



National Federation of Federal Employees, IAMAW, AFL-CIO



Privatization of Federal Jobs

Position: The Office of Management and Budget's (OMB) privatization effort is not about making federal services more efficient; rather, it is designed to replace hundreds of thousands of federal employees with contractors. OMB is still forcing agencies to use privatization quotas, the A-76 process remains extremely pro-contractor, and OMB justifies its unprecedented wholesale privatization effort with unsubstantiated savings claims. We encourage Congress to adopt rules that will level the playing field for all federal workers in A-76 competitions, and where appropriate, eliminate competitive sourcing altogether.

Competitive sourcing is the method by which federal agencies attempt to move work performed by federal workers into the private sector. Competitive sourcing is one of the five elements of the President's Management Agenda. While competitive sourcing may seem like a good way to save the government money in principle, any savings that the Office of Management and Budget (OMB) claims are unsubstantiated. For example, a recent Government Accountability Office (GAO) study found that a Forest Service estimate of \$35.2 million in savings from competitive sourcing in fiscal years 2005 and 2006 excluded \$40 million in transition costs. Other agencies are using similarly questionable criteria in generating savings estimates, and GAO has repeatedly questioned OMB's historically grandiose savings claims. Moreover, OMB officials acknowledge that:

- Only a very small percentage of OMB's *estimated* savings from competitive sourcing, if any at all, result in *actual* savings. Estimated net savings have not been independently verified.
- Claims of 40% savings are completely false. Any such estimates are qualified with hedge words that demonstrate the subjectivity of the claims.
- Agencies deliberately use criteria that exaggerate savings from and minimize costs of conducting privatization reviews. Costs of conducting a study can run into the tens of millions with no guarantee of any savings at all.

Government-wide Reform

Last year, Congress included some significant contracting out reforms in the FY08 Defense Authorization Bill and the FY08 Omnibus Appropriation Bill. While these reforms were a good start, many of the provisions only apply to the Department of Defense (DoD). We believe these provisions should be expanded to apply to all federal agencies. They include the following:

- **Encourage all agencies to begin plans to bring new work and outsourced work back in-house where appropriate:** The Pentagon is charged with writing guidelines and procedures "to ensure that consideration is given to using, on a regular basis, DoD civilian employees to perform new functions and functions that are performed by contractors and could be performed by DoD civilian employees." This should be expanded to apply to non-DoD agencies so that employees in those agencies would have opportunities to perform new and outsourced work.
- **Make it easier for civilian employees at all agencies to acquire and retain work:** Another terrible inequity in the A-76 process is its requirement that federal employees, but not contractors, must always undergo a public-private competition in order to acquire new work. This also applies when the scope of the work federal employees are already performing increases by a certain amount. Last year's legislation eliminated this problem for DoD employees. Managers, who in the past may have been reluctant to bring in new work for fear of having to first conduct an A-76

competition that might be long and costly, or who simply automatically contracted out new work because it was quicker, can now bring that work in-house without worrying about the A-76 process. This reform should be expanded to cover the non-DoD agencies.

- **Establish contractor inventories at all agencies:** An inventory of work performed by DoD contractors is being established, in part, to help promote insourcing. Every year, the Pentagon must submit an inventory to Congress, which will soon thereafter be made public, covering every service contract. For each contract, we will know, among other things, what work is being done, how much it costs, and how many contractor employees are performing the work. Every year, DoD must review that inventory to, among other things, look for contracted out work that should be converted to performance by DoD employees. Every agency should be developing its own contractor inventory.
- **Prohibiting automatic recompetition in all agencies:** One of the many inequities in the OMB Circular A-76 privatization process is that it requires federal employees, but not contractor employees, to be automatically recompeted at the end of their performance periods. For DoD employees, that problem has been fixed. Congress simply eliminated the automatic recompetition requirement, although DoD officials can decide on their own to recompete a function. Automatic recompetition should be eliminated in non-DoD agencies as well.

Direct Conversions - Agencies continue to engage in direct conversions, giving work performed by federal employees to contractors, without public-private competition. This is contrary to the interests of taxpayers as well as federal employees. Section 739(a) requires public-private competitions for functions performed by ten or more federal employees. Agencies are directly converting smaller functions and breaking up larger functions in order to get under this threshold. The threshold should be reduced to zero. Agencies also let federal employees retire and then replace them with contractors, again without competition. Whether genuinely commercial functions should be contracted out should be decided by a fair competition process, not by whether the federal employees currently performing the work are of retirement age.

HPOs - OMB is requiring agencies that can't or won't conduct A-76 privatization reviews to instead achieve their federal employee quotas with High Performing Organization (HPO) reorganizations. Because HPOs, as internal reorganization efforts, can involve both commercial and inherently governmental employees, they are usually larger and more extensive than A-76 studies and thus can have far more wide-ranging consequences for the delivery of services. A serious flaw with HPOs is that there is practically no guidance for agencies to follow in devising their HPO reorganization plans. As much as unions sometimes object to A-76 studies, there is at least an established process in place that Congress is informed about and agency employees can count on. For HPOs, no such process or guidance exists. There is no paper trail or Congressional reporting requirement for committees or affected federal employees to follow. In fact, we have been told by the top competitive sourcing officers that their entire guidance for a specific HPO review impacting 3,500 workers is a set of bullet points that fits on one side of a sheet of paper. Agencies are conducting multi-million dollar reorganizations of critical government functions, and yet neither employee representatives nor Congress know anything about the process they are using.

Agency Exclusions - In some agencies, competitive sourcing simply does not make sense. Two such agencies are the Forest Service and the Department of Defense (DoD). At the Forest Service (FS), in addition to performing land management work, the majority of employees serve a critical homeland security function. These workers serve in the FS militia, in which they respond at a moment's notice to wildfires and a wide variety of emergency incidents. Outsource the forest planner and you lose the highly trained rapid responder as well. To outsource this workforce would be to decimate the nation's emergency response capabilities. At DoD, the agency has refused to comply with A-76 changes Congress has demanded, and they continue to spend millions of dollars on outsourcing government jobs when those resources are being diverted from the war effort.

Summary of Requested Congressional Action

The IAM encourages Congress to improve the competitive sourcing program by:

1. Applying last year's DoD reforms to the rest of the federal government.
2. Eliminating direct conversions.
3. Eliminating the use of HPOs.
4. Suspending the competitive sourcing program in agencies that have a poor record on A-76.