

January 12, 2018

**Memorandum**

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To: Section 809 Panel

From: E. Sanderson Hoe, Herb Fenster, and Alexis Dyschkant

Re: **Inherently Governmental Functions**

**I. A Brief History of Early Federal “Outsourcing”**

**A. The Federal Government’s Reliance on the Private Sector**

During the first decades of the American government, when government personnel and resources were scarce, private companies were hired to perform a majority of tasks on behalf of the federal government.<sup>1</sup> A majority of privately chartered corporations formed before 1800 were primarily in the business of providing public services on behalf of the government such as infrastructure, transportation, utilities, and banking.<sup>2</sup> As the federal government grew, so did its capacity to directly perform more public services.<sup>3</sup> However, after witnessing the intense demands on the federal government during World War II, it became apparent that certain goods and services were more efficiently produced and provided by the private sector.<sup>4</sup>

By the end of World War II, the United States witnessed the enormous potential of outsourcing. The war had shown what mobilization of the commercial sector could do for the federal government. Private industry was more agile, often had better

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<sup>1</sup> Thomas J. Laubacher, *Simplifying Inherently Governmental Functions: Creating a Principled Approach from its Ad Hoc Beginnings* 46 PUB. CONTRACT L.J. 791, 796 (2017); Keric D. Clanahan, *Wielding a “Very Long, People-Intensive Spear”: Inherently Governmental Functions and the Role of Contractors in the U.S. Department of Defense Unmanned Aircraft Systems Missions*, 70 A.F. L. REV. 119, 141-142 (2013).

<sup>2</sup> William J. Novak, *Public-Private Governance: A Historical Introduction*, in GOVERNMENT BY CONTRACT 30-31 (2009).

<sup>3</sup> Laubacher, *supra* note 1, at 796.

<sup>4</sup> *Id.*

resources, and could assume more risks than the federal government.<sup>5</sup>

After taking stock of the benefits of contracting with private industries, the Hoover Commission recommended that “the Government terminate activities which could be better performed for it by private enterprise” in 1953.<sup>6</sup> In 1955, Rowland Hughes, President Eisenhower’s Director of the Bureau of the Budget (which was the predecessor of the Office of Management and Budget, or “OMB”) issued the first Executive Branch Proclamation announcing that “the Federal Government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels.”<sup>7</sup> This proclamation became known as the “Eisenhower Bulletin” and was reissued in Bulletin 57-7 (April 1957) and Bulletin 60-2 (September 1959).<sup>8</sup> While the government had informally been relying on the private sector since its inception, the Eisenhower Bulletin created a formal status quo in which the federal government relied on the private sector to provide efficient, technically superior and relatively inexpensive services and goods.<sup>9</sup>

## **B. Legal Limitations on Federal Outsourcing**

### **1. U.S. Constitution**

As it is with all legal restrictions, limits on federal outsourcing are grounded in the U.S. Constitution. Articles I, II, and III enumerate the fundamental responsibilities of the legislative, executive, and judicial branches respectively.<sup>10</sup> Among other things, Congress has the power to raise taxes and spend public funds; regulate commerce and immigration; and maintain the military and declare war.<sup>11</sup> The President is the “Commander in Chief” of the U.S.

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<sup>5</sup> *Id.* at 797.

<sup>6</sup> July 31, 1961 Letter from President Kennedy to David E. Bell, S. Doc. No. 87-94, at 25 (1962).

<sup>7</sup> Bureau of the Budget, Exec. Office of the President, Budget Bull. No. 55-4 “Commercial-Industrial Activities of the Government Providing Products or Services for Governmental Use” 1 (1955).

<sup>8</sup> Bureau of the Budget, Exec. Office of the President, Budget Bull. No. 57-7 “Commercial-Industrial Activities of the Government Providing Products or Services for Governmental Use” 1 (1957); Bureau of the Budget, Exec. Office of the President, Budget Bull. No. 60-2 “Commercial-Industrial Activities of the Government Providing Products or Services for Governmental Use” 1 (1959); Angela B. Styles, Statement before the House Comm. on Oversight and Government Reform 1-2 (July 8, 2016).

<sup>9</sup> See S. Doc. No 87-94, at 12 (1962) (hereinafter “1962 Bell Report”); KEVIN R. KOSAR, CONG. RES. SERV. RL 33777, PRIVATIZATION AND THE FEDERAL GOVERNMENT: AN INTRODUCTION 6 (2006).

<sup>10</sup> U.S. CONST. art. I–III.

<sup>11</sup> U.S. CONST. art I, § 8.

military and head of U.S. foreign relations.<sup>12</sup> The judicial branch is charged, with some limitations, with resolving disputes arising under the U.S. Constitution and federal laws.<sup>13</sup>

These responsibilities are “vested” in each branch and must be executed by that branch. Since the U.S. Constitution is the ultimate legal authority in general, it is also the ultimate authority on what activities must be performed in-house by the federal government. Any subsequent codified or common law setting forth federal procurement policy must be constitutional.

## 2. Early U.S. Supreme Court Decisions

The U.S. Supreme Court, tasked with interpreting the U.S. Constitution, has made clear that responsibilities vested in the federal government by the U.S. Constitution cannot be delegated. In the 1930s, the U.S. Supreme Court held that some goods and services are so important to the proper functioning of the government that they simply could not be delegated to the private sector.<sup>14</sup> In *A.L.A. Schechter Poultry Corp.*, defendants found in violation of the “Live Poultry Code” challenged the validity of the Code as an unconstitutional delegation of the congressional power of regulation.<sup>15</sup> The Live Poultry Code was promulgated under the National Industrial Recovery Act and authorized the President to approve “codes of fair competition”.<sup>16</sup> In creating the Code, the government delegated the drafting of the fair competition rules to private industry. The Live Poultry Code consisted of “rules of competition deemed fair for each industry by representative members of that industry - by the persons most vitally concerned and most familiar with its problems.”<sup>17</sup> The Court held that “[s]uch a delegation of legislative power is unknown to our law, and is utterly inconsistent with the constitutional prerogatives and duties of Congress.”<sup>18</sup> The next year, individuals challenged the constitutionality of the Bituminous Coal Conservation Act of 1935.<sup>19</sup> The Act delegated the power to set the maximum weekly labor hours and wages of coal miners to a majority of coal producers and coal miners.<sup>20</sup> The Court held that this power “conferred upon the majority is, in effect, the power to regulate the affairs of an unwilling minority. This is legislative delegation in its most obnoxious form; for it is not even delegation to an official or an official body,

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<sup>12</sup> U.S. CONST. art II, § 2.

<sup>13</sup> U.S. CONST. art III, § 2.

<sup>14</sup> *Carter v. Carter Coal Co.*, 298 U.S. 238 311, (1936); *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495, 537 (1935).

<sup>15</sup> *A.L.A. Schechter Poultry Corp.*, 295 U.S. at 520.

<sup>16</sup> *Id.* at 521-22.

<sup>17</sup> *Id.* at 537.

<sup>18</sup> *Id.*

<sup>19</sup> *Carter*, 298 U.S. at 278.

<sup>20</sup> *Id.* at 310-11.

presumptively disinterested, but to private persons whose interests may be and often are adverse to the interests of others in the same business.”<sup>21</sup>

In both decisions, the Court drew a distinction between the production of a good or service and the regulation of a good or service. While the former can be outsourced to the private sector, the latter is a constitutional mandate to the federal government.<sup>22</sup> The federal government must make managerial decisions about public goods and services, but others may execute those decisions.

### 3. 1959 OMB Circular A-49<sup>23</sup>

In 1959, the Bureau of the Budget released Circular No. A-49 “Use of Management and Operating Contracts” which attempted to provide agencies some guidance in navigating the mandate to utilize private industry expertise and the limitations on federal outsourcing established by the U.S. Constitution.<sup>24</sup> This Circular provides insight into the difficulty experienced by Government agencies when deciding how to fulfill its public functions. On one hand, the 1959 Circular encouraged the use of management and operating contracts when “[c]ontractor operations are judged to be more economical than direct operation by the agency” and the agency “has no essential need” to develop the capability of providing the service internally.<sup>25</sup> On the other hand, the 1959 Circular stated that management and operating contracts were not suitable when:

- (1) Functions involving the direction, supervision, and control of Government personnel, except for supervision incidental to training;
- (2) Functions involving the exercise of police and regulatory powers in the name of the Government, exclusive of guard and plant protection services;
- (3) Functions of determining basic Government policies;
- (4) The day-to-day staff of management functions of the agency, or any element thereof, such as internal personnel administration,

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<sup>21</sup> *Id.* at 311.

<sup>22</sup> *Id.* at 311; *A.L.A. Schechter Poultry Corp.* 295 U.S. at 537.

<sup>23</sup> The Bureau of Budget did not formally change its name to the Office of Management and Budget until 1970. Exec. Order No. 11,541, 35 Fed. Reg. 10,737 (July 2, 1970). However, this research document will refer to all Circulars released by this office as “OMB Circulars” for continuity.

<sup>24</sup> Bureau of the Budget, Exec. Office of the President, Circular No. A-49 “Use of Management and Operating Contracts” 1 (1959).

<sup>25</sup> *Id.* at 2.



and budget preparation (other than specialized studies of an intermittent nature relating to the analysis of organization, personnel administration, and management systems).<sup>26</sup>

This list embodies an initial attempt to sequester those governmental functions which are only appropriately attributed to agencies.

### **C. The Introduction of “Inherently Governmental Functions”: The 1962 Bell Report**

Thus was born a tension between the status quo of relying on the private sector to provide valuable services to the federal government and the federal government’s responsibility to perform its constitutionally-mandated functions.

On July 31, 1961, President Kennedy asked the Director of the Bureau of the Budget, David E. Bell, to review the federal government’s contracting practices and policies.<sup>27</sup> President Kennedy noted that “there is a consensus that the use of contracts is appropriate in many cases. At the same time, a number of important issues have been raised, including the appropriate extent of reliance on contractors . . . [and] the effect of extensive contracting on the Government’s own research and development capabilities . . . .”<sup>28</sup> Thus, the President asked the Director to create “criteria that should be used in determining whether to perform a function through a contractor or through direct Federal operations”.<sup>29</sup> In response, the Director created the 1962 Bell Report and introduced the concept of an “inherently governmental” function as a way of determining when the Government’s use of private contractors is appropriate.

At the outset, Bell noted that “[i]t is not always easy to draw the line distinguishing essential management control responsibilities which should not be delegated to private contractors . . . from those which can and should be so assigned.”<sup>30</sup> In determining which public tasks can be outsourced to private companies, Bell made three conclusions:

1. “[W]here management decisions are based substantially on technical judgments, qualified executives, who can properly utilize the advice of technical consultants, from both inside and outside the Government, are needed to perform them.”<sup>31</sup> Technical expertise, especially, is often times best found outside of the government, but agency

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<sup>26</sup> *Id.* at 2

<sup>27</sup> 1962 Bell Report at xi.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 8.

<sup>31</sup> *Id.* at 9.

officials must have enough technical expertise to make final decisions about what technical approach will be undertaken.<sup>32</sup>

2. “[I]t is necessary for even the best qualified governmental managers to obtain technical advice from specialists” since the most expert specialists in a field are not always government officials.<sup>33</sup>

3. “A series of actions to contract out important activities, each wholly justified when considered on its own merits, may when taken together begin to erode the Government’s ability to manage its research and development programs.”<sup>34</sup>

These three conclusions taken together necessitate the creation of a standard by which the Government can determine when it can, or should, contract with private entities to both benefit from the private market’s expertise while maintaining the Government’s own expertise in technical areas. Bell suggested that one way to maintain this balance is to identify those activities which are “inherently governmental” as activities which cannot be delegated to a private actor:

Activities closely related to governmental managerial decisions (such as those in support of contractor selection), or to activities inherently governmental (such as regulatory functions, or technical activities directly bound up with military operations), are likely to call for a direct Federal capability and to be less successfully handled by contract.<sup>35</sup>

Thus, Bell initially identified three functions - management/decision-making associated with government projects, regulation, and military operations - as “inherently governmental” functions which should not be performed by a private contractor.<sup>36</sup> This conclusion was in line with the U.S. Supreme Court decisions in the 1930s which held that the regulation of goods or services cannot be delegated to private industries.<sup>37</sup>

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 9-10.

<sup>34</sup> *Id.* at 10.

<sup>35</sup> *Id.* at 12 (emphasis added).

<sup>36</sup> *Id.*

<sup>37</sup> *Carter v. Carter Coal Co.*, 298 U.S. 238 311, (1936); *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495, 537 (1935).

## **II. Inherently Governmental Functions in 20th Century Government Contracting Policy**

Throughout the rest of the 20th century, the federal government further developed its policy regarding when contracting with a private contractor to provide a public good or service is appropriate. The concept of an “inherently governmental function” stood at the center of this effort. The federal government continued to use this concept as the primary way of separating activities that can be outsourced from activities that must be performed internally by the federal government.

### **A. 1966 and 1967 OMB Circular A-76**

In 1966 and 1967, the Bureau of the Budget issued nearly identical Circulars which laid out the “policies for acquiring commercial or industrial products and services for Government use.”<sup>38</sup> Since 1955, it had been federal policy to secure commercial products and services from private industries. Thus, the presumption underlying OMB Circular A-76 at this time was that federal agencies were procuring goods and services by default. While this document did not use the term “inherently governmental,” it set forth a list of scenarios under which the Government could perform its own “commercial or industrial activ[ities].”<sup>39</sup>

- (a) Procurement of a product or service from a commercial source would disrupt or materially delay an agency’s program.
- (b) It is necessary for the Government to conduct a commercial or industrial activity for the purposes of combat support or for individual and unit retraining of military personnel or to maintain mobilization readiness.
- (c) A satisfactory commercial source is not available and cannot be developed in time to provide a product or service when it is needed.
- (d) The product or service is available from another Federal agency.

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<sup>38</sup> Bureau of the Budget, Exec. Office of the President, Circular No. A-76 “Policies for Acquiring Commercial or Industrial Products and Services for Government Use” 1 (1966); Bureau of the Budget, Exec. Office of the President, Circular No. A-76 “Policies for Acquiring Commercial or Industrial Products and Services for Government Use” 1 (1967).

<sup>39</sup> Bureau of the Budget, Exec. Office of the President, Circular No. A-76 “Policies for Acquiring Commercial or Industrial Products and Services for Government Use” 2 (1967).

(e) Procurement of the product or service from a commercial source will result in higher cost to the Government.<sup>40</sup>

Consistent with the Bell Report, the 1966 and 1967 OMB Circular A-76s included military efforts as functions that were appropriately performed by the federal Government. Otherwise, the reasons to perform an activity in-house were practical considerations such as cost, potential delay and whether a good or service was readily available.

## **B. 1979 OMB Circular A-76**

Inherently governmental functions were first discussed in great detail in the 1979 OMB Circular A-76.<sup>41</sup> An inherently governmental function was defined as “being so intimately related to the public interest as to mandate performance by Federal employees.”<sup>42</sup> It then listed three categories of governmental functions. The first category consists of:

(1) Discretionary application of Government authority, as in investigations, prosecutions and other judicial functions; in management of Government programs requiring value judgments, as in directing the national defense; management and direction of the Armed Services; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.<sup>43</sup>

This first category embodies the limitations on federal procurement firmly established by the U.S. Constitution and U.S. Supreme Court. Activities that involve regulation, management and direction of federal resources, value judgments, and decision-making regarding public projects and efforts are the very essence of the function of the federal government. The federal government cannot contract away its constitutional mandates. It is also worth noting that many congressional functions identified in Article I of the U.S. Constitution are also specifically discussed in this category: national defense and intelligence; regulation of public spaces, lands and resources; and commerce.<sup>44</sup>

The second category consists of:

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<sup>40</sup> *Id.* at 2-3.

