for Federal Management Reform*, [GAO/GGD-95-120](#) (Washington, D.C.: May 2, 1995); *Managing for Results: State Experiences Provide Insights for Federal Management Reforms*, [GAO/GGD-95-22](#) (Washington, D.C.: Dec. 21, 1994); *Government Reform: Goal-Setting and Performance*, [GAO/AIMD/GGD-95-130R](#) (Washington, D.C.: Mar. 27, 1995); and *Executive Guide: Improving Mission Performance Through Strategic Information Management and Technology*, [GAO/AIMD-94-115](#) (Washington, D.C.: May 1994).

Procedure	Description of activities involved
Current “as-is” assessment	<ul style="list-style-type: none"> • Describe “as-is” scope of current operations <ul style="list-style-type: none"> • Discuss current workload, customers, partners, and stakeholders • Describe pros and cons of current operations • Describe workflow, required human capital resources • Provide overview of how internal functions work with one another • Describe potential effects on other USDA and non-USDA organizations should the activity be outsourced
Future “to-be” assessment	<ul style="list-style-type: none"> • Present a “to-be” scope of operations • Analyze expected workload, potential growth, future customers, and stakeholders • Develop “most-efficient organization” model to accomplish the activity
Performance gap analysis	<ul style="list-style-type: none"> • Define the gaps between the “as-is” and “to-be” scopes of operation • Prioritize performance gaps from most- to least-critical
Cost/Benefit analysis	<ul style="list-style-type: none"> • Compare cost and benefits of all options for performing the activity to determine the most cost-effective solution <ul style="list-style-type: none"> • Calculate cost estimate <ul style="list-style-type: none"> • For example, labor, employee benefits, materials, facilities, contractor expenses, and miscellaneous costs • Calculate benefits estimate <ul style="list-style-type: none"> • Estimate the overall public-value added (in dollars) of performing the activity • Perform savings analysis <ul style="list-style-type: none"> • Compare “bottom line” of each performance option
Civil rights impact assessment	<ul style="list-style-type: none"> • Identify and categorize the civil-rights impact of implementing competitive sourcing in accordance with USDA Office of Civil Rights policy guidance • Identify any potential risk of violation
Systems	<ul style="list-style-type: none"> • Provide an overview of all capital infrastructure systems and their relationships <ul style="list-style-type: none"> • Current systems used to support activity <ul style="list-style-type: none"> • System-to-system interfaces • Planned or in-progress system upgrades • Identify how the alternative options conform to the agency’s IT architecture standards and guidelines
Acquisition strategy	<ul style="list-style-type: none"> • Develop resource acquisition plan for competitive sourcing option • Identify expected performance levels • Develop oversight mechanism to ensure that minimum performance standards are met
Project life-cycle schedule	<ul style="list-style-type: none"> • Identify major activities, milestones, and transition timelines from “as-is” to “to-be” system, including all necessary tasks and subtasks related to the activity
Requirements	<ul style="list-style-type: none"> • List the items needed to complete the activity
Recommendations	<ul style="list-style-type: none"> • Recommend future course of action based on feasibility study results • If competitive sourcing is recommended, identify timelines set forth in the circular

Source: USDA OCFO, *Guidance for Determining the Feasibility of Conducting Competitive Sourcing Competitions*, Bulletin 2004-001 (May 11, 2004).

According to a senior Forest Service official, while the agency considered personnel requirements when selecting the original 13 activities for feasibility studies, it did not do so when it expanded the Green Plan to include all commercial FTEs. According to this official, there would be no practical way to conduct the 15,000-FTE study because it would include so many dissimilar activities. Consequently, FTEs would first need to be grouped into many separate activities, each requiring its own feasibility study, and as the number of studies increased, so too would the demands placed on Forest Service personnel. Several senior Forest Service officials with whom we spoke said that it is inconceivable that the schedule of feasibility studies in the OMB-approved Green Plan for fiscal years 2005 through 2009 could be met.

Just as it did not take into account personnel resources in its OMB-approved December 2005 Green Plan, the Forest Service also did not consider congressionally directed funding limitations. While the Forest Service's July draft Green Plan acknowledged the fiscal year 2005 \$2 million statutory spending limitation on the Forest Service's competitive sourcing activities, the December Green Plan did not. In directing the Forest Service to include all commercial activities in the plan, USDA said to do so as if there were no funding limitations. Because Congress had placed limitations on the Forest Service's spending for competitive sourcing activities in the previous 2 fiscal years—2004 and 2005—factoring in the possibility of limited funds available in future years would have been appropriate.

The Forest Service Lacks Guidance to Ensure That Key Work Activities Are Excluded from A-76 Competitions

Since an agency's FAIR Act inventory designates all of an agency's FTEs as inherently governmental, commercial, or commercial but exempt from competition (e.g., core-commercial), the development of an accurate inventory becomes the foundation for determining which activities agencies select for competition. As we have previously reported,¹⁹ other agencies have had difficulty in classifying positions when preparing their FAIR Act inventories, and the Forest Service is no exception. The Forest Service's difficulty is exemplified by significant fluctuations in the percentages of inherently governmental activities in its inventory data for fiscal years 2004 through 2006. In addition, there are differences between

¹⁹GAO, *Competitive Sourcing: Greater Emphasis Needed on Increasing Efficiency and Improving Performance*, GAO-04-367 (Washington, D.C.: Feb. 27, 2004).

the Forest Service’s initial classifications and those reported in the agency’s OMB-approved Fair Act inventory. See table 4.

Table 4: Percentages of Inherently Governmental and Core-Commercial Activities Identified by the Forest Service Compared with the Percentages Reported in the OMB-Approved FAIR Act Inventories, Fiscal Years 2004-2006

Fiscal year	Inherently governmental activities		Core-commercial activities	
	Percentage identified by the Forest Service	Percentage reported in the Forest Service’s OMB-approved FAIR Act inventory	Percentage Identified by the Forest Service	Percentage reported in the Forest Service’s OMB-approved FAIR Act inventory
2004	21%	21%	14%	0%
2005	54	21	13	0
2006	7	7	13	13

Source: Forest Service.

According to a Forest Service official involved in preparing the agency’s FAIR Act inventory, the fluctuations in the percentages of FTEs designated as inherently governmental—ranging from a high of over 50 percent to a low of 7 percent—were the result of changes from year to year in both the Forest Service’s criteria for classifying activities, and the methodology it used to calculate the percentages of FTEs performing inherently governmental activities. In addition, the differences in the percentages of FTEs designated as core-commercial activities stemmed from disagreements between the Forest Service and OMB about what constituted a core-commercial activity. Specifically, in fiscal years 2004 and 2005, OMB did not approve the Forest Service’s written justifications for core-commercial activities. Instead, it directed the Forest Service to reclassify all of the activities the agency had identified as core-commercial activities to commercial, thus making these activities eligible for competition.

