

"Lewis, James" <MJLewis@FDCCLANT.uscg.mil>  
12/19/2002 03:40:26 PM

Record Type: Record

To: David C. Childs A-76comments/OMB/EOP@EOP  
cc:  
Subject: A-76 Comments

To Whom it May Concern:

My main concern with the latest A-76 circular information is in its inadequacies in addressing the contract oversight function of many government agencies. The new process and the seemingly random way of changing inherently governmental positions to commercial positions will have a tendency to increase what the taxpayers are paying for government services. There will be no one technically capable to get the government the best value for its money. By competitively contracting out contract management positions the government will lose all control in pricing. Once the government employees are removed from their position, there will be no way to gain that technical knowledge back. When this occurs, who will know what the government is getting for our tax dollars. Yes, budgets will be spent, but on what? There are many activities which the government should contract out competitively, but there are many areas in which the government is already contracting the function out and providing technical oversight to assure best value for the tax dollars spent.

My office performs a project management oriented function for the Coast Guard. We set the scope and submit the budget. We do this predominantly with outsourced contracts. Our designers and engineers manage these contracts, set design standards, review for compliance, provide conceptual guidelines and scope guidance and often work with states and municipalities etc. on environmental and historic matters. Once that work product is set it forms the basis for the appropriation. The appropriation is then again farmed out to various construction contractors all over the country. At any one time we may have 350 million dollars in active contracts. We are in effect already the residual organization that oversees and manages the distribution of appropriated funds to various contractors throughout the country.

The question is then what is actually contracted out and what remains in the residual organization under the A-76 process?

One scenario involves the prospect of a singular firm receiving appropriations to design and set the scopes and budgets for construction projects all over the US. These scopes and budgets for individual projects will form the basis for the appropriation, which the same firm will now actually receive to execute the project. Now, whether the A-76 firm does this with other design and construction subcontractors or keeps it in house they are still the prime contractor for all design and construction; all the money both for the design and budget build as well as the appropriated amount for actual construction would flow through that firm. The more money they can load into the budget for any individual project the more money they will receive in actual construction funds.

The other scenario involves a more hybrid scenario in which to some extent the A-76 firm just contracts out, much like we function now. In this case, the firm would accomplish all budgeting planning and design work either with their forces or by subcontract. For the project execution (construction)

the firm would only be the contract agent; the actual construction contracts would be let to various construction firms and the government would still be the contracting entity, otherwise the money would flow through the A-76 firm as a prime contractor. This solves the blatant organizational conflict inherent in scenario one but raises its own set of issues. The PWS would have to be written as tightly as the current ethical restrictions placed on government employees that keeps them from contracting with the government that is, the A-76 firm could not't budget money to support construction appropriations for contracts to it self, or its subsidiaries.

In the context of either scenario, whether defined as inherently governmental functions, critical skills, or whether covered by the Brooks Act (almost certainly) enough engineering and design skills must be retained to oversee the scope and budget process so that the projects submitted are not inflated and are correctly scoped. This is particularly vital under the first scenario. Assuming a sufficient amount of integrity is brought to that process, in the context of the first scenario, the question immediately arises whose going to inspect the work, solve technical questions /disparities involving the finished project when the appropriation to build the project went to the same firm who designed and budgeted the project. In this scenario the same firm will set the budget, receive the appropriation based on that budget, execute the project with the appropriation and then inspect their own work. The residual governmental organization will still have to represent the customer's interests both in budget, design scope and ultimate project quality. Instead of managing all the individual contracts as we do now we will manage the A-76 contractor still doing the same number of projects with probably the same or worse transactional issues. But now with a LOSS OF CONTROL BECAUSE THERE ARE NOW TWO PROJECT MANAGEMENT ORGANIZATIONS.. This is not even to mention all the myriad of small and disadvantaged design and construction firms who now get a chance to execute projects nationwide and who may or may not be given the same opportunity when the A-76 contractor is executing the work.

In the second scenario, the residual organization may need slightly less technical skills, particularly inspection functions but an even more robust contracting staff as the construction contracts will still be let by the government with the concomitant inherently governmental functions that will have to be retained. The A-76 contractor may supply some inspection effort, (again they will be inspecting work they designed) but we already contract out much inspection work anyway. The residual organization must still retain those skills necessary for the technical interface between the A-76 contractor and the government and Brooks Act considerations will apply just as in the first scenario. Although construction contracts will still be distributed across the country the A-76 contractor could and probably would take on much design work in-house eliminating the robust cadre of A/E contractors that we rely on nationwide. Some of these firms are also small and disadvantaged.

The next layer of questions have to do with pricing the work of the A-76 contractor, design and construction claims and all the other transactional questions that are inherent to the business no matter whose managing projects. All the claims work, pricing and the like now done by the contract and legal staff will now take place at the next layer, the interface between the government and the A-76 contractor. That interface will change depending on the scenario. In the first scenario the interface will be between the A-76 firm and the government, in the second scenario, the interface is between the A-76 contractor and the government for design, planning and budgeting but between the construction contractors and the government for the construction work, much like it is now. Obviously, the residual organization under either scenario because of the skill sets that must be retained will look a lot like we do now. This is without consideration of Brooks Act requirements, which will set the designers and engineers out of the A-76 umbrella in any event. The question is begged, what will have been accomplished.

So the long answer to questions concerning whether an isolated group of designers or engineers have been studied under any particular A-76 effort is that unless it's a complete soup to nuts project management group like the Corps of Engineers for instance it won't be very helpful. There are instances where the Brooks Act has cut designers and engineers out of an individual facilities shop on some installation and that same statutory restriction will apply for us, but it doesn't at all address the much harder questions raised by a study of an office already designed to contract out work in the first place. Questions of force structure, critical skills, brain drain etc have not even been raised by the A-76 program office and if not addressed soon will be answered by default.

Another area of concern is the accelerated 12 month schedule to perform the A-76 study. This needs more flexibility for different agencies. To mandate a 12-month process with limited funding if any at all and still require the organization to perform its function for the year is ludicrous. Is the organization to stop all work for the year? This is what will happen to smaller organizations as they try to meet this schedule. They will be forced to do a good job in the preparation of the MEO and the PWS to hopefully maintain their job. This will limit the work productivity of the entire organization for at least a year. This needs to be further addressed.

One final area of concern that appears to be lost in the President's mandate is the upcoming shortage of Federal workers due to retirement. Why has this scenario not been looked at in the overall A-76 process? It appears many organizations will be losing personnel in the next 5 to 10 years and they will not be replaced. This alone will create its own A-76 type process of reorganization, force minimization and greater contracting out of government functions, without the need to disrupt the current government process.

Any comments or thoughts on your part would be appreciated.

Sincerely,

Jim Lewis

M. James Lewis, Jr. PE  
Environmental Support Team  
(757) 852-3404, FAX: x3495  
mjlewis@fdcclant.uscg.mil