

Department of Energy



Competitive Sourcing/A-76 *Town Hall Meetings*

Office of Competitive Sourcing/A-76 (ME-2.1)
Denny O'Brien (202-586-1690)
March 10 & 11, 2004

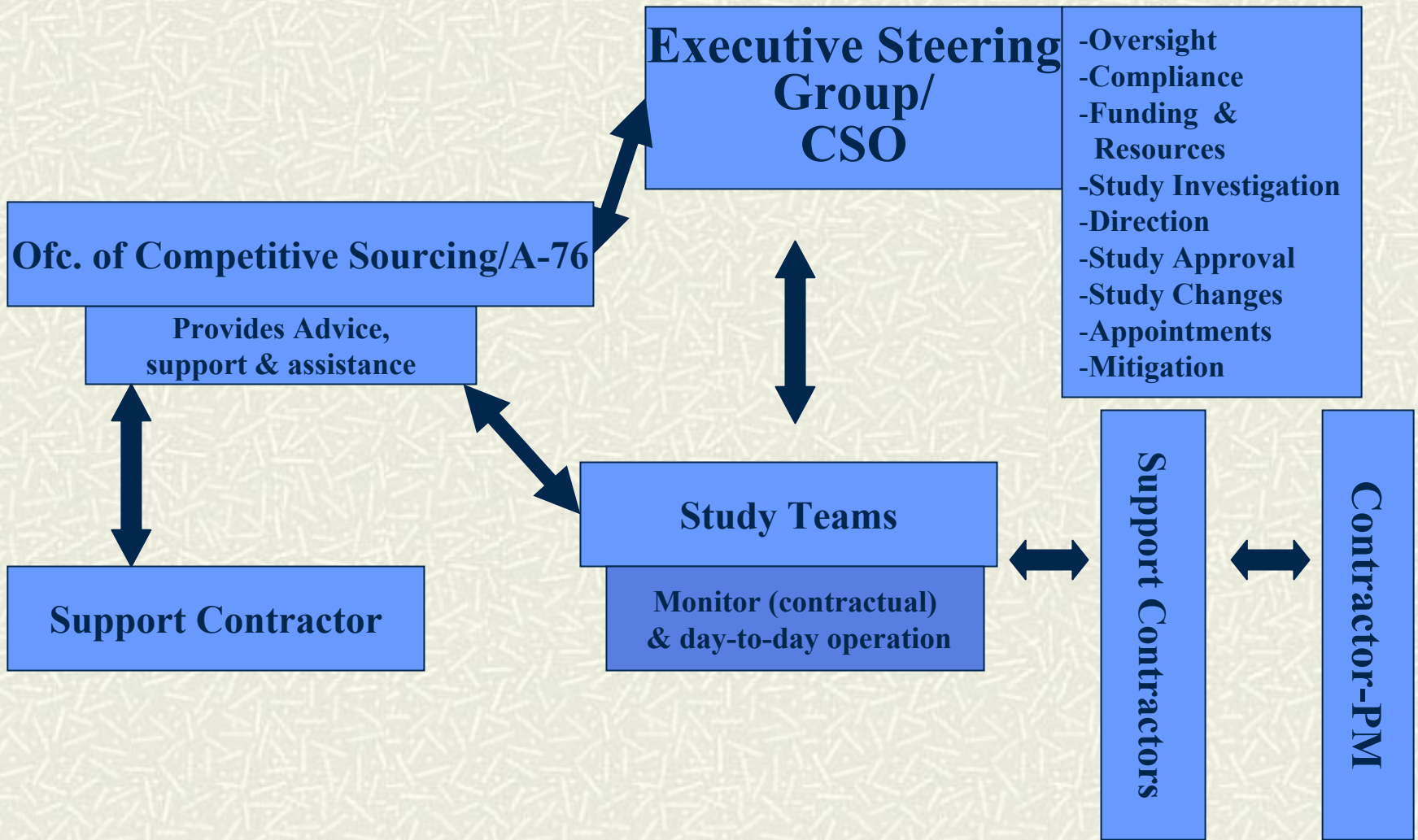
Discussion Topics

- **DOE Program Status**
 - **FY 02/03 Studies Status**
- **FAIR Act**
 - **Codes**
 - **OMB guidance**
- **FY 04 Feasibility Reviews**

