



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 25, 2005

MEMORANDUM FOR AGENCY COMPETITIVE SOURCING OFFICIALS

FROM: David H. Safavian
Administrator

A handwritten signature in black ink, appearing to read "D. Safavian", is written over the printed name and title of the sender.

SUBJECT: Clarification of the Term "Directly Interested Party"

A number of agencies have requested clarification from the Office of Management and Budget (OMB) regarding the definition of "directly interested party" in OMB Circular A-76. Questions about the definition have focused on which individuals may be appointed by directly affected employees to serve as their agent in the pursuit of an administrative contest under the Circular. This memorandum discusses OMB's interpretation of this issue.

Appendix D of the Circular (as revised on May 29, 2003) defines a directly interested party as "[t]he agency tender official who submitted the agency tender; *a single individual appointed by a majority of directly affected employees as their agent*; a private sector offeror; or the official who certifies the public reimbursable tender." The italicized phrase means that the individual appointed by a majority of the directly affected employees – i.e., the named agent – is to be one of the directly affected employees. This approach is consistent with long-standing practice in the Federal courts.

The named agent may seek legal or other assistance in representing the directly affected employees. The individual or entity providing such assistance to the named agent need not be a directly affected employee. For example, the named agent may seek legal or other assistance from the employees' union.

I appreciate your attention to this clarification and encourage you to share this memorandum with agency personnel who work on competitive sourcing issues in your agency. Questions regarding this memorandum may be referred to Mathew Blum of OMB's Office of Federal Procurement Policy at (202) 395-4953.