The Forest Service’s lack of consistency in its classification methodology, coupled with disagreement between the Forest Service and OMB regarding activity classifications, call into question the accuracy and usefulness of the Forest Service’s FAIR Act inventory data for identifying inherently governmental and core-commercial activities when planning specific A-76 competitions. Forest Service officials told us that the FAIR Act inventory represents only a “rough snapshot” of the inherently governmental and core-commercial activities within the Forest Service, and that much additional work must be done to identify specific activities suitable for competition. They raised the following concerns about using FAIR Act inventory data to identify inherently governmental and core-commercial activities:

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- *Improper classification of activities in the FAIR Act inventory.* Disagreements between the Forest Service and USDA regarding activity designations raise questions about appropriate classification. Furthermore, agency employees may be tempted to classify an activity as either inherently governmental or core-commercial to exempt it from competition.
 - *Mandatory use of OMB function codes.* The Forest Service is required by OMB to use OMB-assigned function codes for the FAIR Act inventory. Although the guidance allows the Forest Service flexibility in defining the codes, the officials told us that some of the codes were too broad to be of any use or did not capture the actual work activities Forest Service employees carried out.²⁰

Because Forest Service officials did not find the agency's FAIR Act inventory data useful during the A-76 precompetition planning stage, those officials responsible for the three completed competitions—IT infrastructure, road maintenance, and fleet maintenance—said that they developed their own methodologies to classify inherently governmental and core-commercial activities. For each competition, agency officials collected additional work activity information from field offices and performed additional analysis beyond that conducted for the FAIR Act inventory. In doing so, officials said, they received little guidance on how to supplement the FAIR Act inventory data or how to identify inherently governmental and core-commercial activities during the precompetition stage of the completed competitions.

Despite the lack of guidance, Forest Service officials involved in the three completed competitions said that they succeeded in identifying and exempting from competition inherently governmental and core-commercial activities by relying on intuitive knowledge and outside consultants. Officials were confident of their success because of their expertise in the activity being competed; the clearly commercial nature of the activities; and the small size of the competitions, especially the fleet maintenance and the road maintenance competitions. However, the three completed competitions may not be representative of future competitions.

²⁰As we have previously reported, the inapplicability of the OMB-assigned codes has been a problem for many other federal agencies. Our prior work on this issue includes [GAO-04-367](#) and *Competitive Contracting: The Understandability of FAIR Act Inventories Was Limited*, [GAO/GGD-00-68](#) (Washington, D.C.: Apr. 14, 2000).

Since these competitions, USDA and the Forest Service have taken steps to better define inherently governmental and core-commercial activities for the purposes of completing the FAIR Act inventory.²¹ However, while we believe that the FAIR Act inventory data could be a useful tool for planning competitive sourcing activities at an agencywide level—for example, they can form the basis of the Green Plan—we believe that additional guidance will be needed on how to classify work activities during the precompetition planning stage of an A-76 competition to ensure that key work activities are excluded from the specific competition being planned. Without such guidance, the Forest Service is at risk of subjecting inherently governmental and core-commercial activities to A-76 competitions. This is particularly true as the Forest Service continues to implement its Green Plan, which could potentially subject up to two thirds of its FTEs to A-76 competitions.

The Forest Service Lacks a Strategy to Assess the Cumulative Effect That A-76 Competitions Could Have on Its Ability to Respond to Wildland Fires and Other Emergencies

For the three competitions the Forest Service completed—IT infrastructure, road maintenance, and fleet maintenance—officials responsible for planning the competitions told us they likely had a negligible effect on the Forest Service militia’s ability to fight fires and respond to emergencies for the following reasons:

- The three competitions affected a relatively small number of Forest Service employees—1,323—compared with the approximately 80,000 federal employees who are ICS-certified.
- Contract provisions required the winning organization to provide emergency incident support for activities within the scope of the contract. For example, the MEO that won the road maintenance competition was obligated to provide road maintenance, if needed, to support the response to a wildfire incident.
- The largest of the three competitions—the IT infrastructure, which affected 1,200 FTEs—was won by the MEO. Because the MEO is still a unit of the Forest Service and staffed by Forest Service employees, the agency was able to direct the MEO to allow ICS-certified employees to volunteer to fight wildfires and respond to other emergencies by performing non-IT-related duties.

²¹See, for example, U.S. Department of Agriculture, Office of the Chief Financial Officer, Office of Competitive Sourcing, *FY07 Guidebook for Inventories of Commercial Activities and Inherently Governmental Activities* (March 2007).

While the Forest Service has thus far minimized the impact of A-76 competitions on the availability of ICS-certified personnel to fight wildfires and respond to other emergencies, the following other factors may affect the availability of ICS-certified personnel in the future:

- The Forest Service cannot realistically expect a private sector firm to provide emergency services unrelated to the activity being competed. For example, the Forest Service could not hold a competition for fleet maintenance and expect firms that specialize in fleet maintenance to provide unrelated services at the scene of the fire, such as providing food and supplies.
- Whether an MEO or a private sector firm wins a competition, the availability of ICS-certified personnel could decline. As with any reorganization, competitive sourcing may cause some personnel to leave the Forest Service. These employees could retire or be hired by other federal agencies that participate in the NWCG, and thus they could continue to fight fires and respond to other emergencies.²² Other employees, however, may no longer be available if their new employment situation does not allow them to take extended leaves of absence to fight fires and respond to other emergencies.

In its fiscal years 2006 and 2007 appropriations for the Forest Service, Congress required the agency, in carrying out any competitive sourcing competition involving Forest Service employees, to take into account the potential effect that contracting with a private sector organization would have on the agency's ability to fight and manage wildfires.²³ For the only A-76 competition started since the law was passed—the communications competition—the 130 employees potentially affected by the competition were asked to report the amount of time they spent responding to emergencies during the previous year. However, the Forest Service did not collect information on what specific duties those employees performed during the emergency response, nor the ICS-qualifications they hold.

²²Retired employees who are ICS-certified are eligible to be hired on an hourly basis to fight fires and respond to other emergencies.

²³Pub. L. No. 109-54 § 422(e), 119 Stat. 499, 554-55 (Aug. 2, 2005); and Pub. L. No. 110-5, § 104, 121 Stat. 8, 9 (Feb. 15, 2007) (operates to retain this requirement in fiscal year 2007). Section 422(e) states the following: “determine whether any of the employees concerned are also qualified to participate in wildland fire management activities; and take into consideration the effect that contracting with a private sector source would have on the ability of the Forest Service to effectively and efficiently fight and manage wildfires.”

Without this information, the Forest Service cannot assess the full impact of this competition on its emergency response capability.

While it is important to know the impact of individual competitions, it is even more important to know the cumulative impact of multiple competitions. However, the Forest Service does not have a strategy to assess the cumulative impact that future competitions could have on its firefighting capability. The absence of such a strategy could prove significant if the Forest Service implements its plan to consider over 24,000 FTEs—or nearly two thirds of its workforce—for A-76 competition.

The Forest Service Does Not Have Sufficient Competitive Sourcing Cost Data to Demonstrate Compliance with Its Statutory Spending Limitations or to Accurately Report Savings to Congress

The Forest Service does not know how much it spent on competitive sourcing activities and, therefore, cannot be assured that it stayed within the spending limitations or that it accurately reported savings to Congress. For fiscal years 2004 through 2006, we found that the Forest Service (1) narrowly interpreted the spending limitations to exclude certain costs and (2) lacked sufficiently complete and reliable cost data to demonstrate its compliance with the appropriations acts' spending limitations on its competitive sourcing activities. Furthermore, Congress may not have an accurate measure of the savings from the Forest Service's A-76 competitions because the agency (1) does not have complete and reliable cost data and (2) did not include all costs associated with its competitive sourcing program.

