

TESTIMONY OF STEPHEN M. SORETT

JUNE 11, 2001

MY NAME IS STEPHEN SORETT. I AM AN ATTORNEY WITH THE REED SMITH, LLP IN WASHINGTON D.C. WHERE I SPEND CONSIDERABLE TIME ON OUTSOURCING AND PRIVATIZATION MATTERS INCLUDING ISSUES ARISING UNDER OMB CIRCULAR A-76. THESE ARE MY PERSONAL REMARKES AND DO NOT NECESSARILY REFLECT THE POSITION OF ANY OF MY CLIENTS OR THAT OF THE FIRM. I HAVE SPENT YEARS WORKING IN THIS AREA. PREVIOUSLY, I WAS THE DIRECTOR OF THE PRACTICE GROUP AT GRANT THORNTON, LLP – AN INTERNATIONAL ACCOUNTING FIRM – WHERE I WAS RESPONSIBLE FOR AS MANY AS 9,000 POSITIONS UNDER A-76 COMPETITIONS. PRIOR TO THAT, I WAS CURRICULUM DIRECTOR FOR GEORGE WASHINGTON UNIVERSITY’S GOVERNMENT CONTRACTS PROGRAM WHERE WE DEVELOPED COURSES AND CONFERENCES WITH VICE PRESIDENT GORE’S NATIONAL PERFORMANCE REVIEW ON A-76 AND PRIVATIZATION.

I HOPE TO BE PROVIDING TESTIMONY TO THIS PANEL AGAIN IN INDIANAPOLIS AND SAN ANTONIO, SO I WILL CONFINE MY REMARKS FOR TODAY TO POLICY ISSUES THAT PERTAIN TO THE CIRCULAR AND ITS IMPLEMENTATION. I ALSO HAVE SUBMITTED SEVERAL DOCUMENTS TO BILL WOODS WHICH I ASK THAT YOU INCLUDE IN THE RECORD AS PART OF MY TESTIMONY.

FIRST, I WANT TO EMPHASIZE THAT I AM AN ADVOCATE FOR THE NOTION THAT COMPETITION IS A SOUND IDEA WHICH SHOULD FORM THE UNDERPINNING FOR SOUND PUBLIC SECTOR MANAGEMENT PRACTICES WHEREVER IT CAN BE ACCOMPLISHED EFFECTIVELY,

EFFICIENTLY, AND ECONOMICALLY. IN ITS CURRENT FORM, THE A-76 PROCESS HAS FUNCTIONED ADEQUATELY; BUT MOST BELIEVE THAT THE SPECIFIC PROCEDURES EMPLOYED IN THE SUPPLEMENTAL HANDBOOK THAT IMPLEMENTS THE PROCESS CAN BE IMPROVED. I AGREE WITH THAT SENTIMENT, BUT I AM ALSO AMONG THE FIRST TO STRESS THAT THE FUNDAMENTAL CONCEPT OF COMPETITION EMBODIED IN THE A-76 PROCESS IS ONE THAT SHOULD CONTINUE.

THIS LEADS ME TO MY SECOND POINT, WHICH IS THAT I STRONGLY DISAGREE WITH THE NOTION THAT THE A-76 PROCESS SPECIFICALLY AND OUTSOURCING GENERALLY SHOULD BE HELD IN ABEYANCE WHILE THE PROCESS IS IMPROVED OR SYSTEMS ARE PUT IN PLACE TO MEASURE COST SAVINGS. THE A-76 PROCESS PLAYS SEVERAL IMPORTANT ROLES, INCLUDING ACTING AS AN AGENT OF CHANGE REQUIRING AGENCIES AND ACTIVITIES TO STRIVE FOR CONTINUAL IMPROVEMENT. WE KNOW THAT THIS BREEDS BETTER EFFICIENCIES, MORE EFFECTIVE DELIVERY OF SERVICES, AND SIGNIFICANT COST SAVINGS. THE PROBLEM WE NOW ENCOUNTER IS HOW TO MEASURE THESE IMPROVEMENTS. THE TRAC ACT WOULD HAVE US COME TO A DEAD STOP UNTIL AN AGREED UPON MEASUREMENT SYSTEM IS ADOPTED AND IMPLEMENTED. I AM OPPOSED TO SUCH A SUSPENSION, ESPECIALLY TO ONE THAT WOULD HAVE THE PRACTICAL EFFECT OF STOPPING ALL SERVICE CONTRACTING. THIS WOULD CRIPPLE THE DAY-TO-DAY OPERATIONS OF GOVERNMENT.