<sup>41</sup> Office of Management and Budget, “Acquiring of Commercial or Industrial Products and Services Needed by the Government,” 44 Fed. Reg. 20,556 (Apr. 5, 1979) (hereinafter “1979 OMB Circular A-76”).

<sup>42</sup> *Id.* at 20,558.

<sup>43</sup> *Id.* (emphasis added).

<sup>44</sup> U.S. CONST. art I, § 8.

(2) Monetary transactions and entitlements, as in Government benefit programs; tax collection and revenue disbursements by the Government; control of the public treasury, accounts and money supply; and the administration of public trusts.<sup>45</sup>

This category directly identifies Congress's constitutional power of the purse as an inherently governmental function that cannot be delegated to a private actor.<sup>46</sup>

The final category consists of:

(3) In-house core capabilities in the area of research, development, and testing, needed for technical analysis and evaluation and technology base management and maintenance.<sup>47</sup>

The third category of inherently governmental functions does not directly track any function enumerated in the U.S. Constitution, but finds its roots in the 1962 Bell Report. Bell noted that federal agencies need to have enough technical capabilities in order to assess, evaluate, and manage federal activities that require technical expertise.<sup>48</sup> For example, if the Department of Defense procures technical services to develop a new military aircraft, some set of federal employees must maintain sufficient technical capabilities to decide what kind of aircraft development project to procure, evaluate the technical success of the procurement and manage any technical issues that may arise during the development process. Since it is the federal government's responsibility to be the ultimate decider in public efforts, when those efforts require technical expertise, the federal government also must be a technical expert.

Finally, the 1979 OMB Circular A-76 set out a list of 98 activities deemed to be commercial and not inherently governmental. These activities fall into fifteen categories:

- (1) Audiovisual Products and Services (photography, film, etc.);
- (2) Automatic Data Processing (data entry, programming, etc.);
- (3) Maintenance, Overhaul, and Repair (for vehicles, weapons, and other equipment);
- (4) Systems Engineering, Installation, Operation, and Maintenance (communication systems, satellite systems, etc.);
- (5) Manufacturing, Fabrication, Processing, and Packaging (clothing, materials, construction, etc.);
- (6) Real Property (building design and construction, road maintenance, and landscaping);
- (7) Industrial Shops and Services (carpentry, plumbing, janitorial services, etc.);
- (8) Health Services;

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<sup>45</sup> 1979 OMB Circular A-76, at 20,558 (emphasis added).

<sup>46</sup> U.S. CONST. art II, § 2.

<sup>47</sup> 1979 OMB Circular A-76, at 20,558 (emphasis added).

<sup>48</sup> 1962 Bell Report at 9.

- (9) Transportation;
- (10) Printing and Reproduction;
- (11) Research and Development (research, concept formulation, testing, studies, etc.);
- (12) Office Services (auditing, clerical services, translation, etc.);
- (13) Security (guards, security systems, and forensics);
- (14) Food Services;
- (15) Other Services (laundry, library, cataloging, utility services, etc.).<sup>49</sup>

### **C. 1983 OMB Circular A-76**

The 1983 OMB Circular A-76 contained a substantively similar definition of an inherently governmental function as “a function which is so intimately related to the public interest as to mandate performance by Government employees. These functions include those activities which require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Government.”<sup>50</sup>

The 1983 OMB Circular A-76 included the first two categories of governmental functions listed in the 1979 OMB Circular A-79, but omitted the third.<sup>51</sup> There is no explanation for this omission. In addition, the 1983 OMB Circular A-76 contained a similar list of activities which could be appropriately procured by the federal government.<sup>52</sup>

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<sup>49</sup> 1979 OMB Circular A-76, at 20, 561-62.

<sup>50</sup> Office of Management and Budget, “Performance of Commercial Activities”, 48 Fed. Reg. 37,110, 37,114 (Aug. 16, 1983) ( hereinafter “1983 OMB Circular A-76”).

<sup>51</sup> *Id.* The 1983 OMB Circular A-76 slightly altered the description of the first category, but the overall meaning was unchanged:

The act of governing; i.e., the discretionary exercise of Government authority. Examples include criminal investigations, prosecutions and other judicial functions; management of Government programs requiring value judgments, as in direction of the national defense; management and direction of the Armed Services; activities performed exclusively by military personnel who are subject to deployment in a combat, combat support or combat service support role; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

<sup>52</sup> *Id.* at 37,115-16. The list contained the same kinds of activities which certain updates to account for changes in the market and the development of new technologies and industries.

#### **D. 1992 OMB Policy Letter**

In 1992, OMB issued a policy letter specifically on inherently governmental functions.<sup>53</sup> The goal of the letter was to

provid[e] guidance to Executive Departments and agencies on (1) what functions are inherently governmental functions that must only be performed by Government officers and employees and (2) what contractible functions so closely support Government officers and employees in their performance of inherently governmental functions that the terms and performance of those contracts require closer scrutiny from Federal officials.<sup>54</sup>

Previous guidance had “not been detailed” and federal agencies had been mistakenly procuring services that “should be performed by Government personnel.”<sup>55</sup> The Policy Letter did not intend to provide new definitions or policy, but only clarify the existing policy set forth in the 1983 OMB Circular A-76. The aim was to provide agencies with a mechanism, or standard, by which to ultimately decide whether a good or service was capable of being procured. To that end, the Policy Letter offered a definition of “inherently governmental function”, a list of common inherently governmental functions, and a test for determining when an activity is inherently governmental.<sup>56</sup>

The Policy Letter adopted the definition of inherently governmental function and the categories of governmental functions identified in the most recent OMB Circular A-76, but went on to clarify that

An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as to:

(a) Bind the United States to take or not to take some action by contract, policy, regulation, authorization, or order, or otherwise;

(b) Determine, protect, and advance its economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

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<sup>53</sup> Office of Management and Budget, “Policy Letter on Inherently Governmental Functions,” 57 Fed. Reg. 45096 (Sept. 30, 1992) (hereinafter “1992 OMB Policy Letter”).

<sup>54</sup> *Id.* at 45,096.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 45,100-03.

- (c) Significantly affect the life, liberty, or property of private persons;
- (d) Commission, appoint, direct, or control officers or employees of the United States; or
- (e) Exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of appropriated and other Federal funds.<sup>57</sup>

Excluding (c), this list mirrors the language of the 1962 Bell Report and prior OMB Circulars which emphasized that the Government must manage, direct and make value judgments regarding public goods and services. The Government is able to receive “advice, opinions, recommendations, or ideas” from private industries but the ultimate decision-making power must rest with the Government.<sup>58</sup>

While the 1983 OMB Circular A-76 contained a list of traditionally commercial activities, the 1992 OMB Policy Letter offered a non-exhaustive list of inherently governmental functions:

1. The direct conduct of criminal investigations.
2. The control of prosecutions and performance of adjudicatory functions (other than those relating to arbitration or other methods of alternative dispute resolution).
3. The command of military forces, especially the leadership of military personnel who are members of the combat, combat support or combat service support role.
4. The conduct of foreign relations and the determination of foreign policy.
5. The determination of agency policy, such as determining the content and application of regulations, among other things.
6. The determination of Federal program priorities or budget requests.
7. The direction and control of Federal employees.
8. The direction and control of intelligence and counter-intelligence operations.
9. The selection or nonselection of Individuals for Federal Government employment.
10. The approval of position descriptions and performance standards for Federal employees.
11. The determination of what Government property is to be disposed of and on what terms . . . .

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<sup>57</sup> *Id.* at 45,100 (emphasis added).

<sup>58</sup> *Id.* at 45,100.



12. In Federal procurement activities with respect to prime contracts,
  - (a) Determining what supplies or services are to be acquired by the Government;
  - (b) Participating as a voting member on any source selection boards;
  - (c) Approval of any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria;
  - (d) Awarding contracts;
  - (e) Administering contracts;
  - (f) Terminating contracts; and
  - (g) Determining whether contract costs are reasonable, allocable, and allowable.
13. The approval of agency responses to Freedom of Information Act requests (other than routine responses . . . ), and the approval of agency responses to the administrative appeals of denials of Freedom of Information Act requests.
14. The conduct of administrative hearings to determine the eligibility of any person for a security clearance, or involving actions that affect matters of personal reputation or eligibility to participate in Government programs.
15. The approval of Federal licensing actions and inspections.
16. The determination of budget policy, guidance, and strategy.
17. The collection, control, and disbursement of fees, royalties, duties, fines, taxes and other public funds, unless authorized by statute, such as title 31 U.S.C. 952 (relating to private collection contractors) and title 31 U.S.C. 3718 (relating to private attorney collection services), but not including:
  - (a) Collection of fees, fines, penalties, costs or other charges from visitors to or patrons of mess halls, post or base exchange concessions, national parks, and similar entities or activities, or from other persons, where the amount to be collected is easily calculated or predetermined and the funds collected can be easily controlled using standard cash management techniques, and
  - (b) Routine voucher and invoice examination.
18. The control of the treasury accounts.
19. The administration of public trusts.<sup>59</sup>

This was the most extensive discussion of what activities constituted an inherently governmental function. While the list moves beyond simply identifying those functions specifically enumerated in the U.S. Constitution, each activity on this list can be traced back to a constitutionally-mandated federal responsibility or the federal government's ultimate decision-

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<sup>59</sup> *Id.* at 45, 102-03

making power. In addition, the Policy Letter offered a list of traditionally commercial activities which mirrored the list provided in the prior OMB Circular A-76s.<sup>60</sup>

Since this list was not exhaustive, the Policy Letter also identified a test for determining whether an activity is “inherently governmental”. The OMB put forward the following six-factor “totality of the circumstances” test to determine “whether award of a contract might effect an [impermissible] transfer of official responsibility:

- (1) Congressional legislative restrictions or authorizations.
- (2) The degree to which official discretion is or would be limited, i. e., whether the contractor's involvement in agency functions is or would be so extensive or his or her work product is so far advanced toward completion that the agency's ability to develop and consider options other than those provided by the contractor is restricted.
- (3) In claims adjudication and related services,
  - (i) The finality of any contractor's action affecting individual claimants or applicants, and whether or not review of the contractor's action is de novo (i.e., to be effected without the appellate body's being bound by- prior legal rulings or factual determinations) on appeal of his or her decision to an agency official;
  - (ii) The degree to which contractor activities may involve wide-ranging interpretations of complex, ambiguous case law and other legal authorities, as opposed to being circumscribed by detailed laws, regulations, and procedures;
  - (iii) The degree to which matters for decision by the contractor involve recurring fact patterns or unique fact patterns; and
  - (iv) The contractor's discretion to determine an appropriate award or penalty.
- (4) The contractor's ability to take action that will significantly and directly affect the life, liberty, or property of individual members of the public, including the likelihood of the contractor's need to resort to force in support of a police or judicial function: whether force, especially deadly force, is more likely to be initiated by the contractor or by some other person; and the degree to which force may have to be exercised in public or relatively uncontrolled areas.

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<sup>60</sup> *Id.* at 45,103.

(5) The availability of special agency authorities and the appropriateness of their application to the situation at hand, such as the power to deputize private persons

(6) Whether the function in question is already being performed by private persons, and the circumstances under which it is being performed by them.<sup>61</sup>

Interestingly, the 1992 OMB Policy Letter is the first executive document to identify the care of “life, liberty, or property” of private persons as an inherently governmental function.<sup>62</sup> This inclusion marks a recognition that the federal government is the ultimate fiduciary for its citizens and residents. A private actor should not be taking action on behalf of the federal government which would significantly alter or affect the quality of peoples’ lives - that is the job of the peoples’ Government.

Finally, the 1992 OMB Policy Letter confirmed that it is an agency’s responsibility to determine whether an activity is capable of being procured or whether it involves an inherently governmental function.<sup>63</sup> Agencies have “substantial discretion” in making these determinations.<sup>64</sup>

The 1992 OMB Policy Letter was the most comprehensive set of guidelines to date and served as the primary source of direction for agencies seeking to secure public goods and services through the private market.<sup>65</sup>

#### **E. Federal Acquisition Regulation (“FAR”) Subpart 7.5**

The 1992 OMB Policy Letter instructed the Federal Acquisition Regulatory Council to incorporate the policy on inherently governmental functions into the FAR within 210 days.<sup>66</sup> The Council did not update the FAR until 1996. FAR Subpart 7.503 sets forth the policy of inherently governmental functions and states that “[c]ontracts shall not be used for the performance of inherently governmental functions.”<sup>67</sup>

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<sup>61</sup> *Id.*

<sup>62</sup> The concept of the care of private individuals being an inherently governmental function appears both in the definition of “inherently governmental” and in the six-factor test to determine when an activity should be performed by the government.

<sup>63</sup> *Id.* at 45,101.

<sup>64</sup> *Id.*

<sup>65</sup> Laubacher, *supra* note 1, at 804.

<sup>66</sup> 1992 OMB Policy Letter, at 45,102.

<sup>67</sup> 48 C.F.R. § 7.503(a).

It then provides a list of inherently governmental functions that is nearly identical to the list provided in the 1992 OMB Policy Letter,<sup>68</sup> and a list of traditionally commercial activities which also mirrors the 1992 OMB Policy Letter.<sup>69</sup> The FAR omits the “totality of the circumstances” test put forward in the 1992 OMB Policy Letter and any definition of an “inherently governmental function.” Thus, the FAR contains a mandate to agencies to identify and internally perform inherently governmental functions and demonstrative lists of inherently governmental functions and commercial activities. Agencies seeking a definition or further guidance on how to make a determination regarding an inherently governmental function would refer back to the 1992 OMB Policy Letter and the 1983 OMB Circular A-76.

One substantive change incorporated into the FAR was the establishment of OMB’s power to review agency determinations of whether a function is or is not an inherently governmental function.<sup>70</sup> Challenges to an agency’s substantial discretion would be adjudicated by OMB.

#### **F. Federal Activities Inventory Reform Act (“FAIR Act”) of 1998**

Next came the Federal Activities Inventory Reform Act of 1998.<sup>71</sup> The goal of the Act was to promote compliance with OMB Circular A-76.<sup>72</sup> The Act required each agency to submit annual reports to OMB listing activities which the agency has identified as not inherently governmental functions.<sup>73</sup> The OMB would then review each list, transfer the list to Congress and Congress would publish the list.<sup>74</sup> An “interested party”, defined as a private or public entity that could potentially perform the activity listed, could challenge the inclusion of an activity on the list of non-inherently governmental functions.<sup>75</sup>

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<sup>68</sup> Compare 48 C.F.R. § 7.503(c) with 1992 OMB Policy Letter, at 45,102-03. FAR Subpart 7.503 includes an additional example: “(20) The drafting of Congressional testimony, responses to Congressional correspondence, or agency responses to audit reports from the Inspector General, the Government Accountability Office or other Federal audit entity.” 48 C.F.R. § 7.503(C)(20). This addition makes clear that no entity, other than the agency, should speak to another agency on its behalf.

<sup>69</sup> Compare 48 C.F.R. § 7.503(d) with 1992 OMB Policy Letter, at 45,103.

<sup>70</sup> 48 C.F.R. § 7.503(b).

<sup>71</sup> Federal Activities Inventory Reform Act, Pub. L. No. 105-270n 112 Stat. 2382 (1998) (codified at 31 U.S.C. § 501 (2012)) (“FAIR Act”).

<sup>72</sup> S. Rep. No. 105-269, at 4 (1998).

<sup>73</sup> FAIR Act, 112 Stat. 2382.