The Forest Service's Interpretation of Costs That Are Subject to Statutory Spending Limitations Was Too Narrow

For fiscal years 2004 through 2006, the Forest Service did not attempt to collect cost data on all competitive sourcing activities because it believed that some costs associated with these activities were not subject to the spending limitations of \$5 million, \$2 million, and \$3 million, respectively, as established in its appropriations acts. Specifically, the Forest Service reasoned that it did not have to collect all the cost data because it interpreted the spending limitations as being intended to restrict the number of A-76 competitions it conducted. It, therefore, asserted that the costs associated with the competition stage were subject to the spending limitations, while costs associated with the FAIR Act inventory; precompetition planning; and postcompetition accountability activities should not be included.

However, we found that the Forest Service's interpretation of which competitive sourcing activities are subject to the spending limitations was too narrow. Specifically, we concluded that, with only a limited exception, the spending limitations apply to all costs attributable to the Forest Service's competitive sourcing program, including feasibility studies and other precompetition planning activities, the competition itself, postcompetition accountability activities, and the CSPO's costs to manage the program. Only the costs incurred to comply with the FAIR Act, such as those to develop the inventories of activities, are exempt from the limitations because the Forest Service is statutorily required to perform FAIR Act-related activities even if it makes no effort to conduct competitive sourcing.²⁴ (See app. II for further discussion on our legal interpretation.)

In April 2007, we sought the opinion of the USDA's General Counsel on whether certain Forest Service competitive sourcing activities are subject to the annual statutory spending limitations. Our interpretation of the costs that were subject to the spending limitations for fiscal years 2004 through 2006 is consistent with the interpretation that USDA's General Counsel provided to us. The USDA's General Counsel further stated that it believed that the Forest Service may not have complied with the spending limitations in fiscal years 2004 through 2006.

The Forest Service Did Not Ensure That Cost Data Used to Comply with Statutory Spending Limitations Are Reliable

Even when it used its own interpretation of costs subject to the spending limitations, the Forest Service still did not know whether it complied with the limitations because it did not have a cost accounting system sufficient to track costs related to competitive sourcing. First, the Forest Service failed to establish tracking codes, known as job codes, in its financial management system to enable it to distinguish cost data on the activities that it believed were subject to the spending limitations from other cost data.²⁵ Forest Service officials could not explain why the agency had not established these job codes.

²⁴For fiscal year 2008, the Forest Service is prohibited from using any fiscal year 2008 funds for "competitive sourcing studies and related activities involving Forest Service personnel." Consolidated Appropriations Act, 2008, Div. F, § 415(a), Pub. L. No. 110-161 (Dec. 26, 2007).

²⁵The Forest Service uses job codes to track its competitive sourcing program costs, which are established in its Foundation Financial Information System. The job codes are used to track costs related to things such as salary, travel, consultancy services, or supplies.

Second, the Forest Service lacked guidance and management oversight to ensure that employees were accurately and consistently using the job codes that were established for competitive sourcing activities. In particular, Forest Service officials could not provide us with any guidance that employees could use to determine when to charge time to these job codes and when to charge time to codes associated with their regular duties. Officials acknowledged that without this guidance, employees probably continued to charge time spent on competitive sourcing activities to their regular job codes. For example:

- In fiscal year 2004, Forest Service employees charged only 0.07 FTEs to the job code established to track costs with the IT infrastructure competition, even though competitive sourcing activities for the competition took place throughout the entire fiscal year.
- In fiscal years 2005 through 2006, Forest Service employees charged only 0.22 FTEs to the job code established to track costs associated with the communications competition, even though competitive sourcing activities for the competition began in fiscal year 2005 and were ongoing at the end of fiscal year 2006.

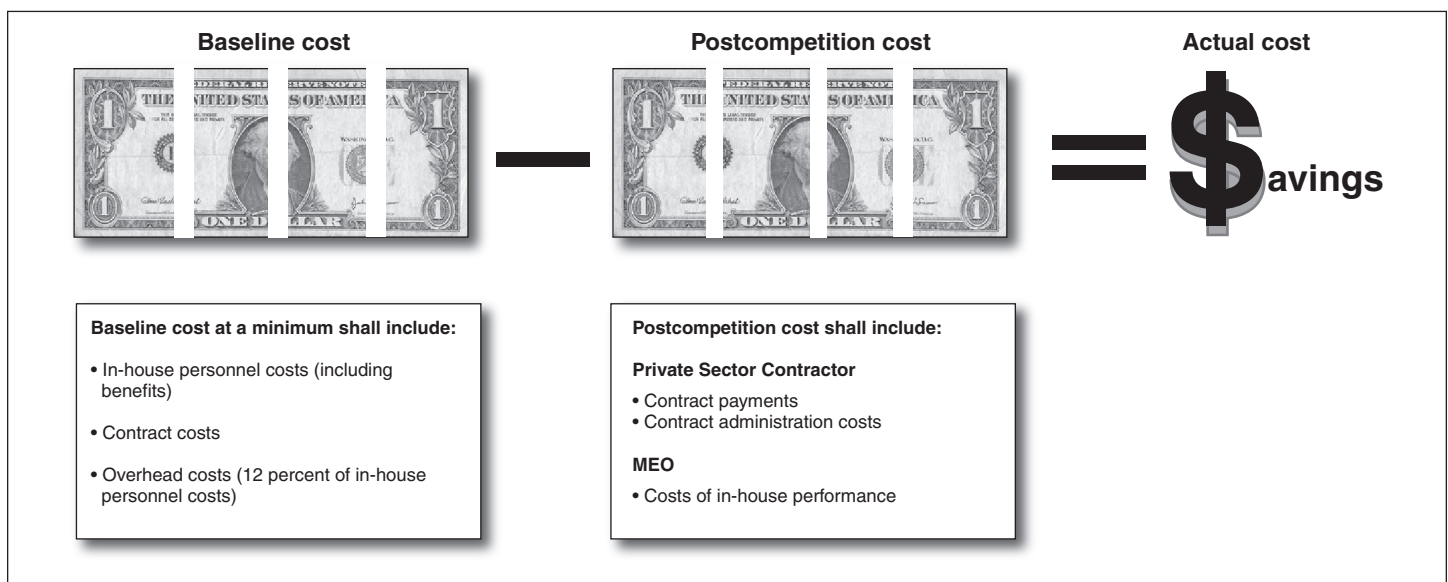
In consultation with Forest Service officials, we agreed that it was not feasible to reconstruct cost data for competitive sourcing activities between fiscal years 2004 and 2006 to determine if the Forest Service exceeded the appropriations acts' spending limitations. Forest Service officials told us it would require a significant amount of time and resources to query employees on their past work activities associated with competitive sourcing. Furthermore, it is unlikely that employees could reliably report the time they spent on competitive sourcing activities that took place months and years ago. Finally, officials told us that many employees involved with the competitions have since left the agency.

Recognizing these shortcomings, the Forest Service has made some efforts to improve its policies and guidance on how to establish job codes and how employees are to use them to track competitive sourcing costs. In fiscal year 2007, the Forest Service issued general policy on when to charge time to competitive sourcing job codes. Among other things, it issued a directive specifying that the cost of performing some precompetition planning activities be charged to competitive sourcing job codes. However, the Forest Service has yet to provide details on how it intends to implement this policy, and thus we were not able to evaluate it.

