

Commercial Activities Panel

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Introduction:

Mr. Chairman and members of the Panel, thank you for giving me the opportunity to appear before you today to discuss competing commercial activities within the Federal government. I am a member of the staff at Arthur Andersen, a worldwide professional services consulting firm with over 85,000 employees in 84 countries. Our Strategic Sourcing Team, located in Arthur Andersen's Office of Government Services in Washington, D.C., has experience in the performance of A-76 cost comparisons at the Federal level, mostly with the Department of Defense (DOD). We have seen and experienced the competitive sourcing process at every level. In the past year this Team has provided A-76 support to the Navy, Army, Air Force, Defense Logistics Agency (DLA), Defense Finance and Accounting Service (DFAS), and the Office of the Under Secretary of Defense (Installations). This support has encompassed all aspects of the process: full A-76 studies, independent reviews, base-level training, policy and guidance development, and knowledge management. This testimony has been developed to present to the Commercial Activities Panel our lessons learned and suggestions to improve the A-76 process.

General Comments:

The policy makers in DOD and the Office of Management and Budget (OMB) have done an excellent job of updating the A-76 guidance using lessons learned from the last six years of studies. This was not an easy task given that these policy makers are held to a time consuming and cumbersome Federal government contracting process while trying to simultaneously address both public and private sector concerns. Their dedication and resolve is undeniable.

The fact of the matter is that the A-76 process has two good things going for it. First, A-76 utilizes competition in the marketplace as the basis for efficiency. Second, A-76

allows incumbent service providers a chance to increase efficiency in order to continue to provide better service.

On the down side of the process, let me discuss a few of the complaints practitioners often have to address during the course of a study. Three common complaints include:

1. The process takes too long.
2. Morale of the employees “under study” is adversely affected.
3. Best value within the A-76 rules is not truly “best value”.

1. The process takes too long.

By law, A-76 cost comparisons for single function studies must be completed in 24 months and multi-function studies in 48 months. In the mid 1990's, when the moratorium on using the A-76 process was lifted, these time periods allowed a sufficient buffer for the government workforce to learn A-76 and for companies to hire and train consultants to assist with the studies. We shouldn't forget that this 24/48-month law does not apply to the actual implementation of the most efficient organization. Administrative appeals and/or GAO protests may occur which can be long and expensive. Therefore, at the end of 48 months a final decision may still not have been determined. *Would private industry take over four years to determine the answer to a “make or buy” question? Absolutely not.*

A portion of the length of a study is due to the inherent disconnect between the Federal Activities Inventory Reform (FAIR) Act inventory, which is done by position and the A-76 process, which is organized by function but announced by position. Every base/installation/garrison commander, or Federal agency employee for that matter, has his or her own opinion regarding what is or is not inherently governmental and, in the end, what can be competed. There is little oversight by higher level leadership with regard to what ends up in the solicitation versus those functions removed as exempt from competition or labeled as “core”. This lack of oversight leads to inconsistencies within the agencies, confusion at all levels, unnecessary delays in the process, and poor study packages (a “package” refers to the organization of functions or business units into individual studies) which do not provide the ability to incorporate any efficiencies.

Generally we have observed that 12 to 16 months are required to complete studies which have been properly packaged. In almost every study, additional analysis is performed after the announcement to determine which positions are included in the scope of the study! In most cases, these decisions could be made prior to study announcement. The packaging of studies, one of the most important parts of the process, is given little time or effort.

The reality is that since the moratorium on A-76 studies ended six years ago, many of the problems can be directly attributed to the *lack of experience and training at all levels*. Policy makers were quickly updating the policy and guidance documents, government employees at the activity level were trying to figure out exactly what the policy said and how to implement it, and consultants were trying to find anyone with experience to hire. In 1995, there were only a handful of “experts” in the A-76 process. Problems occurred in this period because many studies were performed by government employees or consultants who had little to no experience in A-76. We think we are now beyond this problem.

A final reason that I see for the process taking so long is because almost all studies are announced as “multi-function” which allows them the longest completion time (48-months). There are currently no *incentives* to complete a study prior to what the law states. The incentive to drag out the process, however, is strong since this is perceived by the employees being studied as an act of loyalty and one which helps to preserve their jobs.

Recommendations:

There is now enough experience in the consultant ranks and within the government to allow for a 24-month turnaround (from Congressional announcement to tentative decision) in a majority of the studies conducted. Exceptions should be on a case-by-case basis. Actions that will help to reduce study timelines include:

- Providing additional guidance on the definition of “inherently governmental”. Senior leadership must review FAIR inventories both within and across agencies and push for consistency.
- Changing the FAIR Inventory from a determination by “position” to a determination by “function”. This will help change the perception that a “person” is inherently governmental versus that person’s function.
- Emphasizing the advantages of “up-front” analysis and the proper packaging of studies *prior to* announcement. Focus on studying business units, not positions. Developing the FAIR inventory by function and in coordination with the analysis of “core” functions is the first step. Then a review of the functions and how (if) to bundle them can occur through market analysis. In the end, “non-core” business units should be announced for study.