<sup>74</sup> *Id.* at § 2(a)-(c).

<sup>75</sup> *Id.* at § 3.

The FAIR Act included a definition of “inherently governmental function” and lists of “functions included” and “functions excluded” from that list which substantially mirrored the 1992 OMB Policy Letter.

(2) INHERENTLY GOVERNMENTAL FUNCTION.—

(A) DEFINITION.—The term “inherently governmental function” means a function that is so intimately related to the public interest as to require performance by Federal Government employees.

(B) FUNCTIONS INCLUDED.—The term includes activities that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as—

(i) to bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(ii) to determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(iii) to significantly affect the life, liberty, or property of private persons;

(iv) to commission, appoint, direct, or control officers or employees of the United States; or

(v) to exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of appropriated and other Federal funds.

(C) FUNCTIONS EXCLUDED.—The term does not normally include—

(i) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials; or

(ii) any function that is primarily ministerial and internal in nature (such as building security, mail operations, operation of

ca ceteras, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services).<sup>76</sup>

Thus, the decades-long understanding of “inherently governmental functions” as those responsibilities mandated by the U.S. Constitution became codified law. In addition, the FAIR Act incorporated the 1992 OMB Policy Letter’s inclusion of the care for the life, liberty and property of individuals as an inherently governmental function.

### **G. 1999 OMB Circular A-76**

In 1999, the OMB issued an update to Circular A-76 to incorporate and reference the 1992 OMB Policy Letter and the FAIR Act.<sup>77</sup> It did not add any additional clarifying language.

Moving into the 21st century, the federal government’s policy regarding inherently governmental functions was established in the FAR, U.S. Code, and OMB proclamations.

## **III. Inherently Governmental Functions in 21st Century Government Contracting Policy**

### **A. 2003 OMB Circular A-76**

In 2003, after a busy decade of expounding upon the concept of inherently governmental functions, OMB released a revised Circular A-76 and adjusted the formatting of the Circular into a more organized and digestible document.<sup>78</sup> The Circular now consists of a three-page document with four attachments. The main document describes the policy behind “[p]erforming inherently governmental activities with government personnel” but does not include any definitions or substantive instructions.<sup>79</sup>

Definitions and standards for determining when an activity is inherently governmental can be found in Attachment A. Attachment A explained the inventory process under which agencies would submit a list of all commercial activities and a list of all inherently governmental activities in compliance with the FAIR Act.<sup>80</sup> It defined an inherently governmental activity as did its 1999 predecessor and the 1992 OMB Policy Letter:

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<sup>76</sup> *Id.* at § 5 (2).

<sup>77</sup> Office of Management and Budget, Circular A-76, “Performance of Commercial Activities”, 64 Fed. Reg. 33,927 (June 24, 1999) (hereinafter “1999 OMB Circular A-76”).

<sup>78</sup> Office of Management and Budget, Circular A-76 “Performance of Commercial Activities (Revised) 2 (May 29, 2003) (hereinafter “2003 OMB Circular A-76”).

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at Att. A-1.

An inherently governmental activity is an activity that is so intimately related to the public interest as to mandate performance by government personnel. These activities require the exercise of substantial discretion in applying government authority and/or in making decisions for the government. Inherently governmental activities normally fall into two categories: the exercise of sovereign government authority or the establishment of procedures and processes related to the oversight of monetary transactions or entitlements. An inherently governmental activity involves:

- (1) Binding the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;
- (2) Determining, protecting, and advancing economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;
- (3) Significantly affecting the life, liberty, or property of private persons; or
- (4) Exerting ultimate control over the acquisition, use, or disposition of United States property (real or personal, tangible or intangible), including establishing policies or procedures for the collection, control, or disbursement of appropriated and other federal funds.<sup>81</sup>

It is worth noting that the 2003 OMB Circular A-76 revived the first two categories of inherently governmental activities first established in the 1979 OMB Circular A-76 - “[1] the exercise of sovereign government authority or the establishment of procedures and [2] processes related to the oversight of monetary transactions or entitlements.”<sup>82</sup> This further established the strong connection that an inherently governmental function has to the constitutionally-mandated responsibilities of the federal government.

There are some notable changes to the 2003 OMB Circular A-76 aimed at simplifying the concept of an inherently governmental function. For example, the 2003 OMB Circular A-76 suggested a simple test to help agencies determine whether an activity is an inherently governmental function:

While inherently governmental activities require the exercise of substantial discretion, not every exercise of discretion is evidence that an activity is inherently governmental. Rather, the use of

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<sup>81</sup> *Id.* at Att. A-2 (emphasis added).

<sup>82</sup> *Compare id. with* 1979 OMB Circular A-76, at 20,558.

discretion shall be deemed inherently governmental if it commits the government to a course of action when two or more alternative courses of action exist and decision making is not already limited or guided by existing policies, procedures, directions, orders, and other guidance that (1) identify specified ranges of acceptable decisions or conduct and (2) subject the discretionary authority to final approval or regular oversight by agency officials.<sup>83</sup>

This test is much more streamlined than the totality of the circumstances test put forward in the 1992 OMB Policy Letter.<sup>84</sup> Making decisions, that is actively choosing between available options, is an inherently governmental function. The Circular included the six-factors described in the 1992 OMB Policy Letter as guidance in applying this test.<sup>85</sup>

Next, in a further attempt to streamline the definition of an inherently governmental function, the 2003 OMB Circular A-76 refrained from specifically discussing different kinds of decision-making such as value judgments or management decisions. Prior OMB documents attempted to describe what kinds of decisions should be reserved for the federal government.<sup>86</sup> The 2003 OMB Circular A-76 instead stated that any exercise of “substantial discretion” is an inherently governmental function.<sup>87</sup>

Finally, while prior documents provided illustrative lists of commercial activities, the 2003 OMB Circular A-76 provided a definition:

A commercial activity is a recurring service that could be performed by the private sector and is resourced, performed, and controlled by the agency through performance by government personnel, a contract, or a fee-for-service agreement. A commercial activity is not so intimately related to the public interest as to mandate performance by government personnel. Commercial activities may be found within, or throughout, organizations that perform inherently governmental activities or classified work.<sup>88</sup>

In whole, the 2003 OMB Circular A-76 brought together the various trends of the prior Circulars and 1992 OMB Policy Letter defining an “inherently governmental activity” as one that

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<sup>83</sup> 2003 OMB Circular A-76, at Att. A-2.

<sup>84</sup> 1992 OMB Policy Letter, at 45,103.

<sup>85</sup> 2003 OMB Circular A-76, at Att. A-2, A-3.

<sup>86</sup> See 1979 OMB Circular A-76, at 20,558; 1983 OMB Circular A-76, at 37,114; see also FAIR Act, at §3.

<sup>87</sup> 2003 OMB Circular A-76, at Att. A-2.

<sup>88</sup> *Id.*



involves decision-making about a subject matter that is the constitutional responsibility of the federal government. While this theme had been present in all prior documents on inherently governmental functions, the 2003 OMB Circular A-76 presented this theme in the most complete and efficient manner.

**B. Duncan Hunter National Defense Authorization Act (“NDAA”) of 2009**

The Duncan Hunter National Defense Authorization Act, enacted in 2009, set forth guidelines for the budget and expenditures of the U.S. Department of Defense.<sup>89</sup> The Act recognized that identifying an inherently governmental activity is an important step in the defense procurement process. Thus, the Act directs the OMB to “to develop a single definition of inherently governmental function and criteria for critical functions” and “develop[] guidance to implement the definition”.<sup>90</sup>

**C. 2009 Presidential Memorandum**

Six months after the enactment of the NDAA, President Obama issued a memorandum entitled “Government Contracting” in which he reiterated the policy of procuring commercial services from the private industry while reserving inherently governmental activities for the federal government.<sup>91</sup> President Obama then directed OMB, in collaboration with other agencies, to issue “Government-wide” guidance to “clarify when governmental outsourcing for services is and is not appropriate” by September 30, 2009.<sup>92</sup>

**D. 2011 OMB Policy Letter**

In response to the 2009 Presidential Memorandum, OMB’s Office of Federal Procurement Policy (“OFPP”) issued Policy Letter 11-01 entitled “Performance of Inherently Governmental and Critical Functions” (“2011 OMB Policy Letter”).<sup>93</sup> This policy letter is the most recent formal guidance on inherently governmental function and largely reiterates the definitions in the 2003 OMB Circular A-76.

The entirety of the current definition is below:

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<sup>89</sup> Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, PL 110–417, 122 Stat. 4534 (2008).

<sup>90</sup> *Id.* at § 321 (c) (1).

<sup>91</sup> Memorandum for the Heads of Executive Departments and Agencies, “Government Contracting”, 74 Fed. Reg. 9755, 9756 (Mar. 9, 2009) (“2009 Presidential Memorandum”).

<sup>92</sup> *Id.*

<sup>93</sup> Office of Management and Budget, “Performance of Inherently Governmental and Critical Functions Policy Letter 11-01”, 76 Fed. Reg. 56,227 (Sept. 12, 2011) (“2011 OMB Policy Letter”).

“Inherently governmental function,” as defined in section 5 of the Federal Activities Inventory Reform Act, Public Law 105–270, means a function that is so intimately related to the public interest as to require performance by Federal Government employees.

(a) The term includes functions that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as —

(1) to bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(2) to determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(4) to commission, appoint, direct, or control officers or employees of the United States; or

(5) to exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of appropriations and other Federal funds.

(b) The term does not normally include—

(1) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials; or

(2) any function that is primarily ministerial and internal in nature (such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services).<sup>94</sup>

The substance of the definition matches that in the 2003 OMB Circular A-76, but also includes in the definition those activities that are not inherently governmental. In 2003, OMB separately

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<sup>94</sup> *Id.* at 56,236.

defined a commercial activity.<sup>95</sup> In addition, the 2011 OMB Policy Letter included a list of inherently governmental functions substantially similar to that in the 1992 OMB Policy Letter.<sup>96</sup>

The 2011 OMB Policy Letter next established two tests for identifying an inherently governmental function. The first involved identifying the “nature of the function”:

*The nature of the function.* Functions which involve the exercise of sovereign powers of the United States are governmental by their very nature. Examples of functions that, by their nature, are inherently governmental are officially representing the United States in an inter-governmental forum or body, arresting a person, and sentencing a person convicted of a crime to prison. A function may be classified as inherently governmental based strictly on its uniquely governmental nature and without regard to the type or level of discretion associated with the function.<sup>97</sup>

This test is best understood in terms of identifying those responsibilities and functions of the federal government as mandated by the U.S. Constitution and represented in the definition of an inherently governmental function. The “exercise of sovereign power” that is “governmental by their very nature” is primarily those powers identified in the U.S. Constitution.

The second test focused on the “exercise of discretion” and mirrored the “substantial discretion test” provided in the 2003 OMB Circular A-76, but with far greater detail:

*The exercise of discretion.*

(A) A function requiring the exercise of discretion shall be deemed inherently governmental if the exercise of that discretion commits the government to a course of action where two or more alternative courses of action exist and decision making is not already limited or guided by existing policies, procedures, directions, orders, and other guidance that:

(I) identify specified ranges of acceptable decisions or conduct concerning the overall policy or

direction of the action; and

(II) subject the discretionary decisions or conduct to meaningful oversight and, whenever necessary, final approval by agency officials.

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<sup>95</sup> Compare *id.* with 2003 OMB Circular A-76, at Att. A-2.

<sup>96</sup> Compare 2011 OMB Policy Letter, at 56,240-241 with 1992 OMB Policy Letter, at 45,102-03.

<sup>97</sup> *Id.* (emphasis added).

(B) A function may be appropriately performed by a contractor consistent with the restrictions in this section . . . where the contractor does not have the authority to decide on the overall course of action, but is tasked to develop options or implement a course of action, and the agency official has the ability to override the contractor's action. . . .

(C) A function is not appropriately performed by a contractor where the contractor's involvement is or would be so extensive, or the contractor's work product so close to a final agency product, as to effectively preempt the Federal officials' decision-making process, discretion or authority. Such circumstances may be avoided by: (i) carefully delineating in the statement of work the contractor's responsibilities and types of decisions expected to be made in carrying out these responsibilities and (ii) having Federal employees oversee and, as necessary, give final approval of contractor conduct and decisions. . . .<sup>98</sup>

The 2011 OMB Policy Letter, thus, added to the resources available to agencies by providing more significant guidance as to what constitutes substantial discretion that should remain with the federal government.

Next, the 2011 OMB Policy Letter introduced the concept of a "critical function" which is aimed to "fill a void in current policy".<sup>99</sup> The Letter recognized that some functions may not be inherently governmental but still critical "closely associated with inherently governmental functions." A "critical function" is "a function that is necessary to the agency being able to effectively perform and maintain control of its mission and operations."<sup>100</sup> Like inherently governmental functions, the determination of critical functions is left to the discretion of the agency.

Government employees should either directly perform or manage these critical functions.<sup>101</sup> While agencies must internally perform inherently governmental functions, agencies must "ensure that a sufficient number of Federal employees are dedicated to the performance and/or management of critical functions so that Federal employees can provide for the accomplishment of, and maintain control over, their mission and operations. . . . Where a critical function is not inherently governmental, the agency may appropriately consider filling positions dedicated to the function with both Federal employees and contractors."<sup>102</sup> In

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<sup>98</sup> *Id.* at 56,237-238.

<sup>99</sup> 2011 OMB Policy Letter, at 56,233

<sup>100</sup> *Id.* at 56, 236.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.* 56,237.

deciding how many roles must be performed by Federal employees, the 2011 OMB Policy Letter put forward the following test:

[T]he agency must have sufficient internal capability to control its mission and operations and must ensure it is cost effective to contract for the services.

(1) Sufficient internal capability—

(i) generally requires that an agency have an adequate number of positions filled by Federal employees with appropriate training, experience, and expertise to understand the agency's requirements, formulate alternatives, take other appropriate actions to properly manage and be accountable for the work product, and continue critical operations with in-house resources, another contractor, or a combination of the two, in the event of contractor default; and

(ii) further requires that an agency have the ability and internal expertise to oversee and manage any contractors used to support the Federal workforce.

(2) Determinations concerning what constitutes sufficient internal capability must be made on a case-by-case basis taking into account, among other things the:

(i) agency's mission;

(ii) complexity of the function and the need for specialized skill;

(iii) current strength of the agency's in-house expertise;

(iv) current size and capability of the agency's acquisition workforce; and

(v) effect of contractor default on mission performance.<sup>103</sup>

The distinction between "inherently governmental functions" and "critical functions" has not been further explored or memorialized in further executive proclamations.

#### **IV. Conclusion**

This is the history and current state of federal policy on inherently governmental functions. The process of determining whether an activity is "inherently governmental", and

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<sup>103</sup> *Id.*

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thus improperly procured, is ultimately an agency decision. OMB has issued substantial guidance to assist in that decision, culminating in the 2011 OMB Policy Letter, and has reserved the right to review challenges. Further, the FAIR Act ensures that agency decisions regarding what activities it has reserved as inherently governmental are made public.

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## APPENDIX AND TABLES

## APPENDIX I

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D. C., January 15, 1955.

## BULLETIN No. 55-4

To the heads of executive departments and establishments.

Subject: Commercial-industrial activities of the Government providing products or services for governmental use.

1. *Purpose.*—This bulletin initiates a review of those commercial-industrial-type activities conducted by the Government that provide services or products for its own use which could be procured from private enterprise through ordinary business channels (hereafter called "commercial activities"). It also sets forth Government policy with respect to both the starting and carrying on of such activities.