The Forest Service Could Not Substantiate Savings Reported to Congress

The Consolidated Appropriations Act, 2004, establishes a governmentwide requirement for each executive agency to report to Congress on the actual savings derived from the implementation of competitions for the prior fiscal year.²⁶ In addition, OMB provides guidance on preparing the report, including how to calculate savings.²⁷ According to the guidance, savings from completed competitions is defined as the difference between the cost to the federal government of performing the activity prior to the competition—the baseline cost—and the cost to the government of performing the activity or paying for it after the winner of the competition has begun performing the activity. This is the postcompetition cost. Figure 1 shows how savings from competitions are calculated.

Figure 1: OMB Calculation for Determining Savings from Competitions, Fiscal Years 2004-2006



Source: GAO representation of OMB guidance.

While OMB guidance specifies the postcompetition cost to the government if a private sector contractor wins the competition, it does not provide

²⁶Specifically, the Consolidated Appropriations Act, 2004, requires agencies to report on “actual savings, or a quantifiable description of improvements in service or performance, derived from the implementation of competitions” for the previous fiscal year. Pub. L. No. 108-199, Div. F, Title VI, § 647(b)(7), 118 Stat. 3, 361 (Jan. 23, 2004).

²⁷OMB provides this guidance annually. The guidance did not change substantially for fiscal years 2004 through 2006. See footnote 4.

specific direction on how to calculate the postcompetition cost to the government if the MEO wins the competition. Instead, the guidance suggests determining the cost of in-house performance using a methodology similar to that used to calculate the baseline costs.

In its reports to Congress on the actual savings derived from the implementation of competitions, USDA reported that the Forest Service saved over \$38 million between fiscal years 2004 through 2006 as a result of the three completed competitions—IT infrastructure (approximately \$35.2 million), fleet maintenance (approximately \$716,000), and road maintenance (approximately \$2.2 million).

For these three competitions, Forest Service officials at the agency's headquarters and in the regions could not provide us with the information necessary to fully substantiate the savings reported to Congress. Headquarters officials directed us to the regions responsible for the competitions, where officials were able to provide some cost data, but overall could not provide us with the information necessary to substantiate the savings reported to Congress. GAO's document entitled *The Standards for Internal Control in the Federal Government* requires that all transactions and other significant events, such as the Forest Service competitive sourcing costs and savings analyses, be clearly documented, and the documentation should be readily available for examination.²⁸ Specifically, we found the following:

- *IT infrastructure.* Officials could not tell us the methodology they used to determine postcompetition costs and did not have available the data they used to calculate savings. They reconstructed the personnel and overhead costs for operating the MEO, but could not reconstruct the cost of outside contractors that the MEO employed because these costs were not discernable from other cost data that the Forest Service collected. Ultimately, these officials could only speculate about what the contract costs might have been and how savings were calculated.
- *Fleet maintenance.* As with the IT infrastructure competition, officials could not tell us the methodology they used to determine postcompetition costs and did not have available all of the data they used to calculate savings. Although officials provided us with the bulk of the postcompetition cost data—the payments made to Serco, the private

²⁸GAO, *The Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

sector organization that won the competition—they could not provide us with all of the costs.

- *Road maintenance.* Unlike the other two competitions, officials responsible for this competition described the methodology. However, they were unable to provide us with baseline cost data for fiscal year 2004, and, as a result, we could not verify the reported savings for that year.

In April 2007, OMB issued guidance to help agencies substantiate the savings they have achieved through A-76 competitions. The guidance describes agency responsibilities related to tracking and reviewing cost data to ensure savings are being realized. It also requires all agencies to develop plans to independently validate a sampling of competitions to confirm projected savings. Among other things, the guidance requires agencies to assess the completeness and accuracy of cost data. Forest Service officials told us that the agency is working to implement OMB's guidance. USDA told us that it is directing the Forest Service to validate the savings from the IT infrastructure competition by the fourth quarter of fiscal year 2008.

The Forest Service Did Not Include All Costs Associated with Its Competitive Sourcing Program When Calculating Savings Reported to Congress

While the Forest Service could not substantiate the savings it reported to Congress using OMB's guidance, the guidance itself allows agencies to exclude some costs associated with A-76 competitions, which, if excluded, may not provide Congress with an accurate measure of the savings produced by the competitions. Although Forest Service officials could not tell us all of the costs that were included or excluded in their savings estimates, they stated with confidence that some costs were excluded. Specifically, they said that transition costs associated with transferring responsibilities to the winning organization were not included in the savings calculations for the three competitions we reviewed. Transition costs include costs associated with decreasing the size of the workforce through buyouts and retirements, and costs to transfer employees who are being retained to other locations. These are not necessarily one-time costs because an agency is required to complete a follow-on competition for an activity, generally after about 3 to 5 years. In the three competitions we reviewed, we found the following transition costs were excluded:

- *IT infrastructure.* Forest Service officials told us that they excluded approximately \$40 million in transition costs from the savings calculations

that were reported to Congress.²⁹ These costs exceeded by about \$5 million the \$35.2 million that the Forest Service reported to have saved during fiscal years 2005 and 2006 as a result of the competition.

- *Fleet maintenance.* Forest Service officials told us they excluded about \$670,000 in transition costs from the savings calculations that were reported to Congress, nearly equaling the approximately \$716,000 that the Forest Service reported to have saved since fiscal year 2005 as a result of the competition.
- *Road maintenance.* Forest Service officials told us they excluded about \$320,000 in transition costs from the savings calculations that were reported to Congress. These costs are approximately 15 percent of the total \$2.2 million in reported savings since fiscal year 2004.

In addition to transition costs, there are also precompetition planning costs (including, as of May 2004, feasibility study costs). Like transition costs, OMB guidance does not direct that precompetition planning costs be included in the savings calculations. A Forest Service official told us that precompetition planning costs were excluded from the savings calculations for the three completed competitions. Forest Service officials could not provide us with estimates of these costs because they were not tracked.

OMB guidance also does not direct agencies to include in their savings calculation other potential costs associated with the termination of a contract. To illustrate, 14 months after the private sector contractor, Serco, began performing fleet maintenance activities, the Forest Service terminated the contract. Under the terms of the contract, the Forest Service must negotiate with Serco on any costs associated with the termination itself. Forest Service officials stated that in March 2007, Serco proposed a settlement amount that it contends would reimburse it for costs such as those associated with vacating sites as well as administrative costs and attorneys' fees. Serco also contends that the Forest Service owes it additional compensation unrelated to the contract termination. Serco's claim stems from a disagreement with the Forest Service over the terms of the contract. Finally, Forest Service officials also told us that the agency has incurred additional costs—exceeding its costs for fleet maintenance before the Serco contract—because maintenance work is now being

²⁹The Forest Service reported that the savings accrued over a 20-month period between February 2005 and September 2006.

performed by retail vendors. Officials told us that the Forest Service is precluded from returning the work to the agency for in-house performance.³⁰ Because these issues are still pending, we did not include the dollar amounts of Serco's claims or the additional costs incurred by the Forest Service, and the Forest Service officials told us that they did not want to comment further on this issue.

Conclusions

The government's goal is to obtain high-quality services at a reasonable cost, regardless of whether these services are performed by the public or private sector. Competition between the public and private sectors is an important tool in reaching this goal. The 2001 *President's Management Agenda* has reemphasized the importance of using this tool as a means to deliver the best value to the American taxpayer.

