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Subject: Comments from the American Foreign Service Association (AFSA)

The American Foreign Service Association (AFSA) extends thanks to Ms. Kay Coles James for the invitation to the briefing on proposed revision to OMB Circular A-76 given to labor organizations on December 4, 2002.

AFSA comments focus primarily on differences between the literal wording of the revised circular and the perception of the impact of the new regulations as reported by our contacts with agency personnel.

The revised circular states that all positions are considered to be commercial until proven otherwise. AFSA has noticed considerable angst within at least one Foreign Affairs Agency (USAID) over the implications of the required position inventory. We heard at the union briefing that Agencies will have considerable latitude to waive positions from competition where it determines that "Agency performance is not appropriate for outsourcing pursuant to a written determination of the 4.e. official", i.e., reason code A of attachment A. This is contradicted by reports we have received from personnel staff who said they were told by OMB to use reason code A only very sparingly. AFSA thinks that agencies should have full latitude to designate positions according to their honest needs and their unique circumstances.

At the union briefing OMB said that the revised circular is not intended to coerce agencies into making significant shifts in the previously prepared commercial activities inventories. This is not the impression we have gotten in talking with personnel staff who said they feel considerable pressure to make significant shifts. AFSA thinks that this intention should

be clearly specified in the wording of the revised circular.

At the union briefing OMB said that an agency can decide not to compete work that the agency determines to be a core activity. It appears that reason code A of Attachment A is the one to be used in identifying core activities. This is the same reason discussed above about which it has been reported that OMB does not want heavily used. AFSA is concerned that substantive differences between an agency and OMB could unreasonably upset agency planning. We would like to see more precise discussion on the identification of core activities and the degree of flexibility that agencies will have in invoking that reason.

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