The fact that this bulletin does not deal with products or services provided directly to the public in no way relieves the agencies of keeping such activities under constant review and reevaluation as to the need for the Government to carry on such activities. The results of such reevaluation will be reflected in the legislative and budget programs.

2. *Policy.*—It is the general policy of the administration that the Federal Government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels. Exceptions to this policy shall be made by the head of an agency only where it is clearly demonstrated in each case that it is not in the public interest to procure such product or service from private enterprise.

3. *Responsibility.*—In furtherance of this policy, the head of each agency shall give personal direction to the accomplishment of the review (inventory and evaluation) of the activities of his agency which fall within the scope of this bulletin. He shall assign to a member of his key staff the responsibility for direction and coordination of this program throughout the agency.

4. *Scope and coverage of review.*—The review will consist of two phases: (a) an immediate inventory of all commercial activities, and (b) an evaluation of these activities, to be spread over a longer period of time. The first evaluation will cover manufacturing activities as set forth below. This will be followed periodically by similar evaluations of other commercial activities, such as wholesale and retail trade, repair and business services, construction, transportation, communication, public utilities, agriculture, forestry, fisheries, and mining. Instructions for later evaluation reports will be issued subsequently, but agencies may proceed with a program of evaluation and action as fast as time permits.

The following rules will prevail as to coverage of the review:

a. The review will cover activities carried on in the continental United States and in the Territories of Alaska and Hawaii.

b. In determining whether an activity is "commercial" in nature and "could be procured \* \* \* through ordinary business channels," reference may be made to the Standard Industrial Classification Manual and to ordinary business practice with respect to procurement of services or products. The inclusion of an activity in the manual will be generally considered indicative that it may be procured commercially. There will be excluded from coverage as noncommercial, however, those functions which are a part of the normal management responsibilities of a Government agency or a private business of comparable size (such as accounting, personnel work, and the like).

c. Any activity at any one location which involves an equipment investment of less than \$5,000 and a product or service with an approximate annual value of less than \$25,000 shall be excluded.

d. "Activities conducted by the Government" will exclude Government-owned, contractor-operated facilities as far as evaluation is concerned, but will include such facilities for purposes of the inventory report.

e. "Activities \* \* \* for its own use" will include the activities of producing a service or product primarily for the use of the Government (whether the same agency or other agencies), even though some portion of the product or service is sold or given to the public. The coverage will include activi-

ties which are to provide a service or product for the use of a Government agency in its official duties, even though the agency is engaged in carrying out a service to the public (e. g., it will include the manufacture of mail bags or the generation of power at a Government institution). However, the coverage will exclude the activities of producing a service or product primarily to be sold or given to the public (e. g., it will exclude the generation of power for sale to the public).

5. *Inventory of commercial activities.*—Each agency shall prepare an inventory of all commercial activities. The inventory shall identify the activity in terms of the Standard Industrial Classification Manual, the number of installations or the locations where the activity is conducted, the capital assets invested in the activity, and the average number of employees engaged in the activity. Exhibit 55-4A indicates the format for reporting this inventory to the Bureau of the Budget. Instructions for this report are contained in attachment A.

6. *Evaluation of manufacturing activities.*—Each agency shall make an evaluation of all its commercial activities which are classified as manufacturing in the inventory. Government-owned, contractor-operated activities included in the inventory report required under paragraph 5 above are not required to be evaluated at this time.

The evaluation should determine whether or not each of these manufacturing activities should be continued by the Government in the light of the objectives stated in paragraph 2 above.

The relative costs of Government operation compared to purchase from private sources will be a factor in the determination in those cases where the agency head concludes that the product or service cannot be purchased on a competitive basis and cannot be obtained at reasonable prices from private industry. In those cases it will be necessary to develop detailed data on such costs. In doing so, the costs of Government operation should be fairly computed and complete, covering both direct and indirect costs, including elements not usually chargeable to current appropriations such as depreciation, interest on the Government's investment, the cost of self-insurance (even though it is unfunded); there shall also be added an allowance for Federal, State, and local taxes to the extent necessary to put the costs on a comparable basis. Care must also be exercised to see that the costs of procuring material from private sources are fairly computed and complete, being truly representative of the lowest price the Government would pay for the quantity and quality needed, and taking account of any applicable indirect costs of the Government for such procurement.

The evaluation will also review the legal authorization for each activity and determine whether congressional action is necessary to permit discontinuance. Except where such congressional action would be required, activities should be discontinued as soon as the agency head determines that it is reasonably possible to do so. Where congressional action would be necessary to permit discontinuance, the agency head shall seek such action promptly, submitting drafts of legislation or appropriation language, as may be required, to the Bureau of the Budget in the usual manner.

The evaluation should proceed promptly so that a report of the results may be made as provided in paragraph 9 below. The report on each manufacturing activity conducted during any part of fiscal years 1954 and 1955 shall be submitted on exhibit 55-4B, showing what the agency head decides to do about the elimination, curtailment, or continuation of each activity. The form is divided into three sections. Section A shall be completed on all reportable activities. Section B shall be completed on those activities which are being curtailed, eliminated, or procured from commercial sources. Section C shall be completed for all activities which will continue as Government operations. Applicable questions only need to be answered. The justification for continuation as a Government operation must be complete. Instructions for this report are contained in attachment B.

7. *Applicability to Department of Defense.*—Inasmuch as the Department of Defense started its own review of these activities some months ago, special instructions will be issued for that Department in order to take full advantage of the work already done.

8. *Questions and interpretations.*—Any questions regarding completion of the forms or interpretation as to coverage should be presented to the respective Bureau of the Budget examiners.

9. *Reporting dates.*—The name of the individual designated to direct the program and three copies of whatever implementing instructions are issued by the agency shall be furnished the Bureau of the Budget by February 15, 1955.

Three copies of the inventory reports (exhibit 55-4A) shall be submitted to the Bureau of the Budget on or before April 15, 1955. Three copies of the reports on evaluation of manufacturing activities (exhibit 55-4B) shall be submitted to the Bureau of the Budget on or before July 15, 1955. Copies of the evaluation report form may be secured in limited quantity from the Bureau of the Budget Publications Unit, code 189, extension 616.

By direction of the President:

ROWLAND R. HUGHES, *Director.*

[Attachment A to Bureau of the Budget Bulletin No. 55-4]

#### INSTRUCTIONS FOR INVENTORY REPORT ON COMMERCIAL ACTIVITIES

Prepare the report on letter-size paper in the format appearing on the reverse.

A separate report shall be submitted for each bureau, service, or other major administrative unit within the agency.

List on separate pages and designate appropriately (a) those activities or services which are Government-operated, and (b) those which are Government-owned but contractor-operated.

Include all commercial activities conducted during any part of fiscal years 1954 or 1955.

Column 1: The type of activity or service should be classified according to the Standard Industrial Classification Manual (obtainable from the Superintendent of Documents), giving the industry classification number and the industry title as shown in the manual, and be followed by such additional words or phrases as will help to identify the specific activity or service. Where a major installation is itself a commercial activity and has a number of commercial activities as components, the installation should be listed by its overall functions and the component activities listed under it. Number each major activity consecutively beginning with the figure 1 on each page.

Column 2: If the activity is confined to one or a few locations, list them individually. If there are many locations, the number of separate facilities will be sufficient if accompanied by some general indication of locations.

Column 3: Estimate the value of capital assets used primarily for the activity. Use only one figure for the total of land, buildings, and equipment. Use same figures as reported to the General Services Administration in its Inventory of Federal Real Property Holdings, to the extent possible. For those activities not covered in the General Services Administration report, use same valuation basis (original cost) as used for that report.

Column 4: Show the average number of persons employed annually on the particular activity. This figure can be computed by averaging the figures reported to the Civil Service Commission on Standard Form 113. If the operation is seasonal, show the average employment for only the months during which the activity was performed and indicate in parentheses the number of months during which the activity was performed.

Column 5: Use this column for any special information considered pertinent from the standpoint of the development of an inventory. Do not try to justify the conduct of the activity here. Wherever necessary, justifications will be developed through subsequent surveys.

EXHIBIT 55-4A

*Inventory report of commercial activities under Bureau of the Budget Bulletin No. 55-4*

Page No. \_\_\_\_\_ of \_\_\_\_\_ (total).

Check one:

- Government-operated.
- Government-owned, contractor-operated.

Agency \_\_\_\_\_ Bureau \_\_\_\_\_ Date \_\_\_\_\_

Activity (1)	Location or number of installations (2)	Capital assets (3)	Number of employees (4)	Comment (5)
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----

[Attachment B to Bureau of the Budget Bulletin No. 55-4]

INSTRUCTIONS FOR EVALUATION REPORT ON MANUFACTURING ACTIVITIES

**Section A.**—This section is to be filled out on all manufacturing activities. Answer only those questions which are applicable.

1. Use the industrial title from the Standard Industrial Classification Manual which describes the activity at the highest organization level that can be analyzed as a separate commercial activity, even though it may have a number of commercial activities as components. For example, a shipyard would be the industrial activity and not the individual activities which make up a shipyard, such as foundries, machine shops, etc.

2. Use the code number corresponding to the title from the Standard Industrial Classification Manual.

3. Refer to the proper page and line of the agency's inventory report previously submitted.

4. This should be the number of similar installations. Exclude those reported elsewhere as a part of another major activity.

5. If there are relatively few such installations, give their location. If there is a larger number of such installations, use some descriptive term, such as "at all dam construction sites" or "one in each seaboard State."

6. Show as subordinate activities the types listed in the Standard Industrial Classification Manual which form a part of the major activity listed in No. 1.

7. This should be an estimate of the total expenditures attributable to the activity for the fiscal year 1954.

8. This should be an estimate of the total expenditures attributable to the activity for the fiscal year 1955.

9. Show the number of employees assigned to the activity who were included on the Standard Form 113 report to the Civil Service Commission and the number of military personnel assigned to the activity.

10. If the number of employees shown in No. 9 is not representative of the normal or seasonal size of the operation, explain the seasonal character and give figures which reflect the maximum employment during the peak season.

11. On a percentage basis, account for the disposition made during fiscal year 1954 of the products manufactured.

12. The value of land and buildings should be the same (initial cost) as reported to the General Services Administration in connection with its survey of real property holdings. For those assets disposed of before or acquired after December 31, 1953, which are not included in the GSA survey, use the same concept of initial cost, or the best estimate thereof, in setting the asset figure. This concept should also govern the value placed on equipment which was not covered by the GSA survey.

13. Check the block which indicates the authority and circumstances under which the activity is conducted. If it is required by law check "Required." If it is specifically authorized but not required by law, check "Specifically authorized." If it is not specifically authorized or required but has been the subject of specific congressional approval in appropriation acts or some other legislation, check "Congressional approval" and explain the circumstances. If there is no specific approval, but the agency considers that its basic legislation authorizes the activity, check "General authorization." Use the "Other" block only if none of the previously mentioned categories is applicable, and explain the circumstances. Wherever there is legislation under which the activity is authorized, give the United States Code citation.

14. Indicate by a check what the agency head determines is to be done about the continuation of the activity. Check the block "Eliminate" if the Government operation is to be closed and the facilities disposed of: Check "Curtail" if the volume of activity is being reduced but the activity will continue as a Government operation. "Continue" will be used to denote the decision that it is in the public interest for the activity to be conducted as a Government operation. Check "Other" if the activity is being converted to a contractor-operated basis or some combination of ways of procuring the product. If the "Other" block is checked, give a brief explanation of what is to be done.

*Section B.*—This section should be completed for all activities on which No. 14 is not checked "Continue."

15. State exactly what is to be done.

16. Show the date on which the activity has been or will be eliminated, curtailed, or otherwise modified.

17. If the agency head's determination is not yet in effect, indicate the extent to which negotiations or other actions have progressed on the date of the report.

18. If the agency head's determination cannot be carried out because of existing law, summarize any legislative proposals being submitted to the Bureau of the Budget.

19. If the assets which were used in the conduct of the activity are to be sold or otherwise disposed of, so indicate. If they are not to be disposed of, give reasons.

20. If any of the assets have been disposed of, show the amount recovered from their sale. If they have not been but will be later, indicate an estimated amount to be recovered, adding "estimate."

21. Use the same basis for determining the value of the assets being retained as was used in estimating the value of the capital assets in No. 12.

22. There will normally be an entry on line 2 and in addition there may be one on lines 1 or 3, depending on the action being taken. The first line should show savings. The second should show amounts formerly spent for Government operations which hereafter will be spent for procurement of the product by direct purchase or contractual arrangements. The third line should show any increase in out-of-pocket costs of procuring the product, whether or not additional appropriations will be requested. The last line will be used for any other circumstances which will prevail. These need not be exact figures developed by a cost study but may be estimated amounts.

23. The changes in the numbers of persons engaged in the activity will be related to the answer on No. 9. The number eliminated does not necessarily mean that employment of the particular individuals will be terminated but it does mean that the personnel requirements of the agency will be reduced to that extent so far as the activity is concerned.

*Section C.*—This section is to be completed whenever the agency head decides that the activity is to be continued as a direct-Government operation.

24. This justification must be complete, showing the reasons why the agency head has decided that there is a clear demonstration that it is not in the public interest to procure such product from private enterprise.

25. If unavailability of the product commercially is a reason given in No. 24, this item will be used to indicate the circumstances under which the product is provided by private enterprise under normal business conditions. It should also indicate whether the geographical location of the activity is such that private enterprise is not in a position to fill the agency's needs. This should be answered only after specific analysis of the problem and must include a description of the steps which the agency has taken to be sure that private industry either can or cannot furnish the agency's needs.

26. If cost is a reason given in No. 24, this item will be used to indicate the comparative costs. Since cost should not usually be the deciding factor in determining whether to continue the operation as a direct-Government operation, this statement should show both the results of the comparative cost analysis and the elements which have been used in determining the Government cost, both as a direct operation and if the product is secured from private industry.

FEDERAL EXPENDITURE POLICY

EXHIBIT 55-48

EVALUATION REPORT UNDER BUREAU OF THE BUDGET BULLETIN NO. 55-4 ON GOVERNMENT OPERATED MANUFACTURING ACTIVITIES

(AGENCY) (BUREAU) (DATE)

ADDITIONAL INFORMATION WILL BE SUPPLIED BY SUBMITTED BY: (SIGN) NAME TITLE TEL. NO. (TITLE)

SECTION A (TO BE COMPLETED ON EACH ACTIVITY EVALUATED)

1. INDUSTRIAL ACTIVITY TITLE 2. INDUSTRY CODE NO. 3. INVENTORY REPORT REFERENCE PAGE LINE 4. NO. OF INSTALLATIONS 5. LOCATION OF INSTALLATIONS 6. COMPONENT ACTIVITIES

7. EXPENDITURE FISCAL YEAR 1964 \$ 8. EXPENDITURE FISCAL YEAR 1965 \$

9. NO. EMPLOYEES JUNE 30, 1964: CIVILIAN MILITARY 10. EXPLAIN ANY SPECIAL SEASONAL ACTIVITY PEAK EMPLOYMENT: CIVILIAN MILITARY

11. DISPOSITION OF PRODUCT FISCAL YEAR 1964: GOVERNMENT USE DISTRIBUTED TO PUBLIC FREE SOLD TO PUBLIC

12. VALUE OF CAPITAL ASSETS: LAND BUILDINGS EQUIPMENT

13. LEGAL AUTHORIZATION: REQUIRED SPECIFICALLY AUTHORIZED CONGRESSIONAL APPROVAL GENERAL AUTHORIZATION OTHER U. S. CODE REFERENCE OR EXPLANATION

14. AGENCY DETERMINATION: ELIMINATE CURTAIL CONTINUE OTHER

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FEDERAL EXPENDITURE POLICY

**SECTION B (TO BE COMPLETED ON ALL ACTIVITIES ON WHICH NO. 14 IS NOT CHECKED "CONTINUE")**

15. SPECIFIC ACTION	16. EFFECTIVE DATE OF ACTION _____
17. STATUS OF ACTION	18. EXPLAIN ANY LEGISLATION NEEDED TO EFFECT ACTION
19. DISPOSITION OF ASSETS	20. AMOUNT RECOVERED \$ _____ 21. VALUE OF ASSETS RETAINED \$ _____
22. EFFECT OF ANNUAL EXPENDITURES \$ _____ LESS WILL BE SPENT _____ WILL BE SPENT IN A DIFFERENT MANNER (AS PAYMENTS TO VENDORS OR CONTRACTORS RATHER THAN FOR PERSONNEL AND FACILITIES) _____ MORE WILL BE SPENT _____ OTHER (EXPLAIN)	23. REDUCTION IN NUMBER OF PERSONNEL _____ CIVILIAN } FEWER EMPLOYEES WILL BE NEEDED _____ MILITARY } _____ OTHER (EXPLAIN)

**SECTION C (TO BE COMPLETED FOR ALL ACTIVITIES ON WHICH NO. 14 IS CHECKED "CONTINUE")**

24. REASON FOR DECISION TO CONTINUE AS GOVERNMENT OPERATION (IF MORE SPACE IS NEEDED ATTACH A SEPARATE SHEET).

25. IF UNAVAILABILITY OF PRODUCT OR SERVICE COMMERCIALY IS REASON GIVEN IN NO. 24, EXPLAIN.

26. IF COST IS REASON GIVEN IN NO. 24, IDENTIFY ITEMS CONSIDERED IN COST COMPUTATIONS AND SOURCE OF COMMERCIAL COSTS USED IN COMPARISONS.