In keeping with the *President's Management Agenda*, the Forest Service established a competitive sourcing program and began holding A-76 competitions. The agency now has plans to consider competing up to two thirds of its workforce against the private sector. This is a massive undertaking whose long-term success will depend on a realistic strategic plan, clear guidance to identify the key work activities that should be excluded from competition, and a strategy to assess the cumulative effect that outsourcing a large number of federal jobs could have on its firefighting capability. Unfortunately, the Forest Service has none of these in place. Because the Forest Service has just begun to implement its competitive sourcing program—having competed less than 5 percent of its workforce against the private sector—these problems have not yet had a significant impact on the Forest Service's competitive sourcing program. However, as the Forest Service implements its Green Plan and greatly expands the scope of its competitive sourcing program, the problems we have identified could, in the long term, severely impact its ability to implement this program effectively—jeopardizing not just the overall success of the program, but the nation's ability to fight fires and respond to other emergencies.

More immediate is our concern that the Forest Service did not collect complete and reliable cost data related to its competitive sourcing

³⁰According to the circular, work performed by a commercial source cannot automatically revert to government (in-house) performance. Specifically, before the government may perform the work currently being performed by the private sector, an A-76 competition must be used to determine whether the government should perform the activity.

program during fiscal years 2004 through 2006. As a result, the agency did not know how much it had spent on competitive sourcing activities and, consequently, whether it had complied with statutory spending limitations. We are also concerned about the usefulness of the cost savings that the Forest Service reported to Congress. The Forest Service could not provide us with sufficient data to verify the accuracy of the reported savings and excluded substantial costs from the savings calculations. Although the agency followed OMB guidance in calculating savings, we believe the guidance provides the Forest Service with the latitude to include the other costs we identified—some of which were substantial. Including these costs would have provided Congress with a more realistic picture of the extent to which the Forest Service’s competitive sourcing program is saving the American taxpayers’ money.

Recommendations for Executive Action

To improve the Forest Service’s management of its competitive sourcing program, we recommend that the Secretary of Agriculture direct the Chief of the Forest Service to take the following five actions:

- Revise the Green Plan to establish an implementation schedule that takes into account resource limitations.
- Develop clear guidance on when and how to identify inherently governmental and core-commercial activities so they are excluded from competitive sourcing competitions.
- Develop a strategy for assessing the cumulative effect of competitive sourcing competitions on the Forest Service’s firefighting and emergency response capabilities.
- Collect complete and reliable cost data on competitive sourcing activities to ensure that the Forest Service is able to comply with the appropriations acts’ spending limitations.
- Ensure that the savings reported to Congress are a realistic measure of the actual savings resulting from A-76 competitions by (1) verifying the accuracy of the data and (2) including costs such as planning costs and transition costs when calculating the savings.

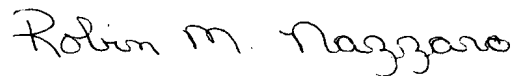
Agency Comments

We provided a draft of this report to the U.S. Department of Agriculture for review and comment. The Forest Service responded. It generally agreed with our recommendations but had concerns about some of the

specific findings and conclusions in the report. We present the agency's concerns and our responses to them in appendix III.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution for 30 days from the report date. At that time, we will send copies of this report to interested congressional committees, the Secretary of Agriculture, and the Chief of the Forest Service. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact me at (202) 512-3841 or nazzaror@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 IV.



Robin M. Nazzaro
Director, Natural Resources
and Environment

List of Requesters

The Honorable Jeff Bingaman
Chairman
Committee on Energy and Natural Resources
United States Senate

The Honorable Dianne Feinstein
Chairwoman
Subcommittee on Interior, Environment,
and Related Agencies
Committee on Appropriations
United States Senate

The Honorable Byron L. Dorgan
United States Senate

The Honorable Russ Feingold
United States Senate

The Honorable Herb Kohl
United States Senate

Appendix I: Objectives, Scope, and Methodology

This report discusses the extent to which the U.S. Department of Agriculture's (USDA) Forest Service has (1) plans and guidance to help implement its competitive sourcing program effectively and (2) sufficient cost data to ensure that it complied with its competitive sourcing statutory spending limitations and accurately reported its competitive sourcing savings to Congress for fiscal years 2004 through 2006.

To address these two objectives, we focused on Forest Service competitive sourcing activities between fiscal years 2004 and 2006. For the first objective, we compared the Forest Service's Green Plan, including draft versions of the plan, with previous work that GAO has performed that identified the elements of effective strategic plans. We also reviewed the guidance that the Office of Management and Budget (OMB) and USDA provided to the Forest Service on how to construct its Green Plan. Furthermore, we examined how the Forest Service scoped the three competitions that it completed during this time frame. Specifically, we examined how the Forest Service ensured that it did not include inherently governmental and core-commercial activities in the competitions, and how it assessed the impact that competitions could have on the nation's ability to fight wildland fires and respond to other emergencies. Finally, we examined the guidance currently available to Forest Service employees responsible for scoping competitive sourcing competitions and interviewed Forest Service officials familiar with the agency's competitive sourcing activities.

To respond to the second objective, we examined the appropriations acts for fiscal years 2004 through 2006 to determine which costs incurred by the Forest Service during those fiscal years were subject to the spending limitations. Appendix II explains this analysis in greater detail. We then asked the Forest Service to provide us with cost data for activities associated with its competitive sourcing program, including cost data we had determined were subject to the spending limitations. We assessed the reliability of these data and found them unreliable as a measure of the costs and savings associated with the program. Specifically, our review of cost data from the USDA's Federal Financial Information System (FFIS) and subsequent discussions with Forest Service officials, including the Chief Financial Officer, confirmed that the Forest Service had not issued formal guidance on which costs were to be charged to competitive sourcing job codes in FFIS, and that there was a lack of institutionalized policies and procedures to guide employees in tracking the time and costs associated with competitive sourcing activities. As a result, Forest Service officials, including the Chief Financial Officer, agreed that it was likely that employees used job codes inconsistently and that the accounting of

competitive sourcing expenditures between fiscal years 2004 and 2006 were unreliable and inaccurate. We also asked the Forest Service for data to substantiate the annual savings resulting from competitive sourcing competitions it reported to Congress in fiscal years 2004 through 2006. For the three competitions completed during this time frame, Forest Service officials either could not provide us with the methodology used to calculate the savings, or could not provide us with all of the data used to calculate the savings. As a result, we were unable to replicate the Forest Service's savings calculations, and thus we determined the reported numbers were unreliable because data reporting strategies were absent or inconsistent, there were no internal processes for verifying the accuracy of the data, and there was no documentation with which we could verify the accuracy of the data. Finally, in the course of our work, we identified categories of costs that were not included in the Forest Service's savings calculations. We include examples of these costs in this report to show their magnitude relative to the savings reported to Congress; however, we did not independently verify the accuracy of these costs. We conducted our work between October 2006 and January 2008 in accordance with generally accepted government auditing standards.