Current Status Overview

- **March 2002, announcement that DOE would study 1000 positions to reach then 15% goal.**
- **FY 02 – 03 studies included: Graphics, Civil Rights (EEO Reviews), Financial Services, Logistics, Human Resources Training, and Information Technology.**
- **The Program is overseen by the Executive Steering Group (Deputy Secretary, Under Secretaries, Director OMBE/CFO)**
- **Three competitions have been completed. Civil Rights won by contractor with \$250,000 in annual savings. Graphics resulted in MEO win with \$700,000 saved annually. Recently completed Financial Services study won by MEO and projects savings of \$31M over five years.**
- **Feasibility Review is underway. DOE will formally announce its 2004 Studies by June 30, 2004.**

DOE Operational Roles



FY 02/03 Functional Area Studies

FUNCTION	TEAM LEAD	FTE	LOCATIONS (HQ/Field)
Information Technology	Rosita Parkes, CIO	642 FTE 1000+ Contractor	14/19
Human Resources, Training	Claudia Cross, ME	145 FTE	24/19
Financial Services <i>Performance Decision Made</i>	Helen Sherman, ME	159 FTE 22 Contractor	1/13
Logistics (NNSA)	Brian Costlow, ME	76 FTE	1/4
Logistics (DOE)	Brian Costlow, ME	144 FTE	2/8
Graphics <i>Performance Decision Made</i>	Brian Costlow, ME	13 FTE	1/0
Civil Rights Reviews (Streamlined) <i>Performance Decision Made</i>	Frank Beserra, ED	8 FTE	1/0
TOTAL		1187 FTE 1022+ Contractor	

FY 02/03 Study Status

- **Graphics (13 FTE) full cost comparison study completed under *old* Circular**
 - **Won by DOE Most Efficient Organization (MEO) Team – *estimated savings \$700K per year* (Study cost \$195K)**
- **Civil Rights Review (8 FTE) streamlined study completed under *revised* Circular – using FSS**
 - **Won by contractor – *estimated savings \$251K per year* (Study cost \$114K)**
- **Financial Services (159 FTE, 22 Contractor FTE) standard competition completed under *revised* Circular using Cost technical tradeoff/best value (CTTO)**
 - **Won by DOE MEO – *estimated savings \$31M/5yr* (Study cost \$2.2M)**

FY 02/03 Study Status

- **Logistics - NNSA (76 FTE)**
 - **Tentative decision April, 2004**
- **Human Resources - Training (145 FTE)**
 - **Tentative decision July, 2004**
- **Logistics - DOE (144 FTE) - FSS Pilot**
 - **Tentative decision August, 2004**
- **Information Technology (642 FTE, 1000+ Contractor)**
 - **Tentative decision, 2nd quarter FY05**



2003 FAIR Act Inventory
Reason Codes and Guidance



FEDERAL ACTIVITIES INVENTORY REFORM ACT OF 1998 (FAIR Act)

- The FAIR Act provides “a process for identifying the functions of the Federal Government that are not inherently governmental functions, and for other purposes.”
- The FAIR Act requires each executive agency to submit to OMB, by the end of the third quarter of each fiscal year, a list of activities performed by Federal Government sources that are not inherently governmental functions.
- That list is known as the FAIR Act Commercial Activities Inventory. (Note: OMB requires agencies to also submit a list of inherently governmental activities.)
- OMB must review and consult with the agencies regarding the content of each year’s inventory; upon completion of the review, OMB publishes a notice in the *Federal Register* that the inventory is available to the public; and, agencies provide copies of the inventory to Congress, while making it available to the public.

FAIR Act

- Upon publication of the inventory, the FAIR Act provides an opportunity for interested parties to challenge the agency's decisions related to the classification of full-time equivalents (FTE) as performing commercial activities.
- After the challenges are completed, each agency is required to review the lists and if the agency considers contracting with a private sector source to perform the commercial activity, the FAIR Act requires that a competitive process be used.
- OMB implements the FAIR Act through the provisions of OMB Circular No. A-76, "Performance of Commercial Activities."