TABLE I.—Commercial activities of civilian agencies summarized by agency—  
Reported under Budget Bulletin No. 55-4

## A. GOVERNMENT OPERATED

	Number of installations	Capital assets	Number of employees	
			Civilian	Other
Department of Agriculture.....	5,044	\$228,494,348	8,113	-----
Department of Commerce.....	800	14,167,862	3,338	-----
Department of Defense (civil functions).....	317	118,186,000	9,611	-----
Department of Health, Education, and Welfare.....	162	5,238,856	2,153	-----
Department of the Interior.....	1,550	100,245,002	7,531	-----
Department of Justice.....	396	35,029,178	1,294	3,509
Department of Labor.....	2	57,488	77	-----
Post Office Department.....	8,292	47,940,325	24,191	-----
Department of State.....	9	651,180	135	-----
Treasury Department.....	79	22,155,132	3,606	1,015
Executive Office of the President.....	1	6,786	5	-----
General Services Administration.....	1,089	75,140,122	8,848	-----
Housing and Home Finance Agency.....	241	(1)	1,130	-----
Atomic Energy Commission.....	4	2,662,000	198	-----
U. S. Civil Service Commission.....	11	169,107	92	-----
Federal Civil Defense Administration.....	1	10,286	6	-----
Federal Communications Commission.....	2	82,377	32	-----
Federal Deposit Insurance Corporation.....	1	21,212	7	-----
Federal Power Commission.....	1	47,220	20	-----
Federal Trade Commission.....	1	53,395	6	-----
General Accounting Office.....	1	137,051	14	-----
Interstate Commerce Commission.....	1	42,254	47	-----
National Advisory Committee for Aeronautics.....	53	8,439,000	1,175	-----
National Capital Housing Authority.....	5	61,000	1	-----
National Labor Relations Board.....	1	20,200	13	-----
Railroad Retirement Board.....	1	50,191	17	-----
Securities and Exchange Commission.....	1	64,582	13	-----
Small Business Administration.....	1	14,375	4	-----
Smithsonian Institution.....	1	8,000	35	-----
Tennessee Valley Authority.....	67	32,457,483	12,910	-----
U. S. Information Agency.....	20	16,139,249	204	-----
Veterans' Administration.....	809	52,914,314	7,494	-----
<b>Total, Government operated.....</b>	<b>18,964</b>	<b>760,655,575</b>	<b>92,320</b>	<b>4,524</b>

## B. GOVERNMENT OWNED, CONTRACTOR OPERATED

Department of Defense (civil functions).....	11	\$2,385,000	350	-----
Treasury Department: Federal Facilities Corporation..	1	13,184,000	600	-----
General Services Administration.....	8	1,378,754	68	-----
Tennessee Valley Authority.....	1	148,904	-----	-----
Atomic Energy Commission.....	280	4,011,449,000	68,649	-----
<b>Total, Government owned, contractor operated..</b>	<b>301</b>	<b>4,028,545,658</b>	<b>69,667</b>	<b>-----</b>
<b>Grand total.....</b>	<b>19,265</b>	<b>4,789,201,233</b>	<b>161,987</b>	<b>4,524</b>

<sup>1</sup> Information not available.

## FEDERAL EXPENDITURE POLICY

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TABLE II.—Commercial activities of civilian agencies summarized by industrial group—Reported under Budget Bulletin No. 55-4

## A. GOVERNMENT OPERATED

	Number of installations	Capital assets	Number of employees	
			Civilian	Other
<b>A. Agriculture, forestry, and fisheries:</b>				
Farms.....	82	\$8,950,077	489	-----
Agricultural services and hunting and trapping.....	9	295,587	80	-----
Forestry.....	26	2,058,367	215	-----
Subtotal.....	117	11,304,031	784	-----
<b>B. Mining:</b>				
Metal mining.....	8	2,353,561	24	-----
Mining and quarrying of nonmetallic minerals, except fuels.....	3	16,000	10	-----
Subtotal.....	11	2,369,561	34	-----
<b>C. Contract construction:</b>				
Building construction, general contractors.....	412	10,457,631	3,876	-----
Construction, other than building construction, general contractors.....	444	146,354,783	18,013	-----
Construction, special trade contractors.....	125	3,437,141	999	-----
Subtotal.....	981	160,249,555	22,888	-----
<b>D. Manufacturing:</b>				
Ordnance and accessories.....	1	(1)	550	-----
Food and kindred products.....	111	3,247,037	308	144
Textile mill products.....	2	4,490,967	53	762
Apparel and other finished products made from fabric and similar materials.....	15	1,285,063	290	524
Lumber and wood products (except furniture).....	7	1,921,988	537	125
Furniture and fixtures.....	8	2,186,143	85	764
Paper and allied products.....	1	710	1	13
Printing, publishing, and allied industries.....	68	2,875,678	687	64
Chemicals and allied products.....	25	19,713,263	358	-----
Rubber products.....	1	6,474	-----	-----
Leather and leather products.....	2	1,016,385	20	441
Stone, clay, and glass products.....	4	235,568	16	-----
Primary metal industries.....	5	2,474,129	209	29
Fabricated metal products (except ordnance, machinery, and transportation equipment).....	4	1,052,431	150	-----
Machinery (except electrical).....	8	2,847,440	214	50
Electrical machinery, equipment, and supplies.....	3	17,754	146	-----
Transportation equipment.....	9	16,662,245	1,422	171
Professional, scientific, and controlling instruments; photographic and optical goods, watches and clocks.....	28	2,178,688	421	-----
Miscellaneous manufacturing industries.....	3	519,273	16	311
Subtotal.....	305	62,731,236	5,483	3,396
<b>E. Transportation, communication, and other public utilities:</b>				
Railroads.....	3	869,568	6	-----
Local and interurban railways and bus lines.....	4	330,616	12	-----
Trucking and warehousing.....	4,753	308,043,018	5,511	-----
Highway transportation, not elsewhere classified.....	17	525,294	60	-----
Water transportation.....	49	9,470,424	273	-----
Transportation by air.....	154	3,354,592	137	-----
Services incidental to transportation.....	1	15,018	6	-----
Telecommunications.....	714	20,661,748	713	-----
Utilities and sanitary services.....	366	24,824,360	602	-----
Subtotal.....	6,061	368,094,638	7,320	-----

<sup>1</sup> Information not available.

TABLE II.—Commercial activities of civilian agencies summarized by industrial group—Reported under Budget Bulletin No. 55-4—Continued

## A. GOVERNMENT OPERATED—Continued

	Number of installations	Capital assets	Number of employees	
			Civilian	Other
<b>F. Wholesale trade:</b>				
Wholesale trade, merchant wholesalers.....	7	\$9,230,393	497	-----
Wholesale trade, other than merchant wholesalers.....	6	2,000,000	6	-----
Subtotal.....	13	11,230,393	503	-----
<b>G. Retail trade:</b>				
Retail trade:				
General merchandise.....	1	500,000	4	-----
Food.....	1	182,753	2	26
Automotive dealers and gasoline service stations.....	44	287,969	30	-----
Retail trade, eating and drinking places.....	252	7,877,917	867	-----
Subtotal.....	298	8,798,639	903	26
<b>H. Finance, insurance, and real estate:</b>				
Credit agencies other than banks.....	8	( <sup>1</sup> )	46	-----
Insurance carriers.....	1	225,739	1	-----
Real estate.....	319	10,297,430	1,183	-----
Subtotal.....	328	10,523,169	1,230	-----
<b>I. Services:</b>				
Hotels, rooming houses, camps, and other lodging places.....	12	682,615	22	-----
Personal services.....	399	34,322,437	4,567	130
Miscellaneous business services.....	8,932	21,544,668	32,336	8
Automobile repair services and garages.....	498	13,643,356	4,154	-----
Miscellaneous repair services.....	216	13,166,934	3,395	944
Radio broadcasting (including facsimile broadcasting) and television.....	14	16,527,899	143	-----
Motion pictures.....	9	641,039	67	-----
Amusement and recreation services, except motion pictures.....	1	5,313	2	-----
Medical and other health services.....	52	4,007,062	388	15
Legal services.....	1	2,260	6	-----
Educational services.....	48	2,231,729	172	3
Miscellaneous services.....	668	13,580,051	7,928	-----
Subtotal.....	10,850	125,354,353	53,175	1,100
Total, Government operated.....	18,964	760,655,575	92,320	4,524

## B. GOVERNMENT OWNED, CONTRACTOR OPERATED

<b>B. Mining: Mining and quarrying of nonmetallic minerals, except fuels.....</b>	3	\$28,910	21	-----
<b>C. Contract construction: Construction other than building construction—general contractors.....</b>	1	1,020,000	18	-----
<b>D. Manufacturing:</b>				
Ordnance and accessories.....	9	594,709,000	17,378	-----
Printing, publishing, and allied industries.....	16	1,064,000	291	-----
Chemicals and allied products.....	13	2,746,023,000	26,882	-----
Stone, clay, and glass products.....	8	2,037,000	352	-----
Primary metal products.....	1	13,184,000	600	-----
Subtotal.....	47	3,357,017,000	45,503	-----
<b>E. Transportation, communication, and other public utilities:</b>				
Trucking and warehousing.....	69	14,080,844	1,216	-----
Transportation by air.....	3	188,000	5	-----
Telecommunications.....	3	5,350,000	93	-----
Utilities and sanitary services.....	38	148,317,000	770	-----
Subtotal.....	113	167,935,844	2,084	-----
<b>G. Retail trade: Retail trade—eating and drinking places.....</b>	6	1,192,904	71	-----
<b>H. Finance, insurance, and real estate: Real estate.....</b>	2	165,000	-----	-----

<sup>1</sup> Information not available.

## FEDERAL EXPENDITURE POLICY

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TABLE II.—Commercial activities of civilian agencies summarized by industrial group—Reported under Budget Bulletin No. 55-4—Continued

## B. GOVERNMENT OWNED, CONTRACTOR OPERATED—Continued

	Number of installations	Capital assets	Number of employees	
			Civilian	Other
<b>I. Services:</b>				
Personal services.....	18	\$2,061,000	243	-----
Miscellaneous business services.....	65	459,406,000	17,636	-----
Automobile repair services and garages.....	23	11,082,000	913	-----
Miscellaneous repair services.....	27	26,286,000	2,918	-----
Medical and other health services.....	1	2,351,000	260	-----
Subtotal.....	129	501,186,000	21,970	-----
Total, Government owned, contractor operated.....	301	4,028,545,658	69,667	-----
Grand total.....	19,265	4,789,201,233	161,987	4,524

<sup>1</sup> Information not available.

TABLE III.—Manufacturing activities of the Department of Defense summarized by organization unit—Reported under Budget Bulletin No. 55-4

## A. GOVERNMENT OPERATED

	Number of installations	Capital assets	Number of employees	
			Civilian	Other
Department of the Army.....	158	\$400,185,058	31,422	218
Department of the Navy.....	156	1,766,832,189	133,697	3,317
Department of the Air Force.....	43	2,436,913	986	37
Total, Government operated.....	357	2,229,454,160	166,105	3,572

## B. GOVERNMENT OWNED, CONTRACTOR OPERATED

Department of the Army.....	35	\$2,331,884,594	-----	-----
Department of the Navy.....	41	1,061,810,884	-----	-----
Department of the Air Force.....	30	808,002,768	-----	-----
Total, Government owned, contractor operated.....	106	4,191,698,246	-----	-----

## C. GOVERNMENT PARTLY OWNED, CONTRACTOR OPERATED

Department of the Army.....	3	\$28,490,542	-----	-----
Department of the Navy.....	27	202,611,148	-----	-----
Department of the Air Force.....	13	422,535,240	-----	-----
Total, Government partly owned, contractor operated.....	43	653,636,930	-----	-----
Grand total.....	506	7,074,789,336	166,105	3,572

TABLE IV.—*Manufacturing activities of the Department of Defense summarized by industrial group—Reported under Budget Bulletin No. 55-4*

## A. GOVERNMENT OPERATED

	Number of installations	Capital assets	Number of employees	
			Civilian	Other
Ordnance and accessories.....	35	\$657,795,846	45,687	210
Food and kindred products.....	84	1,601,220	69	71
Textile mill products.....	1	( <sup>1</sup> )	( <sup>1</sup> )	-----
Apparel and other finished products made from fabrics, and similar materials.....	8	1,188,132	546	-----
Lumber and wood products (except furniture).....	78	7,838,871	3,183	21
Paper and allied products.....	28	1,209,577	94	-----
Chemicals and allied products.....	17	4,678,386	187	2
Rubber products.....	4	233,437	16	-----
Leather and leather products.....	1	150,000	185	-----
Primary metal industries.....	16	10,726,069	298	-----
Fabricated metal products (except ordnance, machinery, and transportation equipment).....	20	18,368,106	990	1
Machinery (except electrical).....	10	7,896,377	450	1
Transportation equipment.....	15	1,512,109,184	113,762	3,188
Professional, scientific and controlling instruments; photographic and optical goods; watches and clocks.....	18	( <sup>1</sup> )	( <sup>1</sup> )	-----
Miscellaneous manufacturing industries.....	22	6,159,955	648	78
<b>Total, Government operated.....</b>	<b>357</b>	<b>2,229,454,160</b>	<b>166,105</b>	<b>3,572</b>

## B. GOVERNMENT OWNED, CONTRACTOR OPERATED

Ordnance and accessories.....	48	\$1,687,852,978	-----	-----
Chemicals and allied products.....	12	1,140,067,886	-----	-----
Primary metal industries.....	2	40,354,680	-----	-----
Machinery (except electrical).....	2	45,928,056	-----	-----
Electrical machinery, equipment, and supplies.....	1	2,367,497	-----	-----
Transportation equipment.....	39	1,246,128,052	-----	-----
Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks.....	2	28,999,097	-----	-----
<b>Total, Government owned, contractor operated.....</b>	<b>106</b>	<b>4,191,698,246</b>	-----	-----

## C. GOVERNMENT PARTLY OWNED, CONTRACTOR OPERATED

Ordnance and accessories.....	3	\$28,490,542	-----	-----
Primary metal industries.....	4	44,689,741	-----	-----
Electrical machinery, equipment, and supplies.....	1	4,137,387	-----	-----
Transportation equipment.....	35	576,319,260	-----	-----
<b>Total, Government partly owned, contractor operated.....</b>	<b>43</b>	<b>653,636,930</b>	-----	-----
<b>Grand total.....</b>	<b>506</b>	<b>7,074,789,336</b>	<b>166,105</b>	<b>3,572</b>

<sup>1</sup> Information not available.

