

Susan Grundmann <SGrundmann@nffe.org>
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Please respond to Sgrundmann@nffe.org

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To: David C. Childs A-76comments/OMB/EOP@EOP
cc: Rbrown@nffe.org
Subject: Comments to Draft A-76 Proposal

In response to the Federal Register Notice dated November 19, 2002, Vol. 67, No. 223, please accept our comments below. Pursuant to the Notice, these comments are also included as an attachment to this message.

Your attention is appreciated.

Susan Tsui Grundmann
General Counsel
National Federation of Federal Employees, FD1
IAMAW, AFL-CIO
1016 16th Street, NW
Washington, DC20036
Telephone: (202) 862-4457
Fax: (202) 862-4432

VIA ELECTRONIC MAIL FOLLOWED BY HARD COPY

December 19, 2002

David C. Childs
Office of Federal Procurement Policy
NEOB Room 9013
Office Of Management and Budget
725 17th Street, NW
Washington, DC 20503

RE: Comments to Proposed Draft of A-76 (Performance of Commercial Activities)
Federal Register Notice Vol. 67, No. 223 (November 19, 2002)
FR Doc. 02-29472

Dear Mr. Childs:

On behalf of the National Federation of Federal Employee, FD-1, IAMAW, and the men and women we represent in over fifty federal agencies throughout the country, we respectfully

submit the following comments in response to the proposed draft of the Office of Management and Budget's A-76 Circular.

The following statement in the notice found in the Federal Register underlies the mistaken premise under which the draft A-76 changes labor: "In addition, federal employees historically have been allowed to participate both in defining performance requirements and developing an in-house offer—causing some to question if conflicts of interest could exist." Employees, who work day in and day out in a division or function which can be competitively sourced are keenly aware of the strengths and weaknesses of the division within which he or she works. Such employees are intimately aware of what processes or staffing may be trimmed in order to serve the agency's mission. By the same token, federal employees who are acutely conscious of functions which cannot be eliminated, combined or otherwise transferred as such actions could unnecessarily disrupt or irreparably damage the continuity and consistency service for the public. In transferring such functions to a private source, cost savings may occur, but uninterrupted service to the public would not necessarily follow.

In this context, the incorporation of FAR 15.306(c), which provides for the elimination of in-house offers if such offers are not among the most highly rated proposals eradicates the opportunity for federal employees to compete in the process until the ultimate source selection. Further, the requirement for OMB approval of extensions to timeframes during standard competition can unnecessarily subject the process to constraints not appreciated

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by an outside agency. Employee participation cannot be undermined in sake of competition.

Rather than discourage agency involvement, the A-76 should promote employee participation. A necessary result to any successful competitive sourcing is the development, negotiation, and adherence to appropriate arrangements for any employees impacted by competitive sourcing. Such appropriate arrangements are inevitably a cost of the A-76 process and as such, must include participation of the exclusive bargaining representative of impacted bargaining units. In an effort to streamline such protections, which are not only mandated by the existing A-76 Circular but the proposed Circular, appropriate arrangements should be jointly addressed by both agency and union at the outset, rather than as an after thought, which is so often the case. To leave employees and the exclusive bargaining representative out of the process until the end results in preventable delays and costs associated with prolonged labor relations battles fought in arbitration and before other third-party forums. In this context, any exclusive bargaining representative should be included in the Circular's definition of as a "Directly Interested Party."

It is our understanding that the Circular as proposed is inevitable. The message we have received from the administration and from the White House indicates that comments, although informative, may be an exercise in futility. While this message disappoints us, we live with the hope that the new process will thoughtfully preserve the voices of those most deeply affected by

any change of employment and that “competition” and cost savings alone are not the singular tenets underlying the draft changes to Circular A-76.

Very truly yours,

Richard N. Brown
President

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