Appendix II: Limitations on Use of Appropriations for “Competitive Sourcing Studies and Related Activities”

The Forest Service relies on both federal employees and private contractors to perform commercial activities—activities performed by the government that are also regularly performed in the commercial market place—such as data entry, photocopying, and other administrative support services. To determine whether to convert the performance of such activities from federal employees to private contractors, or *vice versa*, the Forest Service follows the competitive process set out in Office of Management and Budget (OMB) Circular No. A-76, *Performance of Commercial Activities* (May 29, 2003), as revised, which establishes executive branch policy for the competition of commercial activities.¹ The Forest Service is also subject to the requirements of the Federal Activities Inventory Reform Act of 1998 (FAIR Act),² which mandates agencies to develop inventories of their activities, and the President’s Management Agenda (PMA), launched in 2001, which includes a governmentwide “competitive sourcing” initiative to increase and to make more efficient and effective agencies’ use of the circular’s competitive process.³ To implement these requirements, the Forest Service established a competitive sourcing program that is administered by the Competitive Sourcing Program Office.⁴

A provision in each of the annual appropriations acts funding the Forest Service for fiscal years 2004 through 2006 limited the amount of appropriated funds available to the Forest Service for “competitive sourcing studies and related activities” to between \$2 million and \$5 million (spending limitations). Five members of the U. S. Senate requested that we determine which costs incurred by the Forest Service in fiscal years 2004 through 2006 were subject to the spending limitations. In our view, these spending limitations apply to all costs under the Forest Service’s competitive sourcing program, except for costs incurred to carry out the FAIR Act.

¹OMB Circular No. A-76 may be accessed at www.whitehouse.gov/omb/circulars/index.html (last visited Oct. 22, 2007).

²Pub. L. No. 105-270, 112 Stat. 2382 (Oct. 19, 1998).

³Executive Office of the President and OMB, *The President’s Management Agenda* (2001), available at www.whitehouse.gov/results/agenda/index.html (last visited Sept. 6, 2007).

⁴USDA-Forest Service, Report to Surveys and Investigations Staff, Committee on Appropriations, U.S. House of Representatives, *Implementation of the Competitive Sourcing Initiative at the U.S. Forest Service*, at i, 3, 4, 9 (Mar. 2004).

Background

OMB Circular No. A-76 includes, in appendix B, detailed guidance on the competitive process a federal agency should follow to determine whether an activity should be performed by a public or private source.⁵ The process is divided into three stages: (1) a precompetition preliminary planning stage, consisting, at minimum, of nine specified steps; (2) a competition stage that starts with a formal public announcement of a standard or streamlined competition⁶ between private and public sources and ends with announcing a performance decision; and (3) a postcompetition accountability stage, which mandates such actions as transferring performance of the activities to the winning entity, maintaining a database to track the execution of competitions, monitoring performance, and submitting reports to OMB. To avoid the mistakes it made during earlier competitions, the Forest Service has supplemented this process since 2004 by first conducting studies to determine the feasibility of carrying out this competitive process (feasibility studies) for each activity.⁷ In 1998, Congress enacted the FAIR Act, which requires federal agencies to submit to OMB their annual inventories of commercial activities and, after a period of review and consultation with OMB, transmit the final inventories to Congress and make them available to the public. Appendix A to OMB Circular No. A-76 (*Inventory Process*) implements the FAIR Act.

In August 2001, the Administration launched the PMA as its reform agenda for improving management and performance in the federal government. The PMA includes a competitive sourcing initiative to simplify and improve the process for choosing private or public sources. To implement the PMA competitive sourcing initiative, the Forest Service stated in its fiscal year 2004 budget justification that it planned to conduct competitions for activities associated with a total of 11,000 full-time

⁵The circular was first issued in 1966 and last revised in 2003. See OMB Cir. No. A-76, ¶ 4 (June 14, 1999), ¶ 2 (May 29, 2003).

⁶When 65 or fewer full-time employees or its equivalent (FTEs) are required to perform the commercial activity being evaluated, OMB Circular No. A-76 permits a federal agency to perform a streamlined competition, which is faster and less costly to conduct than a standard (*i.e.*, regular) competition because of the abbreviated and less complex procedures required. Under older versions of the circular, the “competition” held under stage two was called a “cost comparison.” See OMB Cir. No. A-76, ¶ 7; app. D at D-3 (definition for “competition”).

⁷USDA OCFO, *Guidance for Determining the Feasibility of Conducting Competitive Sourcing Competitions*, Bulletin 2004-001 (May 11, 2004). The bulletin lists 13 categories of information that are needed to make this determination, such as Business Needs Assessment, Market Research, Cost/Benefit Analysis, Acquisition Strategy, and Requirements.

employees or their equivalent (FTEs), and that competitive sourcing costs were expected to rise.⁸ Concerned about how the Forest Service had implemented the PMA competitive sourcing initiative,⁹ the House and Senate appropriations committees included language in the appropriations bills for fiscal year 2004 that led to the enactment of the following spending limitation: “Of the funds appropriated by this Act, not more than \$5,000,000 may be used in fiscal year 2004 for competitive sourcing studies and related activities by the Forest Service.”¹⁰ The Forest Service’s appropriations acts for fiscal years 2005 and 2006 included spending limitations with identical language, except that the maximum amount available for this purpose was \$2 million and \$3 million, respectively.¹¹ At issue here is determining the range of Forest Service activities that are covered by the appropriations acts’ spending limitations on “competitive sourcing studies and related activities.”

Discussion

Construing the meaning of a statutory provision starts with the statutory language.¹² The appropriations acts for fiscal years 2004 through 2006 define a “competitive sourcing study” for purposes of the spending limitations as

“a study on subjecting work performed by Federal Government employees or private contractors to public-private competition or on converting the Federal Government employees or the work performed by such employees to private contractor performance under the

⁸USDA Forest Service–FY 2004 Budget Justification, at 1–6 (Feb. 3, 2003), *available at* www.fs.fed.us/aboutus/budget/ (last visited Oct. 22, 2007).

⁹H.R. Rep. No. 108-195, at 107 (2003); S. Rep. No. 108-89, at 8 (2003).

¹⁰Department of the Interior and Related Agencies Appropriations Act, 2004, Pub. L. No. 108-108, § 340(d)(3), 117 Stat. 1241, 1316 (Nov. 10, 2003).

¹¹Department of the Interior and Related Agencies Appropriations Act, 2005, Pub. L. No. 108-447, div. E, § 332(a)(3), 118 Stat. 2809, 3100 (Dec. 8, 2004); Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. No. 109-54, § 422(a)(2), 119 Stat. 499, 554 (Aug. 2, 2005).

¹²As the U.S. Supreme Court has stated: “There is, of course, no more persuasive evidence of the purpose of a statute than the words by which the legislature undertook to give expression to its wishes.” *United States v. American Trucking Associations, Inc.*, 310 U.S. 534, 543 (1940); *see Mallard v. U.S. District Court*, 490 U.S. 296, 300–02 (1989); B-302973, Oct. 6, 2004; B-288173, June 13, 2002.

Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.”¹³

Unfortunately, by defining a “competitive sourcing study” as a “study,” albeit in the context of private versus public source performance,¹⁴ the appropriations acts do not clearly indicate the breadth of Forest Service activities that fall within its meaning.¹⁵ At the very minimum, however, the phrase includes the competition stage (the second stage) of the OMB Circular No. A-76 process because it represents the formal structured process of soliciting and evaluating proposals from public and private sources. The Forest Service takes the position that the annual spending limitations apply only to costs attributable to the competition stage.¹⁶ We disagree, as does the U. S. Department of Agriculture’s General Counsel,

¹³Pub. L. No. 108-108, § 340(f); Pub. L. No. 108-447, § 332(b); Pub. L. No. 109-54, § 422(b).

