

**Subject: PERFORMANCE OF COMMERCIAL ACTIVITIES IN THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

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**APPENDIX A: OMB Circular A-76 --**

[http://www.whitehouse.gov/OMB/circulars/a076/a76\\_incl\\_tech\\_correction.pdf](http://www.whitehouse.gov/OMB/circulars/a076/a76_incl_tech_correction.pdf)

**APPENDIX B: OMB Fair Act Inventory Guidelines**

<http://www.whitehouse.gov/omb/procurement/fair-index.html>

**APPENDIX C: Public Law 109-115, Section 842 (119 Stat 2506)**

[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_public\\_laws&docid=f:publ115.109](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ115.109)

**18-10-00 PURPOSE**

This Chapter prescribes Department policy in reviewing methodologies used in the performance of commercial activities (CA) within the Department of Health and Human Services (HHS).

**18-10-10 POLICY**

It is Departmental policy to comply with the policies and intent of the Office of Management and Budget (OMB) Circular A-76 (see Appendix A). To ensure that the American people receive maximum value for their tax dollar, CA should be subject to the forces of competition. The Federal Activities Inventory Reform Act of 1998 (Public law 105-270) (FAIR Act, see Appendix B) applies. Public Law 109-115, Section 842 (119 Stat 2506) (see Appendix C) applies to standard and streamlined competitive sourcing studies.

**18-10-20 APPLICABILITY**

- A. The requirements of Circular A-76 and this chapter are mandatory for all Operating Divisions (OPDIV), Staff Divisions (STAFFDIV), and their components within HHS.
- B. Each HHS OPDIV and STAFFDIV will establish necessary internal operating procedures to ensure compliance with this Chapter and OMB Circular A-76. A copy of the internal operating procedures shall be submitted to the Director, Division of Competitive Sourcing (DCS), Office of Business Transformation (OBT), Office of the Assistant Secretary for Administration and Management (ASAM).

### **18-10-30 RESPONSIBILITY**

- A. **ASAM** - The DCS/OBT/ASAM is responsible for overall Departmental compliance with Circular A-76 and this Chapter. Specific responsibilities include:
1. Disseminating and interpreting Department-wide policies.
  2. Coordinating with OMB on matters pertaining to overall policy.
  3. Maintaining oversight of OPDIV and STAFFDIV implementation of A-76 and subsequent CA studies.
  4. Compiling and maintaining of a current inventory of all Departmental Commercial Activities (CA).
- B. **OPDIV and STAFFDIV HEADS** - The heads of Operating and Staff Divisions are responsible for implementing the provisions of OMB Circular A-76 and this chapter for their respective organizations. Specific responsibilities include:
1. Establishing internal operating procedures necessary to carry out the requirements of OMB Circular A-76 and this Chapter.
  2. Designating and assigning a senior management official of their immediate staff as the OPDIV Competitive Sourcing Manager (CSM), who is directly responsible for:
    - a. Ensuring compliance with the requirements of OMB Circular A-76 and this Chapter.
    - b. Providing staff implementation of all responsibilities.
    - c. Compiling and maintaining a current inventory and review files of all CA.
    - d. Establishing internal cost comparison review and approval threshold levels in accordance with A-76.
    - e. Establishing internal CA appeals procedures, levels and thresholds in accordance with A-76. (When internal instructions require ASAM's decision on the method of performance of a CA, such appeals to that decision will be adjudicated by ASAM. Internal OPDIV/STAFFDIV procedures will cite this provision.)

- C. The Director, Division of Competitive Sourcing is the Competitive Sourcing Manager (CSM) for the Office of Secretary (OS) and is responsible for the requirements enumerated in 18-10-30, paragraph B. 2., a. through e. above. Such authorities will be exercised with the advice of STAFFDIV heads.

#### **18-10-40 REPORTS**

CSMs will submit their annual FAIR Act Inventory in accordance with OMB guidance, at Appendix B.

A complete list of OPDIV points of contact and the most recent approved FAIR Act Inventories can be found at: <http://www.hhs.gov/ogam/oam/fair/>