## FEDERAL EXPENDITURE POLICY

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TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4

## A. GOVERNMENT OPERATED, CIVILIAN AGENCIES

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
01	Farms:				
0115	Livestock farms (commercial): Department of the Interior: Bureau of Indian Affairs.....	20	\$1,017,637	60	-----
0116	General farms:				
	Department of Health, Education, and Welfare: Public Health Service, Bureau of Medical Services.....	2	120,774	132	-----
	Department of the Interior: Bureau of Indian Affairs.....	15	987,685	64	-----
	Subtotal.....	17	1,108,459	196	-----
0121	Noncommercial farms:				
	Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	1	64,234	10	-----
	Department of Justice: Bureau of Prisons.....	23	4,674,352	116	-----
	Veterans' Administration: Department of Medicine and Surgery.....	21	2,085,395	107	-----
	Subtotal.....	45	6,823,981	233	-----
	Total, farms.....	82	8,950,077	489	-----
07	Agricultural services and hunting and trapping:				
0729	Animal husbandry services, not elsewhere classified:				
	Department of Agriculture: Agricultural Research Service.....	2	156,000	18	-----
	Department of Health, Education, and Welfare: Public Health Service, Bureau of State Services.....	1	14,117	3	-----
	Subtotal.....	3	170,117	21	-----
0731	Horticultural services:				
	Department of Agriculture: Agricultural Research Service.....	2	11,109	9	-----
	Department of Commerce: National Bureau of Standards.....	2	36,021	11	-----
	Department of Health, Education, and Welfare: Public Health Service, National Institutes of Health.....	1	66,340	35	-----
	Department of the Interior: Bureau of Reclamation.....	1	12,000	4	-----
	Subtotal.....	6	125,470	59	-----
	Total, agricultural services and hunting and trapping.....	9	295,587	80	-----
08	Forestry:				
0811	Timber tracts: Department of the Interior: Bureau of Land Management.....	11	-----	42	-----
0821	Forest nurseries:				
	Department of Agriculture: Forest Service.....	13	1,950,223	140	-----
	Tennessee Valley Authority.....	1	104,644	21	-----
	Subtotal.....	14	2,054,867	161	-----
0831	Reforestation: Department of the Interior: Bureau of Reclamation.....	1	3,500	12	-----
	Total, forestry.....	26	2,058,367	215	-----
10	Metal mining:				
1081	Metal mining contract services: Department of the Interior: Bureau of Mines.....	8	2,353,561	24	-----

\*Standard Industrial Classification Manual.

TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
14	Mining and quarrying of nonmetallic minerals, except fuels:				
1423	Crushed and broken granite: Department of the Interior: Bureau of Reclamation.....	2	\$8,000	3	-----
1441	Sand and gravel: Department of the Interior: Bureau of Reclamation.....	1	10,000	7	-----
	Total, mining and quarrying of nonmetallic minerals, except fuels.....	3	18,000	10	-----
15	Building construction, general contractors:				
1511	General building contractors:				
	Department of Agriculture: Agricultural Research Service.....	1	103,483	150	-----
	Department of Commerce: Civil Aeronautics Administration.....	17	219,417	950	-----
	National Bureau of Standards.....	2	979,997	187	-----
	Subtotal.....	19	1,199,414	1,187	-----
	Department of the Interior:				
	Bureau of Indian Affairs.....	5	796,806	64	-----
	Bureau of Land Management.....	3	100,000	-----	-----
	Bureau of Reclamation.....	21	1,610,535	146	-----
	Office of Territories.....	10	184,000	42	-----
	Subtotal.....	39	2,691,401	252	-----
	Treasury Department:				
	Office of the Secretary, Office of Admin- istrative Services.....	1	24,808	64	-----
	Bureau of Engraving and Printing.....	1	86,063	44	-----
	Subtotal.....	2	110,871	108	-----
	General Services Administration: Public Buildings Service.....	82	79,477	91	-----
	National Advisory Committee for Aeronau- tics.....	5	1,138,000	412	-----
	Veterans' Administration:				
	Office of Assistant Administrator for Construction.....	176	-----	144	-----
	Department of Medicine and Surgery.....	88	5,134,985	1,582	-----
	Subtotal.....	264	5,134,985	1,726	-----
	Total, building construction, general contractors.....	412	10,457,631	3,876	-----
16	Construction, other than building construction, general contractors:				
1611	Highway and street construction (except ele- vated highways):				
	Department of Agriculture:				
	Agricultural Research Service.....	1	19,072	7	-----
	Forest Service.....	149	10,600,000	2,900	-----
	Subtotal.....	150	10,619,072	2,907	-----
	Department of the Interior:				
	Bureau of Indian Affairs.....	105	4,000,000	593	-----
	Bureau of Reclamation.....	8	175,090	54	-----
	Subtotal.....	113	4,175,090	647	-----
	General Services Administration: Public Buildings Service.....	3	136,700	15	-----
	Subtotal.....	266	14,980,862	3,569	-----

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TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

## A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SICM* Code	Industry	Number of installations	Capital assets	Number of employees	
				Civilian	Other
16 1621	Construction, etc.—Continued Heavy construction, except highway and street construction: Department of Defense: Civil functions, Corps of Engineers.....	78	\$96,837,000	3,178	-----
	Department of the Interior: Bureau of Indian Affairs.....	47	3,746,108	108	-----
	Bureau of Reclamation.....	4	430,050	46	-----
	Subtotal.....	51	4,176,758	154	-----
	Department of State: International Boundary and Water Commission.....	1	63,163	15	-----
	Tennessee Valley Authority.....	48	30,347,000	11,102	-----
	Subtotal.....	178	131,423,921	14,444	-----
	Total, construction, other than building construction-general contractors.....	444	146,354,783	18,013	-----
17 1700	Construction, special trade contractors: Maintenance: Department of the Interior: Bureau of Indian Affairs.....	86	1,156,984	356	-----
1711	Plumbing, heating, and air conditioning: Department of Agriculture: Agricultural Research Service.....	2	36,207	11	-----
	Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	1	26,040	45	-----
	Department of the Interior: Bureau of Mines.....	3	18,471	14	-----
	Bonneville Power Administration.....	(1)	(1)	(1)	-----
	Treasury Department: Bureau of Engraving and Printing.....	1	(1)	63	-----
	General Services Administration: Public Buildings Service.....	1	7,272	18	-----
	Subtotal.....	8	87,990	151	-----
1721	Painting, paperhanging, and decorating: Department of Agriculture: Agricultural Research Service.....	1	19,995	3	-----
	Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	1	19,872	20	-----
	Department of the Interior: Bonneville Power Administration.....	(1)	(1)	(1)	-----
	General Services Administration: Public Buildings Service.....	(9) (7)	4,264 (20,200)	75 (6)	-----
	Subtotal.....	11	43,781	98	-----
1731	Electrical work: Department of Health, Education and Welfare: St. Elizabeths Hospital.....	1	27,135	28	-----
	Department of the Interior: Bureau of Mines.....	2	185,625	27	-----
	Bonneville Power Administration.....	(1)	(1)	(1)	-----
	Treasury Department: Bureau of Engraving and Printing.....	1	1,251,956	73	-----
	Subtotal.....	4	1,464,716	128	-----
1741	Masonry, stonemasonry, and other stonework: General Services Administration: Public Buildings Service.....	1	8,783	29	-----
1742	Plastering and lathing: General Services Administration: Public Buildings Service.....	(1) (1)	(1) (1)	(1) (1)	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.



TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

## A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
17	Construction, etc.—Continued				
1751	Carpentering:				
	Department of Agriculture: Forest Service.....	1		12	
	Department of the Interior:				
	Bureau of Mines.....	2	\$27,033	6	
	Bonneville Power Administration.....	(1)	(1)	(1)	
	General Services Administration: Public Buildings Service.....	1	53,500	3	
	Subtotal.....	4	80,533	21	
1761	Roofing and sheet-metal work:				
	Department of the Interior: Bonneville Power Administration.....	(1)	(1)	(1)	
	General Services Administration: Public Buildings Service.....	1	10,572	16	
1781	Water-well drilling: Department of the Interior:				
	Bureau of Reclamation.....	1	10,000		
1791	Structural-steel erection: Department of Com- merce: Coast and Geodetic Survey.....	8	335,512	111	
1799	Special trade contractors, not elsewhere classi- fied: Treasury Department: Bureau of En- graving and Printing.....	1	235,320	90	
	Total, construction, special trade contractors.....	125	3,437,141	900	
19	Ordnance and accessories:				
1929	Ammunition, not elsewhere classified: Tennes- see Valley Authority.....	1		550	
20	Food and kindred products:				
2011	Meatpacking, wholesale: Department of Health, Education, and Welfare: Public Health Ser- vice, Bureau of Medical Services.....	1	26,157	3	
2024	Ice cream and ices:				
	Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	1	17,494	3	
	Veterans' Administration: Department of Medicine and Surgery.....	15	160,574	11	
	Subtotal.....	16	178,068	14	
2033	Canned fruits, vegetables, and soups; preserves, jams, and jellies: Department of Justice: Federal Prison Industries, Inc.....	2	506,749	4	144
2042	Prepared feeds for animals and fowls: Depart- ment of Agriculture: Agricultural Research Service.....	1	186,397	5	
2051	Bread and other bakery products (except biscuit, crackers, and pretzels):				
	Department of Defense: Civil Functions, United States Soldiers' Home.....	1	(1)	7	
	Department of Health, Education, and Welfare:				
	Public Health Service: Bureau of Medical Services.....	2	22,642	15	
	St. Elizabeths Hospital.....	1	74,699	10	
	Subtotal.....	3	97,341	25	
	Department of the Interior: Bureau of Indian Affairs.....	28	437,477	38	
	Veterans' Administration: Department of Medicine and Surgery.....	51	1,749,155	209	
	Subtotal.....	83	2,283,973	279	

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

## A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
20	Food, etc—Continued				
2097	Manufactured ice:				
	Department of Health, Education, and Welfare: Public Health, Service, Bureau of Medical Services.....	5	\$38,603	2	-----
	Veterans' Administration: Department of Medicine and Surgery.....	3	27,100	1	-----
		8	65,703	3	-----
	Total, food and kindred products.....	111	3,247,037	308	144
22	Textile mill products:				
2231	Broad-woven fabric mills:				
	Cotton, silk, and synthetic fiber: Depart- ment of Justice: Federal Prison Indus- tries, Inc.....	1	2,614,447	40	598
2232	Woolen and worsted: Department of Justice: Federal Prison Industries, Inc.....	1	1,876,520	13	164
	Total, textile mill products.....	2	4,490,967	53	762
23	Apparel and other finished products made from fabrics and similar materials:				
2300	Garment factory: Department of the Interior: Bureau of Indian Affairs.....	1	28,200	28	-----
2321	Men's, youths', and boys' shirts (except work shirts), collars, and nightwear: Department of Justice: Federal Prison Industries, Inc.....	1	346,916	3	58
	Veterans' Administration: Department of Medicine and Surgery.....	1	6,009	1	-----
	Subtotal.....	2	352,925	4	58
2327	Men's, youths', and boys' separate trousers: Department of Justice: Federal Prison Indus- tries, Inc.....	1	21,246	3	62
2328	Work shirts: Department of Justice: Federal Prison Industries, Inc.....	1	102,657	8	86
2320	Men's, youths', and boys' work, sport, and other clothing, not elsewhere classified: De- partment of Justice: Federal Prison Indus- tries, Inc.....	3	125,572	7	172
2330	Women's and misses' outerwear: Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	1	91,606	10	-----
2334	Household apparel: Department of Health, Education, and Welfare: Public Health Service—Bureau of Medical Services.....	2	46,553	142	-----
	St. Elizabeths Hospital.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	-----
2341	Women's, misses', children's, and infants' under- wear and nightwear: Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	-----
2382	Work gloves and mittens (fabric, fabric and leather combined): Department of Justice: Federal Prison Industries, Inc.....	2	84,086	6	83
2392	Housefurnishings (except curtains and dra- peries): Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	-----
2393	Textile bags: Post Office Department: Bureau of Facilities.....	1	367,131	79	-----
2394	Canvas products: Department of Justice: Fed- eral Prison Industries, Inc.....	1	65,087	3	63
	Total, apparel and other finished products made from fabrics and similar materials.....	15	1,285,063	290	524