¹⁴The term “competitive sourcing” originated with the Department of Defense in the late 1990s. GAO, *DOD Competitive Sourcing: Results of Recent Competitions*, [GAO/NSIAD-99-44](#) (Washington, D.C.: Feb. 23, 1999), at 2. Its use in connection with the spending limitations, however, appears to have its origins in the 2001 PMA. Prior to 2001, the term “competitive sourcing” does not appear within the commercial activities executive guidance, such as the 1999 version of OMB Circular No. A-76, or statutes, such as the FAIR Act. However, the term appears in related executive guidance and statutes after the launch of the PMA, such as the 2003 version of OMB Circular No. A-76 (*e.g.*, “competitive sourcing quarterly reports” and “competitive sourcing officials”) and the Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, § 647(b), 118 Stat. 3, 361 (Jan. 23, 2004) (*e.g.*, “report on the competitive sourcing activities” of the agency).

¹⁵For example, in the context of OMB Circular No. A-76, a study could reasonably include or exclude the postcompetition stage activities, such as performance monitoring and reporting. In this regard, the circular appears to include them in its description of the competitive sourcing process. *See* OMB Cir. No. A-76, app. B, fig. B1, at B-4; fig. B2, at B-6. On the other hand, the spending limitations’ statutory definition of a “competitive sourcing study” is similar to the definition of a “competition” under the current version of OMB Circular No. A-76, or a “cost comparison” under older versions. The current version of OMB Circular No. A-76 defines a “competition” as a “formal evaluation of sources to provide a commercial activity that uses pre-established rules (*e.g.*, the FAR, this circular) . . . includ[ing] streamlined and standard competitions performed in accordance with this circular.” The supplement to the 1999 version of OMB Circular No. A-76 defined a “cost comparison” for the “activity under study” as “the process whereby the estimated cost of Government performance of a commercial activity is formally compared, in accordance with the principles and procedures of this Circular and Supplement, to the cost of performance by commercial or ISSA [interservice support agreement] sources.”

¹⁶Memorandum from Chief Dale N. Bosworth, Forest Service, to Charles Christopherson, CFO, USDA, *Revised USDA Forest Service Competitive Sourcing “Green Plan”: FY 2005-2009*, Dec. 23, 2005; Letter from L. Benjamin Young, Jr., Assistant General Counsel, USDA, to F. Abe Dymond, Assistant General Counsel, GAO, June 14, 2007 (Young Letter).

who provides legal assistance to the Forest Service.¹⁷ Even if we were to read the word “study” as narrowly as the Forest Service apparently does, the additional words “and related activities” in this context make clear that the statutory language includes more than simply the competitions.

The statutes do not define “related activities” or set out specific criteria for identifying them. While a broad range of activities are “related,” in the sense of having some logical connection to competitive sourcing studies, we believe Congress intended to focus on those activities that the Forest Service performs as part of its implementation of the President’s competitive sourcing initiative.¹⁸ In other words, “related activities” are those activities the Forest Service performs if it is considering whether to conduct a public-private competition. Under the Forest Service’s competitive sourcing program, no competition is conducted until the completion of a feasibility study, the objective of which is to evaluate whether an activity should be subject to the A-76 competitive sourcing process. Likewise, no competition is conducted under OMB Circular No. A-76 until the completion of the precompetition stage (the first stage), which also includes tasks such as conducting market research and developing an acquisition plan. Feasibility studies and precompetition planning activities are thus prerequisites to a competition and, therefore, in our view, “related activities.” Similarly, the postcompetition stage is a required consequence of conducting a competition. The Forest Service’s Competitive Sourcing Program Office supports and manages these and other activities in the Forest Service’s competitive sourcing program. Because these activities further the Forest Service’s objective of conducting competitions under the competitive sourcing initiative, we view them as “related activities” subject to the spending limitation.

¹⁷Young Letter at 3. Because the Forest Service, a USDA agency, receives legal assistance from the USDA Office of General Counsel (OGC), we solicited the General Counsel’s legal views.

¹⁸For example, in 2004 the House committee noted its concern about how the Forest Service had implemented the competitive sourcing “initiative” because it “has looked into this issue in detail and found a number of cases of mismanagement of this effort” and thus addressed “this issue” in bill language by “limiting the use of funds for competitive sourcing efforts.” H.R. Rep. No. 108-542, at 111 (2004). The fiscal year 2004 conference committee report stated that the committee was concerned about the failure to budget adequately for the cost of implementing the competitive sourcing initiative and that “significant sums” were being expended on the competitive sourcing initiative “at the expense of critical, on-the-ground work.” H.R. Conf. Rep. No. 108-330, at 85–86 (2003); *see also* H.R. Rep. No. 108-195, at 8–10.

While it can be argued that the words “and related activities” include activities the Forest Service performs to carry out the FAIR Act, such as preparing inventories and reporting to Congress, we think the better view is that these costs are not encompassed in this limitation. Congress by law expressly requires these activities, even absent any other competitive sourcing program activities. Moreover, complying with the FAIR Act does not further the Forest Service’s progress on the PMA competitive sourcing initiative, and it was the Forest Service’s cost to implement this initiative to which the congressional committees were reacting.¹⁹ Our interpretation is consistent with the interpretation provided to us by the USDA Office of General Counsel.²⁰

Conclusion

Accordingly, we conclude that the spending limitations on “competitive sourcing studies and related activities” included in the appropriations acts funding the Forest Service for fiscal years 2004 through 2006 apply to all costs attributable to the Forest Service’s competitive sourcing program, including the following:

- conducting feasibility studies to evaluate which activities should be subject to the competitive sourcing process set out in OMB Circular No. A-76;
- engaging in the competitive sourcing process set out in OMB Circular No. A-76, including activities related to precompetition planning, competitions between sources, and postcompetition accountability; and
- managing the agency’s competitive sourcing program.

The appropriations acts spending limitations, however, do not apply to costs incurred for complying with the FAIR Act, which the Forest Service must do even if it applies no efforts to competitive sourcing.

¹⁹H.R. Rep. No. 108-195, at 8–10, 107. According to information the Forest Service provided to GAO, the cost of complying with the FAIR Act is negligible compared to the costs of conducting the other activities associated with the competitive sourcing program.

²⁰According to the USDA OGC, the spending limitations do not apply to activities required by the FAIR Act but do apply to competitions, postcompetition accountability activities, and “all activities leading up to a determination of whether a competition of a commercial activity identified by a FAIR Act inventory should be conducted.” Young Letter at 3.

Appendix III: Comments from the Forest Service

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States
Department of
Agriculture

Forest
Service

Washington
Office

1400 Independence Avenue, SW
Washington, DC 20250

File Code: 1310-1/1420

Date:

DEC 31 2007

Robin Nazzaro
Director, Natural Resources and Environment
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Nazzaro:

Thank you for the opportunity to review and comment on the draft Government Accountability Office report GAO-08-195, "FOREST SERVICE: Better Planning, Guidance, and Data Needed to Improve Management of the Competitive Sourcing Program".

Although we have some concerns about some of the specific findings and conclusions in the report, the Forest Service generally agrees with the GAO recommendations. See the enclosure to this letter for specific Forest Service comments on the draft report.

The Forest Service appreciates this opportunity to comment on the draft report. If you have any questions, please contact Ronald Ketter, Director of Strategic Planning and Performance Accountability at 202-401-4470.