THIRD, THE A-76 PROCESS SHOULD BE VIEWED IN A LARGER CONTEXT; AND AGENCIES THAT EMBARK ON THE A-76 PROCESS SHOULD BE AUTHORIZED AND REQUIRED TO LOOK AT SENSIBLE ALTERNATIVES TO THE MANAGED COMPETITION PROCESS WHERE IT MAKES GOOD BUSINESS SENSE TO DO SO. FOR EXAMPLE, ONCE AN AGENCY HAS

DETERMINED WHAT ITS NEEDS ARE FOR THE OUTYEARS AND HAS IDENTIFIED A PREDICTABLE WORKLOAD LEVEL SUFFICIENT TO ISSUE A COMPETITIVE SOLICITATION, IT IS POSSIBLE TO CONSIDER PRIVATIZATION OPTIONS SUCH AS THE USE OF EMPLOYEE STOCK OWNERSHIP PLAN (ESOP) COMPANIES OR THE TRANSITIONAL BENEFIT CORPORATION MODEL. I HAVE FURNISHED YOU A COMPREHENSIVE ARTICLE AND RELATED SET OF MATERIALS ON THESE TOPICS WHICH ARE AVAILABLE TO YOU FOR FURTHER REVIEW. THIS TYPE OF ALTERNATIVE ANALYSIS CAN BE CONDUCTED WITHOUT SACRIFICING SCHEDULE AND COULD LEAD TO ACHIEVING COST SAVINGS SOONER WHILE PROVIDING THE AFFECTED EMPLOYEES SOFT LANDINGS INCLUDING BENEFIT PRESERVATION. EVEN IF IT IS DECIDED TO CONTINUE ON WITH THE A-76 COMPETITION, THE MOST EFFICIENT ORGANIZATION (MEO) WILL HAVE BENEFITED BY LOOKING AT THESE TYPE OF DEVICES AS A WAY TO BECOME MORE COMPETITIVE. IF AN ALTERNATIVE IS CHOSEN, THE TIME TO REACH CLOSURE ON THE ALTERNATIVE TYPICALLY IS SIGNIFICANTLY QUICKER IN COMPARISON TO THE TIME IT TAKES TO COMPLETE THE A-76 COMPETITION. I WILL BE PROVIDING TESTIMONY ON THESE AND OTHER TYPES OF TRANSACTIONS IN INDIANAPOLIS. THE POINT I AM MAKING HERE IS THAT THE A-76 PROCESS TODAY IS TOO NARROWLY FOCUSED THEREBY NEEDLESSLY DEPRIVING THE GOVERNMENT AND ITS EMPLOYEES SIGNIFICANT ADVANTAGES.

FOURTH, THE CURRENT A-76 PROCESS DOES NOT ALWAYS SERVE THE PUBLIC SECTOR EMPLOYEES WELL AND SHOULD BE IMPROVED IN AT LEAST THREE RESPECTS. FIRST, THE EMPLOYEES THROUGH ITS MEO ARE SUBJECTED TO REVIEWS BY GOVERNMENT OFFICIALS WHO EXAMINE THE MANAGEMENT PLAN FOR SUFFICIENCY WHEREAS THE MEO'S COMPETITORS ARE FREE TO COMPETE ON AN UNFETTERED BASIS SUBJECT ONLY TO THE RULES OF FREE AND OPEN COMPETITION

UNDER THE FEDERAL ACQUISITION REGULATION. THIS CAN LEAD TO SITUATIONS WHERE THE MEO IS SUBJECT TO DIFFERENT AND SOMETIMES MORE COSTLY REQUIREMENTS THAN THEIR COMPETITORS ENCOUNTER. SECOND, AS YOU HAVE HEARD FROM MANY OTHERS, EMPLOYEES THROUGH THE MEO ARE NOW NOT AFFORDED THE SAME RIGHTS TO APPEAL AND PROTEST AWARD DECISIONS AS ARE AFFORDED THEIR PRIVATE SECTOR COMPETITORS. CURRENTLY, NEITHER THE GAO NOR THE COURTS WILL ENTERTAIN MEO PROTESTS WHEREAS PRIVATE SECTOR COMPETITORS ARE ROUTINELY GRANTED SUCH ACCESS. THIS LEADS TO A PERCEPTION THAT THE PROCESS LACKS SYMMETRY AND SERVES TO UNDERMINE THE ENTIRE COMPETITIVE PROCESS. I AM NOT ADVOCATING ADDING ADDITIONAL DELAYS OR RIGHTS, BUT I AM CONCERNED ABOUT PERCEPTIONS OF UNFAIRNESS. THIRD, THE MEO SHOULD BE GIVEN THE ABILITY TO PARTNER WITH THE PRIVATE SECTOR TO TAKE ADVANTAGE OF PRIVATE SECTOR CAPABILITIES. FOR EXAMPLE, THE PRIVATE SECTOR CAN USE TECHNOLOGY AND FLEXIBLE ACCOUNTING RULES TO OFFER SOLUTIONS THAT ARE LESS EXPENSIVE AND MORE EFFICIENT AND EFFECTIVE THAN THOSE TYPICALLY OFFERED BY THE MEO.

THANK YOU. THIS CONCLUDES MY TESTIMONY