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
24 2411	Lumber and wood products (except furniture): Logging camps and logging contractors: De- partment of the Interior: Bureau of Indian Affairs.....	2	\$311,507	215	-----
2421	Sawmills and planing mills, general: Department of the Interior: Bureau of Indian Affairs.....	3	1,449,871	317	-----
	Department of Justice: Federal Prison In- dustries, Inc.....	1	114,489	4	90
	Subtotal.....	4	1,564,360	321	90
2499	Wooden products, not elsewhere classified: Department of Justice: Federal Prison In- dustries, Inc.....	1	46,121	1	35
	Total, lumber and wood products (except furniture).....	7	1,921,988	537	125
25	Furniture and fixtures:				
2515	Mattresses and bedsprings: Department of Justice: Federal Prison Industries, Inc.....	1	63,892	2	41
2521	Wood office furniture: Department of Justice: Federal Prison Industries, Inc.....	3	902,825	36	368
2532	Professional furniture: Department of Com- merce: Coast and Geodetic Survey.....	1	8,275	3	-----
2541	Partitions, shelving, lockers, and office and store fixtures: Department of Commerce: Bureau of the Census.....	1	8,795	2	-----
	Department of Justice: Federal Prison In- dustries, Inc.....	2	1,202,356	42	355
	Subtotal.....	3	1,211,151	44	355
	Total, furniture and fixtures.....	8	2,184,143	85	764
26	Paper and allied products:				
2699	Converted paper products, not elsewhere classi- fied: Department of Justice: Federal Prison In- dustries, Inc.....	1	710	1	13
27	Printing, publishing, and allied industries:				
2732	Book printing: Department of Agriculture: Office of Plant and Operations.....	(1)	(1)	(1)	-----
	National Advisory Committee for Aero- nautics.....	3	309,000	54	-----
2741	Miscellaneous publishing: Department of Agriculture: Forest Service... Department of Commerce: Coast and Geo- detic Survey.....	1	10,000	30	-----
	Department of Commerce: Coast and Geo- detic Survey.....	1	85,283	18	-----
	Subtotal.....	2	95,283	48	-----
2751	Commercial printing: Department of Agriculture: Office of Plant and Operations.....	(1)	(1)	(1)	-----
	Department of Defense: Civil Functions: Corps of Engineers.....	23	292,000	70	-----
	Department of Health, Education, and Welfare: Public Health Service, Bureau of Medical Services.....	1	34,989	17	-----
	Department of the Interior: Bureau of Indian Affairs.....	5	310,200	14	-----
	Bureau of Mines.....	1	7,090	1	-----
	Subtotal.....	6	317,290	15	-----
	Department of Justice: Federal Prison In- dustries, Inc.....	3	343,101	9	64
	Post Office Department: Bureau of Post Office Operations.....	8	29,000	16	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
27	Printing, etc.—Continued				
	Commercial printing—Continued				
	General Services Administration: Office of the Administrator, Office of Management	1	\$41, 327	27	-----
	Atomic Energy Commission.....	1	154, 000	59	-----
	Federal Civil Defense Administration.....	1	10, 286	6	-----
	Federal Deposit Insurance Corporation.....	1	21, 212	7	-----
	Federal Trade Commission.....	1	53, 395	6	-----
	Subtotal.....	46	1, 296, 570	232	64
2761	Lithographing:				
	Department of Agriculture:				
	Soil Conservation Service.....	7	179, 000	31	-----
	Office of Plant and Operations.....	(1)	(1)	(1)	-----
	Department of Commerce:				
	Office of Publications.....	2	193, 026	68	-----
	Coast and Geodetic Survey.....	3	561, 065	113	-----
	Weather Bureau.....	1	119, 027	27	-----
	Subtotal.....	6	873, 118	208	-----
	Department of the Interior: Bureau of Recla- mation.....	2	47, 671	21	-----
	Subtotal.....	15	1, 099, 789	260	-----
2791	Typesetting: Department of Commerce: Coast and Geodetic Survey.....	1	61, 947	17	-----
2793	Photoengraving: Department of Commerce: Coast and Geodetic Survey.....	1	13, 089	76	-----
	Total, printing, publishing, and allied in- dustries.....	68	2, 875, 678	687	64
28	Chemicals and allied products:				
2819	Industrial inorganic chemicals, not elsewhere classified: Department of Defense, civil func- tions, Corps of Engineers.....	1	241, 000	4	-----
2831	Biological products:				
	Department of Agriculture: Agricultural Research Service.....	2	82, 507	9	-----
	Department of Health Education, and Welfare: Public Health Service—National Institutes of Health.....	1	20, 970	9	-----
	Veterans' Administration: Department of Medicine and Surgery.....	3	194, 959	13	-----
	Subtotal.....	6	298, 436	31	-----
2834	Pharmaceutical products:				
	Department of Health, Education, and Welfare: Public Health Service—Office of Surgeon General.....	1	17, 772	4	-----
	Veterans' Administration: Department of Medicine and Surgery.....	3	34, 720	8	-----
	Subtotal.....	4	52, 492	12	-----
2891	Printing ink: Treasury Department: Bureau of Engraving and Printing.....	1	223, 806	54	-----
2894	Glue and gelatin: Treasury Department: Bu- reau of Engraving and Printing.....	1	(1)	3	-----
2896	Compressed and liquified gases:				
	Department of Commerce: National Bu- reau of Standards.....	2	2, 457, 717	19	-----
	Department of the Interior: Bureau of Mines.....	7	14, 672, 812	231	-----
	National Advisory Committee for Aero- nautics.....	3	1, 787, 000	4	-----
	Subtotal.....	12	18, 897, 529	254	-----
	Total, chemicals and allied products.....	25	19, 713, 263	368	-----

<sup>1</sup> Information not available.

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
30 3099	Rubber products: Rubber industries, not elsewhere classified: Department of Justice: Federal Prison In- dustries, Inc.....	1	\$6, 474	-----	-----
31 3140	Leather and leather products: Footwear: Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	1	120, 704	2	-----
3141	Footwear (except house slippers and rubber footwear): Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	-----
	Department of Justice: Federal Prison In- dustries, Inc.....	1	895, 681	18	441
	Total, leather and leather products.....	2	1, 016, 385	20	441
32 3229	Stone, clay, and glass products: Pressed and blown glassware, not elsewhere classified: Department of Agriculture: Agricultural Research Service.....	2	16, 364	2	-----
	Department of Commerce: National Bu- reau of Standards.....	2	219, 204	14	-----
	Total, stone, clay, and glass products...	4	235, 568	16	-----
33 3313	Primary metal industries: Electrometallurgical products: Department of the Interior: Bureau of Mines.....	2	2, 312, 022	200	-----
3321	Gray-iron foundries: Department of Justice: Federal Prison Industries, Inc.....	1	72, 107	3	29
3361	Nonferrous foundries: National Advisory Com- mittee for Aeronautics.....	2	90, 000	6	-----
	Total, primary metal industries.....	5	2, 474, 129	209	29
34 3429	Fabricated metal products (except ordnance, ma- chinery, and transportation equipment): Hardware, not elsewhere classified: Post Office Department: Bureau of Facilities.....	1	212, 179	78	-----
3443	Boiler shop products: Department of the Interior: Bureau of Mines.....	1	521, 327	33	-----
3463	Treasury Department: U. S. Coast Guard..	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	-----
3468	Stamped and pressed metal products (except automobile stampings): Post Office Depart- ment: Bureau of Facilities.....	1	379, 093	36	-----
	Electroplating, plating and polishing: Depart- ment of Commerce: National Bureau of Standards.....	1	39, 832	3	-----
	Total, fabricated metal products (except ordnance, machinery, and transportation equipment).....	4	1, 052, 431	150	-----
35 3543	Machinery (except electrical): Machine-tool accessories, other metalworking- machinery accessories, and machinists' pre- cision tools: Department of Justice: Federal Prison Industries, Inc.....	1	285, 754	10	32
	Post Office Department: Bureau of Facili- ties.....	1	216, 421	15	-----
	Subtotal.....	2	502, 175	25	32

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

## A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
35	Machinery—Continued				
3599	Machine shops (jobbing and repair):				
	Department of Commerce: National Bureau of Standards.....	2	\$1,603,836	130	-----
	Department of the Interior: Bonneville Power Administration.....	2	670,388	56	-----
	Department of Justice: Federal Prison Industries, Inc.....	1	4,861	2	18
	Department of State.....	1	66,180	1	-----
	Subtotal.....	6	2,345,265	189	18
	Total, machinery (except electrical).....	8	2,847,440	214	50
36	Electrical machinery, equipment, and supplies:				
3616	Switchgear, switchboard apparatus, and industrial control: Department of the Interior: Bonneville Power Administration.....	1	17,754	67	-----
3661	Communications equipment and related products: Department of Commerce: Civil Aeronautics Administration.....	2	-----	79	-----
	Total, electrical machinery, equipment, and supplies.....	3	17,754	146	-----
37	Transportation equipment:				
3731	Ship building and repairing:				
	Department of the Interior:				
	Fish and Wildlife Service.....	1	50,000	9	-----
	Office of Territories.....	6	73,136	-----	-----
	Subtotal.....	7	123,136	9	-----
	Treasury Department: United States Coast Guard.....	1	11,762,000	1,412	124
	Subtotal.....	8	11,885,136	1,421	124
3732	Boat building and repairing:				
	Department of Justice: Federal Prison Industries, Inc.....	1	59,065	1	47
	Treasury Department: United States Coast Guard.....	(1)	(1)	(1)	(1)
3742	Railroad and streetcars: Department of the Interior: Bureau of Mines.....	(1)	4,718,044	-----	-----
	Total, transportation equipment.....	9	16,662,245	1,422	171
38	Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks:				
3811	Laboratory, scientific, and engineering instruments (except surgical, medical, and dental):				
	Department of Commerce: Coast and Geodetic Survey.....	1	44,019	10	-----
	National Advisory Committee for Aeronautics.....	4	1,498,000	183	-----
	Subtotal.....	5	1,542,019	193	-----
3831	Optical instruments and lenses:				
	Department of Commerce: National Bureau of Standards.....	1	84,054	6	-----
3841	Surgical and medical instruments: Department of Health, Education, and Welfare: Public Health Service, Bureau of Medical Services.....	1	9,779	1	-----
3842	Surgical and orthopedic appliances and supplies; and personal safety devices, not elsewhere classified: Veterans' Administration: Department of Medicine and Surgery.....	21	542,836	221	-----
	Total, professional, scientific, and controlling instruments; photographic and optical goods, watches and clocks.....	28	2,178,688	421	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SIOM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
39 3981	Miscellaneous manufacturing industries: Brooms and brushes: Department of Justice: Federal Prison Industries, Inc.....	3	\$519, 273	16	311
40 4013	Railroads: Switching and terminal companies: Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	1	41, 368	2	-----
	Department of the Interior: Bureau of Reclamation.....	1	754, 000	3	-----
	General Services Administration: Federal Supply Service.....	1	74, 200	1	-----
	Public Buildings Service.....	(1)	(894, 000)	(8)	-----
	Total, railroads.....	3	869, 568	6	-----
41 4151	Local and interurban railways and buslines: Local buslines, not operating railways: Department of Health, Education, and Welfare: Social Security Administration, Bureau of Old-Age and Survivors Insur- ance.....	1	6, 911	7	-----
	General Services Administration: Federal Supply Service.....	2	313, 705	2	-----
	National Advisory Committee for Aeronau- tics.....	1	10, 000	3	-----
	Total, local and interurban railways and buslines.....	4	330, 616	12	-----
42 4200	Trucking and warehousing: Trucking and warehousing: Department of the Interior: Office of Territories.....	15	510, 000	32	-----
4212	Local trucking and draying: Department of the Interior: Bureau of In- dian Affairs.....	(1)	1, 707, 277	178	-----
	Post Office Department: Bureau of Facili- ties.....	(1)	39, 362, 000	(1)	-----
	Department of State.....	1	35, 788	17	-----
	Treasury Department: Bureau of Engraving and Printing.....	1	58, 283	21	-----
	Bureau of the Public Debt.....	3	11, 565	2	-----
	Subtotal.....	4	69, 848	23	-----
	General Services Administration: Federal Supply Service.....	5	499, 329	62	-----
	Public Buildings Service.....	(1)	75, 000	300	-----
	Subtotal.....	6	574, 329	362	-----
	National Advisory Committee for Aeronau- tics.....	3	111, 000	32	-----
	Veterans' Administration: Assistant Administrator for Adminis- tration.....	1	19, 110	10	-----
	Department of Medicine and Surgery..	56	1, 210, 995	275	-----
	Department of Veterans' Benefits.....	1	5, 599	-----	-----
	Subtotal.....	58	1, 235, 704	285	-----
	United States Information Agency: Office of Administration.....	2	27, 225	-----	-----
	Media Services: Press Service.....	1	7, 375	-----	-----
	Broadcasting Service.....	1	16, 250	-----	-----
	Subtotal.....	4	50, 850	-----	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SIOM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
42	Trucking and warehousing—Continued				
4212	Local trucking and draying—Continued				
	Department of Health, Education, and Welfare:				
	Public Health Service:				
	Bureau of Medical Services.....	5	\$53,889	7	-----
	National Institutes of Health.....	1	93,600	18	-----
	Social Security Administration, Bureau of Old-Age and Survivors Insurance..	1	15,811	7	-----
	St. Elizabeths Hospital.....	1	50,665	25	-----
	Subtotal.....	8	213,965	57	-----
	Total, local trucking and draying....	84	43,360,761	954	-----
4213	Trucking, except local:				
	Department of Health, Education, and Welfare: Public Health Service, Bureau of Medical Services.....	1	8,715	1	-----
	Post Office Department:				
	Bureau of Transportation.....	23	1,001,700	53	-----
	Bureau of Facilities.....	(1)	2,687,000	(1)	-----
	Subtotal.....	23	3,688,700	53	-----
	General Services Administration: Federal Supply Service.....	1	13,000	2	-----
	National Advisory Committee for Aero- nautics.....	2	36,000	2	-----
	Subtotal.....	27	3,746,415	58	-----
4221	Farm product warehousing and storage:				
	Department of Agriculture: Commodity Stabilization Service.....	4,531	197,975,000	3,120	-----
	Department of Commerce: Maritime Ad- ministration.....	4	(1)	22	-----
	General Services Administration: Emer- gency Procurement Service.....	10	4,940,097	119	-----
	Subtotal.....	4,545	240,915,097	3,261	-----
4233	Food lockers, with or without food-preparation facilities: Veterans' Administration: Depart- ment of Medicine and Surgery.....	1	73,528	3	-----
4251	Special warehousing and storage, not elsewhere classified:				
	Department of Commerce: Bureau of Pub- lic Roads.....	(5)	(450,052)	(19)	-----
	General Services Administration:				
	Federal Supply Service.....	4	1,208,045	49	-----
	Emergency Procurement Service.....	2	403,749	20	-----
	Public Buildings Service.....	(6)	(61,388)	(20)	-----
	Subtotal.....	4		70	-----
	Subtotal.....	10	1,611,794	139	-----
4291	General warehousing and storage:				
	Department of Agriculture: Agricultural Research Service.....	1	59,430	1	-----
	Department of Commerce:				
	Civil Aeronautics Administration.....	12	634,656	149	-----
	National Bureau of Standards.....	2	242,146	36	-----
	Weather Bureau.....	6	16,121	11	-----
	Subtotal.....	20	892,923	196	-----
	Department of Health, Education, and Welfare: Public Health Service, Office of Surgeon General.....	1	52,146	16	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.



**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SIOM* Code	Industry	Number of installations	Capital assets	Number of employees	
				Civilian	Other
42	Trucking and warehousing—Continued				
4291	General warehousing and storage—Continued				
	Department of the Interior:				
	Bureau of Land Management.....	1	\$36,650		
	National Park Service.....	13	566,961	42	
	Office of Territories.....	4	79,737		
	Subtotal.....	18	683,348	42	
	General Services Administration:				
	Federal Supply Service.....	26	14,747,801	727	
	Public Buildings Service.....	4	1,211,775	79	
		(8)	(1,091,134)	(55)	
	Subtotal.....	30	15,959,576	806	
	Atomic Energy Commission.....	1	173,000	3	
	Subtotal.....	71	17,825,423	1,064	
	Total, trucking and warehousing.....	4,753	308,043,018	5,511	
43	Highway transportation, not elsewhere classified:				
4311	Business, except local: Department of Justice:				
	Bureau of Prisons.....	6	120,000	16	
	Immigration and Naturalization Service.....	7	349,510	22	
	Subtotal.....	13	469,510	38	
4321	School buses: Veterans' Administration: Department of Medicine and Surgery.....	2	21,500	2	
4331	Taxis:				
	Department of State.....	1	20,762	9	
	General Services Administration: Federal Supply Service.....	1	13,522	11	
	Subtotal.....	2	34,284	20	
	Total, highway transportation, not elsewhere classified.....	17	525,294	60	
44	Water transportation:				
4412	Overseas foreign transportation: Department of Commerce: Maritime Administration.....	(1)	(1)	(1)	
4421	Transportation to noncontiguous territories: Department of the Interior:				
	Bureau of Indian Affairs.....	1	1,500,000	44	
	Fish and Wildlife Service.....	23	4,000,000	164	
	Subtotal.....	24	5,500,000	208	
4431	Great Lakes transportation: Department of the Interior: National Park Service.....	1	350,000	2	
4441	Transportation on rivers and canals: Department of Commerce: Civil Aeronautics Administration.....	1			
	Department of the Interior: Office of Territories.....	14	2,216,025		
	Subtotal.....	15	2,216,025		
4452	Ferries: Department of the Interior: Bureau of Indian Affairs.....	1	43,974	8	
	Department of Justice: Bureau of Prisons.....	2	533,603	14	
	National Advisory Committee for Aeronautics.....	1	282,000	5	
	Subtotal.....	4	809,577	27	
4453	Lighterage: Department of Health, Education, and Welfare: Public Health Service, Bureau of Medical Services.....	5	594,822	36	
	Total, water transportation.....	49	9,470,424	273	

<sup>1</sup> Information not available.