Sincerely,


ABIGAIL R. KIMBELL
Chief

Enclosure

cc: Ronald Ketter, Jacqueline Myers, Clarice Wesley, Robert Rinaldi



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**FOREST SERVICE COMMENTS ON GAO-08-195
FOREST SERVICE: Better Planning, Guidance, and Data Needed to Improve
Management of the Competitive Sourcing Program**

The Forest Service response to the draft report, provided below, is grouped under general categories to which agency comments relate.

1) Forest Service Guidance and Strategy for Planning and Conducting Competitive Sourcing Studies

The GAO report states that the Forest Service lacks guidance to ensure that key work activities are excluded from A-76 competitions, and it lacks a strategy to assess the cumulative effect that A-76 competitions could have on its ability to respond to wildland fires and other emergencies. The report suggests that the agency may be at risk of subjecting inherently governmental or core commercial activities to competition.

Although the Forest Service agrees with the GAO recommendations, it does not concur with this finding. The Forest Service believes its current process offers sufficient safeguards to avoid these risks. The Forest Service FAIR Act Inventory, which forms the basis for identifying commercial activities for future feasibility study, excludes inherently governmental positions from study. The feasibility study process further identifies whether a public-private competition of certain functions or activities is feasible. The Chief of the Forest Service must approve its recommendations before any competition can be considered further. Finally, should the Forest Service proceed to a public-private competition, a senior management team prepares a performance work statement for a competition that describes the specific work to be performed. The Forest Service believes that these various steps offer sufficient safeguards to prevent inadvertently subjecting inherently governmental or core commercial activities to competition.

The agency acknowledges that it lacks an overall strategy to assess the cumulative effect that A-76 competitions could have on its incident response capability, but it does consider and address potential effects on a study by study basis.

2) Forest Service Ability to Report Costs and Savings

While the Forest Service recognizes its need to improve documentation for competitive sourcing costs and savings, it is concerned with several statements in the GAO report related to this topic. The Forest Service is committed to following government-wide directions for providing reliable data on competitive sourcing costs and savings to Congress. The GAO report raises concerns that certain costs were not included, but these concerns may be in conflict with current OMB guidance on what costs should and should not be included in these reports. The Forest Service believes that it complied with OMB guidance on whether to include certain costs such as the costs of planning, phase-in, or transition. We also are concerned over differing direction related to whether incremental or full costs of studies should be reported.

Costs related to termination of the Serco contract are still being negotiated. Due to the ongoing negotiations, the Forest Service believes discussion of this topic in the report should not include

See comment 1.

See comment 2.

See comment 3.

See comment 4.

mention of additional costs incurred, amounts of contract claims, or proposed settlement amounts. Upon completion of all negotiations, consideration will be given to the appropriateness of including any of these costs in savings calculations.

3) Forest Service Compliance with Legislative Spending Limitations

The GAO report states that the Forest Service interpreted the legislative spending limitation too narrowly. While the Forest Service interpreted feasibility studies as outside the spending limitation, the total amount it budgeted for competitive sourcing and feasibility studies during this period did not exceed the total spending limitation. Therefore, it does not believe that it exceeded the spending limitation, even under the broader interpretation.

Although cost data prior to fiscal year 2007 was less reliable, there was so little competitive sourcing activity during 2004 to 2006 that the agency firmly believes it did not violate the respective appropriation caps for these fiscal years. A system of project specific job codes was instituted in FY 2007 and full costs were tracked for all studies, including feasibility studies.

This series of job codes has been further refined for the purposes of more accurately obtaining those CS costs which should be applied against the spending limitation which we believe should include support for the post competition accountability review and independent validation processes. Cost tracking excludes only the FAIR Act Inventory workload.

The following are GAO's comments on the Chief of the Forest Service letter dated December 31, 2007.

GAO Comments

1. We believe that the Forest Service's comments misstate our position regarding its guidance for ensuring that key work activities are excluded from A-76 competitions. Our report does not state that the Forest Service has no guidance, but rather that it lacks clear guidance. Without clear guidance, we do not believe that the Forest Service's current process can offer sufficient safeguards to ensure that key work activities are excluded from A-76 competitions, especially in light of the agency's plan to examine the activities of two thirds of its workforce. For example, regarding the FAIR Act inventory, we found significant fluctuations in the percentages of inherently governmental activities in the inventory data for fiscal years 2004 through 2006, suggesting that the Forest Service had difficulty classifying positions when preparing the inventory. In addition, Forest Service officials told us that the inventory data represents only a "rough snapshot" of the inherently governmental and core-commercial activities within the Forest Service, and that much additional work must be done to identify specific activities suitable for competitions. Finally, the Forest Service officials responsible for the three completed competitions—IT infrastructure, road maintenance, and fleet maintenance—told us that they developed their own methodologies to classify inherently governmental and core-commercial activities because they did not find the agency's FAIR Act inventory data useful and received little guidance on how to identify inherently governmental and core-commercial activities. Nevertheless, these officials were confident that they successfully identified and exempted from competition inherently governmental and core-commercial activities because of, among other reasons, the clearly commercial nature of the activities. However, the three completed competitions may not be representative of future competitions, particularly if the Forest Service proceeds with its plan to examine the work activity of two thirds of its workforce.
2. As we state in our report, OMB guidance on how to calculate competitive sourcing savings reported to Congress does not specify all of the costs that should be included in the calculations, thus providing the Forest Service with some discretion on which costs to include. Although the Forest Service followed OMB guidance in calculating savings, we believe the guidance provides the Forest Service with the latitude to include the other costs we identified—some of which substantially reduce or even exceed the savings reported to Congress.

Including these costs would have provided Congress with a more realistic picture of the extent to which the Forest Service's competitive sourcing program is saving the American taxpayers' money.

3. At the Forest Service's request, we excluded from our report much of the information we received related to termination of the Serco contract because negotiations between the Forest Service and Serco are ongoing. However, excluding all mention of the types of possible additional costs would provide the false impression that the savings already reported to Congress resulting from the fleet maintenance competition have been realized, when in fact they are being called into question.
4. Although the Forest Service does not believe it exceeded the spending limitations, even under the broader interpretation, we found that it does not have the data to substantiate this claim. Specifically, as we state in our report, the Forest Service did not collect complete and reliable cost data related to its competitive sourcing program during fiscal years 2004 through 2006 because it did not have a cost accounting system sufficient to track costs related to competitive sourcing. Furthermore, in consultation with Forest Service officials, we agreed that it was not feasible to reconstruct cost data for competitive sourcing activities for these years because doing so would require a significant amount of resources and would not likely provide reliable data. Because the Forest Service was unable to provide us with complete and reliable cost data and it was not feasible to reconstruct the data, neither the Forest Service nor GAO can determine with an appropriate degree of certainty if the Forest Service exceeded the appropriations acts' spending limitations.

In addition, we acknowledge in our report that the Forest Service has made efforts to improve its policies and guidance on how to establish job codes and how employees are to use them for tracking purposes, including a directive specifying that the cost of performing some precompetition planning activities be charged to competitive sourcing job codes.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Robin Nazzaro, (202) 512-3841 or nazzaror@gao.gov

Staff Acknowledgments

In addition to the individual named above, Andrea Wamstad Brown, Assistant Director; F. Abe Dymond; Charles T. Egan; Lauren S. Fassler; Peter Grinnell; David Perkins; Aaron Jay Shiffrin; and Carol Herrnstadt Shulman made key contributions to this report.

GAO's Mission

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