FAIR Act Codes/Guidance

➤ Reason Code Z - Inherently Governmental

- **Make decisions for the government and are directly and ultimately accountable for mission accomplishment**
- **FTEs necessary to exercise management authority (direction and final decision making over government policy, programs, property, funds and treasury accounts or employees)**
- **Excludes FTEs that provide first-line supervision over employees performing functions subject to private sector competition and performance**

2003 Inventory Guidance

REASON CODES

Reason Code Z

Inherently Governmental. This criterion is used to identify FTEs that are necessary to exercise management authority (direction and final decision making) over Government policy, programs, property (physical assets and information), funds and treasury accounts, or employees. The incumbents of these positions make decisions on behalf of the Government and are directly and ultimately accountable for the accomplishment of assigned missions and functions.

a. This category includes all FTEs that have the authority to obligate Federal funds or to commit the Government, through other decision making, to some course of action. This category also includes FTEs that approve strategic plans, program objectives, functional requirements, and performance criteria; policies, directives, and regulations in assigned missions and functions; the allocation of resources (funding and manpower), the obligation and disbursement of funds, contract terminations; and the collection of public funds; acquisitions, use, and disposition of Government property (real or personal, tangible or intangible); Freedom of Information Act requests and responses; Federal licensing actions (except vehicle or support equipment) and inspections; and, Government positions, testimony, and responses to Congress and audit organizations.

Code Z (Cont.)

- **b. The examples listed above coincide with functions in Appendix A of OFPP Policy Letter 92-1, reference (e).**
- **c. Examples of positions that fall under this criterion include the Secretary of Energy; Under Secretary, Assistant Secretary, and Deputy Assistant Secretaries of Energy; Directors of Field Activities; program and project managers; contracting officers; and DOE directors over line operations or principal staff elements.**
- **d. This criterion excludes FTEs that provide first-line supervision over Federal employees performing functions that are, otherwise, subject to private sector competition and performance. In addition, employee utilization of Government credit cards for the purchase of office supplies or temporary duty travel does not meet the funds obligational criteria specified above.**

FAIR Act Codes/Guidance

➤ **Reason Code A - The Commercial Activity is not appropriate for private performance pursuant to a written determination**

- **DOE Office designate Code A with written justification as to why not appropriate for private sector performance**
- **Reason Code A does not exclude FTE from potential study and competition**
 - **OMB Guidance was to study all commercially coded FTE**
- **Code A is for minimum number of FTEs for oversight, control and accountability over Government operations**

2003 Inventory Guidance

Reason Code A

The Commercial Activity is not appropriate for private sector performance pursuant to a written determination.

a. DOE offices shall designate FTEs with Reason Code A when it has been determined that the function is not appropriate for private sector performance and that determination has affirmed by a written determination signed by the Secretary of Energy or designee. For the 2003 IGCA Inventory, Heads of the Offices submitting inventories are considered to have been delegated the authority to sign the written justification for FTE(s) coded with Reason Code A. If OMB requests copies of your written justifications, the OCS will forward the request to your office with the expectation that the written justifications will be provided. OMB has provided no specific format for the written justifications. At the minimum the justification should be in the form of Memorandums for the Record; provide sufficient identification of the Reason Code A FTE(s) so as to be able to locate the FTE(s) in the 2003 IGCA Inventory information from your office; and, explains why the activities of the FTE(s) should not be performed by the private sector.

b. At DOE, designation of FTE with Reason Code A **does not** exclude the FTE from potentially being included in DOE's Competitive Sourcing Initiative Functional Area Studies. For DOE, OMB's practice in applying the President's Management Agenda Competitive Sourcing Initiative requires the Department to potentially include Reason Code A FTEs in the pool of commercial activity FTEs subject to Competitive Sourcing Initiative study.