As we stated earlier, there are few incentives, if any, to complete an A-76 study prior to the statutory time limit. Additionally, there is no incentive for base/installation managers to use A-76 as a tool versus using it to meet an arbitrary study bogey (5% of FAIR inventories, as currently stated). Normally, A-76 is a requirement imposed by higher authority rather than a tool selected by a local manager. In DOD, base/installation commanders *could be* incentivized by allowing them to retain a portion of savings to

redistribute in the form of bonuses or equipment upgrades. A-76 process managers *could be* incentivized with bonuses if they conduct a fair and open competition that is completed ahead of schedule. Employees *could be* incentivized even after the most efficient organizations are implemented by rewarding them, for example, if they obtain savings above and beyond their original bid (the continuous improvement philosophy). Share-in-savings initiatives have already been successfully implemented with the private sector and could be a good fit in A-76. The key here is to find incentives for both the public and private sector from study announcement through implementation.

2. Morale of the employees “under study” is adversely affected.

We have seen this “morale issue” first hand. We have had to deal with this issue on every study we have worked, whether it comes in the form of profanity during interviews, the withholding of information/data, or just general rudeness. The consultant hired to help the activity under study is usually considered “the person who is there to help outsource government jobs”. Often the workforce does not understand the process; they just know it’s related to that evil word “outsourcing”. They do not understand that the real goal of A-76 is to create efficiencies and improve quality, not in trying to eliminate their jobs.

We have heard through our government clients that work quality and attendance decrease once a study is announced. This, however, is not unique to government – the same occurs in the private sector when layoffs are announced. Unfortunately, A-76 is viewed primarily as a position-cutting program and not a cost avoidance or efficiency initiative.

We would argue that any true change initiative, whether it’s A-76 or a more traditional business process reengineering (BPR) effort, comes with morale issues. Typical BPR engagements are not consistently defined—they don’t have defined rules, regulations, or expected outcomes. Their end state objectives, and potential layoffs, therefore, are easier to mask. Unfortunately for the A-76 process, it is concrete and identifiable by the workforce, and they fear for their jobs from the outset. A good portion of that fear and morale loss is due to misunderstandings or misconceptions. In our experience, these morale issues can be effectively addressed and controlled through a straightforward education and communication plan.

Recommendations:

One of the best ways we have found to reduce the effect on employee morale is through education. Too few people understand the process—and often the ones that do have their facts wrong. As a case in point, we were recently teaching an introduction to A-76 course to a DOD client. One of the students thanked us afterwards for bringing

her “closure”. She had been a part of a reduction-in-force (RIF) a few years earlier as a result of an A-76 study, and had taken the RIF personally. Nobody had ever explained the A-76 process to her. She said that ever since the RIF she had been depressed and that learning (in-depth) about the program was the best therapy. Educating the affected employees and those involved in the study (senior level leadership, contracting officers, etc.) allows each person to better understand his/her role and what he/she can do to help the organization provide a competitive bid.

Training, however, should not be a one-time event. Monthly meetings with the workforce, though required, are often not performed. This is really the best time to discuss such topics as timelines, RIFs, conflicts of interest, Voluntary Separation Incentive Program/Voluntary Early Retirement (VSIP/VERA), and the like.

3. Best value within the A-76 rules is not truly “best value”.

The government has worked long and hard to provide guidance on best value procurements in the A-76 environment. Industry still perceives the best value process as providing a “second bite of the apple” to the government bid. On the other hand, in a few cases source selection boards have unfairly applied additional costs to the government’s bid based on their interpretation of best value rules. Experience has shown that best value procurements are equally difficult on both the public and private offerors. All offerors, both public and private, should be included in the same source selection process, evaluated against the same criteria, and upheld to the same standards, to include providing past performance information when required by the request for proposals. The *perception* is that the A-76 process, as it is currently practiced, will never truly be “best value” since the end result is a cost comparison between the government’s MEO and *one* contract bid. True best value procurements should not come down to a cost comparison.

Recommendation:

If best value, rather than lowest cost, is the acquisition strategy, then make the process a true best value procurement. Make the government bid just as though they were a private sector firm. This would assist in streamlining the process and encouraging industry participation in A-76 procurements. Admittedly, requiring government agencies to submit bids as though they were in the private sector would require work by the policy makers and acquisition community to assure private industry and government employees that the source selection boards were not biased to either government or industry proposals.

Look at the advantages (and potential savings in study costs and timeframes)...

- There would be no independent review process, which takes a minimum of 30 to 60 days. Most often another consultant firm has to be retained to perform this function.
- There would be no technical leveling. All offerors (both public and private) would be part of the same source selection process. The true “best value” bid would become the service provider.
- This would encourage industry participation in A-76 procurements by showing “good faith” by the government. The government’s MEO would no longer receive special treatment.

Summary:

We have tried to provide just a few lessons learned and recommendations based on our firm’s experience. We would argue that the A-76 process is not as bad as its opponents make it out to be—the process works, implementation has been the problem. The reality is that the Federal government must begin to act like the private sector both in thought as well as in action. Additional guidance regarding is the definition of inherently governmental and “core” functions, reducing the A-76 process timeline, and providing incentives to reduce costs and improve quality would be a great start. The ultimate goal of A-76, of obtaining a service via the most efficient means be it through government or contract performance, is still a top priority to government and a visible example of fiscal responsibility to the public.