1. This includes an FTE that has been determined to be inappropriate for private sector performance because the work performed by the FTE is not severable from the work performed by other inherently governmental FTE(s). The Department through Competitive Sourcing Initiative studies or by the reporting offices periodically reviewing the FTEs, the FTEs' activities will be evaluated to determine if they can be realigned to allow for competition.

c. DOE offices shall designate FTEs with Reason Code A to identify a minimum number of FTEs that are required to ensure that decision-making officials maintain sufficient levels of oversight, control, and accountability over Government operations and federally funded projects and tasks. The incumbents in these positions provide corporate knowledge and technical expertise necessary to ensure that Government and public interests are advanced and that Government contractual obligations are fully satisfied by playing an active and informed role in areas such as contract administration and evaluation. This includes FTEs in staff and line functions that require current technical knowledge and on-the-job training and work experience necessary to effectively influence Government decision-making and progress into positions of authority and direction.

1. Examples include FTEs that:

- a. Interpret and/or execute Federal laws and develop associated policy and regulatory guidance in assigned functional areas, e.g., resource management, procurement/contracting, personnel administration, etc.;
 - b. Render value judgments, develop recommendations, and establish management criteria and objectives on behalf of the Government, e.g., legal opinions, program priorities, budget requests, performance evaluation, contract awards, quality assurance, personnel selection and appraisal, security clearances, etc.;
 - c. Develop government positions, testimony, legislation, and responses to the Congress, audit agencies, public and private sector inquiries, etc. (because of the appearance of private influence with respect to documents that are prepared for the Congress or reflect government position pursuant to OFPP Policy Letter 92-1);
 - d. Perform duties that require official government representation, e.g., prosecution and adjudicatory functions, Federal license certifications, foreign government relations, employee labor relations, legislative activities, public affairs, financial collection activities; and,
 - e. Are in formal personnel management programs designed to provide progression into civilian positions that require government corporate knowledge and technical expertise.
2. The manpower under this category perform functions listed in Appendix B of OFPP Policy Letter 92-1, and represent the minimum number necessary for government control.
 3. Identification and validation of FTEs under this criterion are based upon a manpower requirements study or assessment of what functions and duties must be performed by Government employees and other conditions that must exist in order to maintain sufficient Government expertise and oversight or Competitive Sourcing Initiative Study. Manpower guidance governing this criterion will vary by function based upon its nature, complexity, magnitude of contract reliance, organizational level, geographic dispersion, and other factors (including access to ultimate decision-maker). Every effort must be made to avoid situations where Government decision making in a functional area is weighted in favor of, or limited to, options presented by the private sector interests.

Fair Act Codes/Guidance

- **Reason Code B** - the Commercial Activity (CA) is suitable for cost comparison
 - Subject to A-76 study/competition
- **Reason Code C** - the CA is part of an ongoing cost comparison
 - C1,C2 etc based on the number of studies
- **Reason Code D** - the CA is being performed by an MEO based on an A-76 study within the last five years
- **Reason Code E** - the CA is pending an approved restructuring decision (closure, realignment)
- **Reason Code F** - performance by government required by statute

2003 Inventory Guidance

REASON CODE B

The Commercial Activity is suitable for a Cost Comparison or a Direct Conversion.

Reason Code B should be applied to any function or activity where the decision as to who should perform the work is a quality and cost based decision and the agency would expect that this decision would be based upon the results of a public-private competition conducted in accordance with OMB Circular A-76.

REASON CODE C

The Commercial Activity is the subject of an in-progress Cost Comparison or Direct Conversion.

For 2003 OMB eliminated the 2002 Reason Code C and converted the 2002 Reason Code D to the 2003 Reason Code C. In the Excel based data collection tool each office will receive, as appropriate, for those FTEs that were coded Reason Code C, the Reason Code will be left blank, so that each office may make an appropriate Reason Code revision decision for 2003. All 2002 Reason Code D FTEs have been updated to the appropriate 2003 Reason Code C sub-code in the Excel based data collection tool each office will receive. The FTEs identified in Reason Code C are those that were included in the functional area competitive sourcing studies announced March 22, 2002, and excludes those FTEs the Competitive Sourcing Initiative ESG has released from study since that announcement

2003 Inventory Guidance

- **The DOE Reason Code C sub-codes are as follows:**
- **C1 - Information Technology positions identified as part of the 2002-2003 Competitive Sourcing Studies (In 2002, Reason Code D1).**
- **C2 - Human Resources positions identified as part of the 2002-2003 Competitive Sourcing Studies (In 2002, Reason Code D2).**
- **C3 - Financial Services positions identified as part of the 2002-2003 Competitive Sourcing Studies (In 2002, Reason Code D3).**
- **C4 - Logistics positions identified as part of the 2002-2003 Competitive Sourcing Studies (In 2002, Reason Code D5).**
- **C5 - Graphics positions identified as part of the 2002-2003 Competitive Sourcing Studies (In 2002, Reason Code D6).**
- **C6 - Civil Rights Reviews positions identified as part of the 2002-2003 Competitive Sourcing Studies (In 2002, Reason Code D7).**

2003 Inventory Guidance

REASON CODE D

The Commercial Activity is performed by a Most Efficient Organization (MEO) resulting from a Cost Comparison decision made within the past five years.

For 2003 there will not be any DOE FTEs coded in Reason Code D.

REASON CODE E

The Commercial Activity is pending an agency approved restructuring decision (e.g., closure, realignment).

DOE offices shall use code E for all FTEs performing work in a function that has been deferred from a cost comparison or direct conversion to contract performance, pending the results of an approved force restructuring decision. This code is limited to restructuring initiatives such as approved base closures, or functional realignment or consolidation actions that have been approved in writing (In 2002, Reason Code F). All 2002 Reason Code F FTEs have been updated to Reason Code E in the Excel based data collection tool each office will receive.

REASON CODE F

Performance of the commercial activity by government personnel is required due to a statutory prohibition against private sector performance.

There were no DOE FTEs coded in the 2002 Reason Code G, which is replaced by Reason Code F for 2003.

FAIR Act Process at DOE

- **OMB issues annual inventory guidance (March +/-)**
- **DOE makes changes to agency guidance and issues to Departmental elements**
- **Departmental elements update inventory data based on assessment of full-time equivalent (FTE) activities; LPSOs' review; LPSOs and direct reports certify to the Secretary that their inventory data is accurate and represents their element(s) as of the time of data submission**
- **Data is assembled for submission to OMB; Deputy Secretary reviews on behalf of the ESG and requests the Secretary to forward to OMB**

Department of Energy



What's Next?

FY 04 Feasibility Reviews



FEASIBILITY REVIEWS

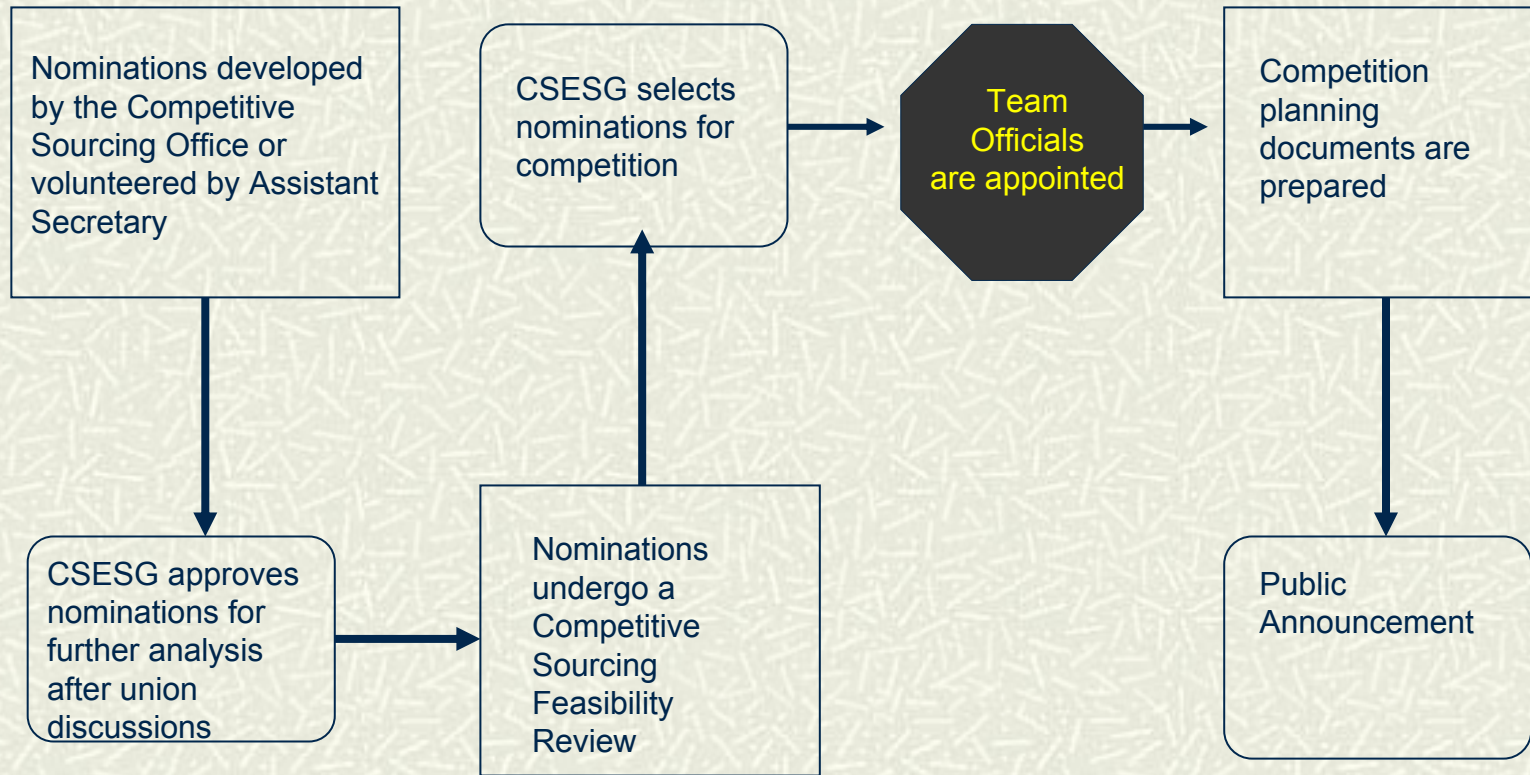
ARE NOT

A-76 STUDIES/COMPETITIONS

Why Feasibility Reviews ?

- Requirement of Revised Circular
- The Feasibility Review is a tool for pre-announcement A-76 study planning, which establishes logical study parameters and a solid foundation for executing an A-76 study
- The Feasibility Review presents a full set of recommendations on the scope of the study, mission impacts and risks, the estimated savings, study type and proposed timeline
- The result of the Feasibility Review is a blueprint for the subsequent A-76 study and a plan of action to execute the study
- This blueprint and the plan of action will enable DOE to maximize savings and streamline execution of A-76 studies
- This pre-announcement planning is important because shorter A-76 study timelines are implemented by the new Circular

Preliminary Planning Process



Feasibility Review

Candidate Nominating Criteria

➤ **Nominations are based on the following criteria:**

- **Candidates coded as commercial activities**
(FAIR Act Inventory Reason Codes A-F)
- **Considered mission impact**
- **Candidates can be competed as a *business unit* and not a collection of independent positions**
- **Candidates appear to be functions easily obtained from the private sector**
- **Shared responsibility throughout DOE in Competitive Sourcing Program**

2004 Feasibility Reviews

Engineering Services	DOE-Wide
Special Studies	DOE-Wide
Management & Support to R&D	DOE-Wide
Force Management & General Support	HQ's
Albany Research Center	Albany

FY 2004 Feasibility Review (FR) Nominations (2002 FAIR Act)

➤ Engineering Services

➤ DOE-Wide Study Approx. No. of FTE: 820

➤ FAIR Act Function Code E: Environment

➤ FAIR Act Definition: *This functional group is concerned with environmental management and natural resources services; safety and occupational health; explosives safety; fire and emergency services; response to hazardous material mishaps; and pest management on facilities.*

➤ Examples of Position Titles: Environmental Engineer, Nuclear Engineer, General Engineer, Civil Engineer, Environmental Scientist, Physical Scientist, Secretary, Administrative Specialists, Office Automation Assistant, Program Analyst, Management Analyst, Health Physicists, Program Manager, Research Chemists, Office Manager, Program Support Specialists, Safety and Occupational Health Specialists

FY 2004 Feasibility Review

➤ Special Studies

- DOE-Wide Study Approx. No. of FTE: 170
- FAIR Act Function Code: T820 and T821
- FAIR Act Definition: *The T820 function includes clerical and administrative support and*
- *T821 includes program reviews and special studies.*
- Examples of Position Titles: Program Manager, Consultant, Economist, Natural Gas Analyst, International Relations Specialist, International Program Support Specialists, Policy Analyst, Program Analyst, Administrative Support Assistant, Administrative Support Specialists, Program Analyst, Program Support Specialists, Facility Support Specialists, Special Assistant, Staff Assistant, Office Automation Assistant, Visual Information Specialists

FY 2004 Feasibility Review

- **Management & Support to R&D**
- **DOE-Wide Study** **Approx. No. of FTE:180**
- **FAIR Act Function Code R140**
- **FAIR Act Definition:** *This function includes all efforts not reported elsewhere that are directed toward management and support of R&D operations.*
- **Examples of Position Titles:** **Energy Technology Customer Specialists, Technical Information Specialists, Staff Assistant, Secretary, Program Analyst, Building Technology Information Specialists, Economists, Executive Support Specialists, Industrial Specialist, Program Analyst, Management Analyst, Energy Technology Program Specialists**

FY 2004 Feasibility Review

➤ Force Management and General Support

- HQ Study Approx. No. of FTE: 280
- FAIR Act Function Code Y: Force Management and General Support
- FAIR Act Definition: *No general description is available*
- Examples of Position Titles: Program Analyst, Management Analyst, Physical Scientists, Health Physicists, Visual Information Specialists, Secretary, Lead Management Analyst, Program Support Specialists, Administrative Support Specialists, Legal Technician, Tech Transfer Spec., Administrative Officer, Legislative Research Specialists, International Policy and Program Specialists, Public Affairs Specialists, Foreign Affairs Specialists

FY 04 Feasibility Review

- **Albany Research Center**
- **Albany Research Center Approx. No. of FTE: 73**
- **FAIR Act Function Code: Multiple**
- **Examples of Position Titles: Mechanical Engineer, Research Chemists, Physical Science Tech., Geologists, Engineer Tech., Electrician, Metallurgists, Computer Engineer, Maintenance Worker, Maintenance Mechanic, Metallurgist, Secretary**

POA&M

Planning Phase	12/18/03 - 2/27/04
Pre-Competition Phase	3/04/04 - 5/03/04
Management Decision	5/10/04 - 5/21/04
Competition Planning	5/24/04 - 6/30/04
Public Announcement	6/30/04

Feasibility Review Process

➤ **Planning Phase**

➤ **Pre-competition Phase**

- **Validate nominations, market research, identify potential costs, savings and risk from potential competition**

➤ **Management Decision**

➤ **Competition Planning Phase**

Will be carried out only if competition is selected

- **Appointment of Functional Team Leads, CS Officials, Team Members**
- **Schedules and plans for carrying out the competition are developed**
- **Teams are trained in the process**
- **Prepare to make public announcement**

Feasibility Review Report

➤ Recommendations

➤ No Competition

➤ Standard Competition: The government employees compete against eligible contractors to retain responsibility for providing the service. Source selection may be low cost or best value. 12-18 month time limit.

➤ Streamlined Competition: The estimated cost of the government employees' current organization or MEO competes against the estimated cost of private sector performance for similar services. No 10% conversion differential is applied. Low cost wins. 90-135 day time limit. (<65 FTE)

➤ Other Management Tools: Reorganization, Business Process Re-engineering, in-sourcing, etc...

For Further Information

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