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TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

## A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
45	Transportation by air:				
4513	Uncertified carriers:				
	Department of Defense: Civil functions, Corps of Engineers.....	1	\$233,000	3	-----
	National Advisory Committee for Aero- nautics.....	4	505,000	14	-----
	Subtotal.....	5	738,000	17	-----
4521	Air carriage, except common carriers:				
	Department of Commerce: Civil Aero- nautics Administration.....	3	613,000	4	-----
	Department of the Interior:				
	Bureau of Reclamation.....	4	78,592	5	-----
	Fish and Wildlife Service.....	22	760,000	50	-----
	Subtotal.....	26	838,592	55	-----
	Department of Justice: Immigration and Naturalization Service.....	2	1,165,000	21	-----
	Subtotal.....	31	2,616,592	80	-----
4582	Airports and flying fields: Department of Commerce: Civil Aeronautics Administra- tion.....	118		40	-----
	Total, transportation by air.....	154	3,354,592	137	-----
47	Services incidental to transportation:				
4789	Services incidental to transportation, not else- where classified: Department of Agriculture: Office of Plant and Operations.....	1	15,018	6	-----
48	Telecommunications:				
4811	Telephone communications (wire or radio):				
	Department of Agriculture: Forest Service.....	149	13,757,000	350	-----
	Department of Defense: Civil Functions: Corps of Engineers.....	3	81,000		-----
	Department of Health, Education, and Welfare:				
	Public Health Service—Bureau of Medical Services.....	1	38,795	4	-----
	St. Elizabeths Hospital.....	1	204,826		-----
	Subtotal.....	2	243,621	4	-----
	Department of the Interior:				
	Bureau of Indian Affairs.....	41	2,529,765	51	-----
	Bureau of Reclamation.....	9	685,700	17	-----
	Fish and Wildlife Service.....	22	100,000	2	-----
	National Park Service.....	20	2,863,483	39	-----
	Subtotal.....	92	6,178,948	109	-----
	National Advisory Committee for Aero- nautics.....	3	319,000	11	-----
	Veterans' Administration: Department of Medicine and Surgery.....	4	82,179	11	-----
	Subtotal.....	253	20,661,748	485	-----
4821	Telegraph communication (wire and radio):				
	Department of Agriculture: Agricultural Marketing Service.....	1		25	-----
	Department of Commerce: Civil Aero- nautics Administration.....	8		103	-----
	Subtotal.....	9		128	-----
4899	Communication services, not elsewhere clas- sified:				
	Department of Commerce: Civil Aero- nautics Administration.....	452		100	-----
	Total, telecommunications.....	714	20,661,748	713	-----

\*Standard Industrial Classification Manual.

TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SICM* Code	Industry	Number of installations	Capital assets	Number of employees	
				Civilian	Other
49	Utilities and sanitary services:				
4900	Operations and maintenance of utilities:				
	Department of Commerce: Civil Aeronautics Administration.....	4	\$54,665	49	-----
4911	Electric light and power:				
	Department of Agriculture: Agricultural Research Service.....	1	59,382	-----	-----
	Department of Defense: Civil Functions—Corps of Engineers.....	2	2,168,000	13	-----
	Department of Health, Education, and Welfare: Public Health Service—Bureau of Medical Services.....	1	-----	5	-----
	Department of the Interior:				
	Bureau of Indian Affairs.....	176	8,665,777	300	-----
	Bureau of Reclamation.....	1	27,000	-----	-----
	Bonneville Power Administration.....	90	(1)	1	-----
	Office of Territories.....	1	2,615,173	-----	-----
	Subtotal.....	268	11,307,950	301	-----
	Department of Justice, Bureau of Prisons.....	4	685,000	(1)	-----
	National Advisory Committee for Aeronautics.....	1	1,063,000	8	-----
	Tennessee Valley Authority (maintenance of transmission lines).....	1	389,000	110	-----
	Veterans' Administration: Department of Medicine and Surgery.....	1	71,500	15	-----
	Subtotal.....	279	15,693,832	452	-----
4924	Natural gas distribution: Department of the Interior: Bureau of Indian Affairs.....	2	52,000	-----	-----
4925	Manufactured gas production and distribution: Department of the Interior: Bureau of Indian Affairs.....	3	89,505	-----	-----
4941	Water supply:				
	Department of Agriculture: Agricultural Research Service.....	1	157,200	1	-----
	Department of Health, Education, and Welfare: Public Health Service—Bureau of Medical Services.....	1	-----	2	-----
	Department of Justice: Bureau of Prisons.....	10	1,108,222	5	-----
	Veterans' Administration: Department of Medicine and Surgery.....	14	1,677,833	11	-----
	Subtotal.....	26	2,943,255	19	-----
4952	Sewerage systems:				
	Department of Agriculture: Agricultural Research Service.....	1	200,000	2	-----
	Department of Health, Education, and Welfare: Public Health Service—Bureau of Medical Services.....	2	-----	14	-----
	Department of Justice: Bureau of Prisons.....	15	565,450	2	-----
	General Services Administration: Public Buildings Service.....	1	2,500,000	10	-----
	Veterans' Administration: Department of Medicine and Surgery.....	5	2,175,024	6	-----
	Subtotal.....	24	5,440,474	34	-----
4953	Refuse systems:				
	General Services Administration: Public Buildings Service.....	(1)	(1)	(1)	-----
	Veterans' Administration: Department of Medicine and Surgery.....	28	550,629	48	-----
	Total, utilities and sanitary services.....	366	24,824,360	602	-----
50	Wholesale trade, merchant wholesalers:				
6000	Stores activity—receiving, storing, and issue: General Services Administration: Federal Supply Service.....	4	680,329	87	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SICM* Code	Industry	Number of installations	Capital assets	Number of employees	
				Civilian	Other
50 5022 (5042)	Wholesale trade, merchant wholesalers—Continued Drugs, general line: (Groceries, general line) Veterans' Administration: Department of Medicine and Surgery.....	3	\$8,550,064	410	-----
	Total, wholesale trade—merchant wholesalers.....	7	9,230,398	497	-----
51 5121	Wholesale trade, other than merchant wholesalers: Petroleum bulk stations: Department of the Interior: Office of Territories.....	6	2,000,000	6	-----
53 5303	Retail trade, general merchandise: General stores: Department of the Interior: Fish and Wildlife Service.....	1	500,000	4	-----
54 5452	Retail trade, food: Milk dealers: Department of Justice: Federal Prison Industries, Inc.....	1	132,753	2	26
55	Automobile dealers and gasoline service stations:				
5541	Gasoline service stations: Department of Commerce: Bureau of Pub- lic Roads.....	(1)	(1)	(1)	-----
	Department of the Interior: Bureau of Indian Affairs.....	37	94,856	17	-----
	Bureau of Reclamation.....	6	118,113	12	-----
	Office of Territories.....	(1)	75,000	(1)	-----
	Total, automobile dealers and gasoline service stations.....	44	287,969	30	-----
58 5812	Retail trade, eating and drinking places: Eating places: Department of Commerce: Civil Aeronau- tics Administration.....	2	147,000	23	-----
	Department of Health, Education, and Welfare: Public Health Service, National Institutes of Health.....	1	53,350	34	-----
	Department of the Interior: Bureau of In- dian Affairs.....	220	2,757,475	674	-----
	Department of Justice: Bureau of Prisons.....	26	4,790,874	123	-----
	Immigration and Naturalization Service.....	3	129,218	14	-----
	Subtotal.....	29	4,920,092	137	-----
	Total retail trade, eating and drink- ing places.....	252	7,877,917	867	-----
61 6152	Credit agencies other than banks: Bond and mortgage companies: Housing and Home Finance Agency: Federal National Mortgage Association.....	6	(1)	5	-----
	Federal Housing Administration.....	1	(1)	34	-----
	Public Housing Administration.....	1	(1)	7	-----
	Total, credit agencies other than banks.....	8	(1)	46	-----
63 6309	Insurance carriers: Insurance carriers, not elsewhere classified: Treasury Department: Fiscal Service, Bureau of Accounts.....	1	225,739	1	-----
65 6512	Real estate: Operators of nonresidential buildings: National Capital Housing Authority.....	5	61,000	1	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SIOM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
65 6531	<b>Real estate—Continued</b>				
	Agents, brokers, and managers:				
	Department of Defense: Civil functions, Corps of Engineers.....	27	\$196,000	235	-----
	Department of the Interior:				
	Bureau of Reclamation.....	8	15,300	25	-----
	Fish and Wildlife Service.....	6	10,020,000	80	-----
	National Park Service.....	11		4	-----
	Bonneville Power Administration.....	1	750	5	-----
	Subtotal.....	26	10,036,050	114	-----
	General Services Administration: Public Buildings Service.....	114	(1)	(1)	-----
	Housing and Home Finance Agency:				
	Federal Housing Administration.....	122	(1)	774	-----
	Public Housing Administration.....	7	(1)	31	-----
	Subtotal.....	129	(1)	805	-----
<b>Total, agents, brokers, and managers..</b>	<b>296</b>	<b>10,232,050</b>	<b>1,154</b>	<b>-----</b>	
6541	<b>Title abstract (companies):</b>				
	Department of Agriculture: General Coun- sel.....	17	4,380	12	-----
	Tennessee Valley Authority.....	1		16	-----
	Subtotal.....	18	4,380	28	-----
	<b>Total, real estate.....</b>	<b>319</b>	<b>10,297,430</b>	<b>1,183</b>	<b>-----</b>
70 7021	<b>Hotels, roominghouses, camps, and other lodging places:</b>				
	Rooming and boardinghouses:				
	Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	1	348,497	17	-----
	Department of the Interior: Bureau of Reclamation.....	11	384,118	5	-----
Subtotal.....	12	682,615	22	-----	
72 7211	<b>Personal services:</b>				
	Power laundries:				
	Department of Defense: Civil Functions, Soldiers Home.....	1	234,000	38	-----
	Department of Health, Education, and Welfare:				
	Public Health Service:				
	Bureau of Medical Services.....	15	566,080	297	-----
	National Institutes of Health.....	1	210,420	39	-----
	St. Elizabeths Hospital.....	1	865,072	55	-----
	Subtotal.....	17	1,641,572	391	-----
	Department of the Interior: Bureau of Indian Affairs.....	88	2,740,728	180	-----
	Department of Justice:				
	Bureau of Prisons.....	26	1,666,316	34	-----
	Federal Prison Industries, Inc.....	4	461,156	12	130
Subtotal.....	30	2,127,472	46	130	
Veterans' Administration: Department of Medicine and Surgery.....	142	24,370,422	3,323	-----	
Subtotal.....	228	31,114,194	3,978	130	

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

## A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SIOM* Code	Industry	Number of installations	Capital assets	Number of employees	
				Civilian	Other
70	Personal services—Continued				
7221	Cleaning and dyeing plants, except rug cleaning: Department of Defense: Civil functions, Soldiers Home.....	1	\$121,000	3	-----
	Department of Health, Education, and Welfare: Public Health Service, Bureau of Medical Services.....	1	8,630	4	-----
	Department of the Interior: Bureau of In- dian Affairs.....	3	36,678	8	-----
	Subtotal.....	5	166,308	15	-----
7231	Photographic studies, except commercial pho- tography: Department of Health, Education, and Welfare: Public Health Service, Bureau of Medical Services.....	1	35,000	9	-----
	Department of State.....	1	40,763	4	-----
	Subtotal.....	2	75,763	13	-----
7232	Commercial photography: Department of Agriculture: Commodity Stabilization Service.....	2	317,337	203	-----
	Department of Commerce: Bureau of the Census.....	1	27,306	3	-----
	Civil Aeronautics Administration.....	2	35,280	6	-----
	Coast and Geodetic Survey.....	2	141,678	8	-----
	Patent Office.....	1	17,000	3	-----
	Bureau of Public Roads.....	1	41,535	10	-----
	National Bureau of Standards.....	1	79,319	10	-----
	Subtotal.....	8	342,118	40	-----
	Department of Defense: Civil functions, Corps of Engineers.....	22	281,000	49	-----
	Department of Health, Education, and Welfare: Public Health Service: Bureau of Medical Services.....	1	6,491	22	-----
	National Institutes of Health.....	1	73,660	16	-----
	St. Elizabeths Hospital.....	1	16,254	2	-----
	Subtotal.....	3	96,405	40	-----
	Department of the Interior: Bureau of Indian Affairs.....	1	20,000	2	-----
	Bureau of Reclamation.....	5	89,023	11	-----
	Subtotal.....	6	109,023	13	-----
	Department of Justice: Federal Bureau of Investigation.....	11	114,409	40	-----
	United States Information Agency: Press Service.....	1	70,000	17	-----
	Veterans' Administration: Department of Medicine and Surgery.....	58	1,283,901	128	-----
	Subtotal.....	111	2,614,193	530	-----
7241	Barbershops: Department of Justice: Bureau of Prisons.....	26	211,186	6	-----
7251	Shoe-repair shops, shoeshine parlors, and hat- cleaning shops: Department of Health, Education, and Welfare: St. Elizabeths Hospital.....	(1)	(1)	(1)	-----
	Department of Justice: Bureau of Prisons.....	(26)	(46,004)	(1)	-----
7262	Funeral service: Veterans' Administration: Department of Medicine and Surgery.....	1	5,573	5	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

## A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
72 7271	Personal services—Continued Pressing, alteration, and garment repair: De- partment of Justice: Bureau of Prisons.....	26	\$135,220	20	-----
	Total, personal services.....	399	24,322,437	4,567	130
73 7312	Miscellaneous business services: Outdoor advertising services: Department of Labor: Office of the Secretary General Services Administration: Public Buildings Service.....	1 1	884 8,209	6 8	----- -----
	Subtotal.....	2	9,093	14	-----
7321	Consumer credit reporting agencies, mercantile reporting agencies, and adjustment and col- lection agencies: Department of Agriculture: Office of the Solicitor..... Housing and Home Finance Agency: Fed- eral Housing Administration.....	19 57	26,350 (1)	69 144	----- -----
	Subtotal.....	76	26,350	213	-----
7331	Duplicating, addressing, mailing, mailing list, and stenographic services: Department of Agriculture: Agricultural Research Service..... Forest Service..... Commodity Stabilization Service..... Office of Plant and Operations.....	1 3 2 1	13,225 75,700 11,536 147,618	6 11 7 101	----- ----- ----- -----
	Subtotal.....	7	248,079	125	-----
	Department of Commerce: Office of the Secretary, Office of Publi- cations..... Bureau of the Census..... Civil Aeronautics Administration..... National Bureau of Standards..... Civil Aeronautics Board.....	1 1 17 2 1	48,909 29,737 26,292 51,596 18,300	14 15 18 10 8	----- ----- ----- ----- -----
	Subtotal.....	22	174,834	65	-----
	Department of Defense: Civil functions, Corps of Engineers.....	41	831,000	213	-----
	Department of Health, Education, and Welfare: Office of the Secretary, Office of Admin- istration..... Public Health Service: Bureau of State Services..... National Institutes of Health..... Social Security Administration, Bureau of Old-Age and Survivors Insurance.....	1 1 1 1	145,294 51,209 15,000 40,634	62 8 9 28	----- ----- ----- -----
	Subtotal.....	4	262,137	107	-----
	Department of the Interior: Office of the Secretary..... Bureau of Mines..... Bureau of Reclamation..... Bonneville Power Administration.....	1 1 5 1	122,622 41,490 45,249 (1) 104,568	63 22 17 (1) 26	----- ----- ----- ----- -----
	Subtotal.....	8	318,929	126	-----
	Department of Justice: Office of Alien Property..... Administrative Division..... Federal Bureau of Investigation.....	1 1 6	11,939 15,565 196,225	5 17 62	----- ----- -----
	Subtotal.....	8	223,729	84	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SIOM* Code	Industry	Number of installations	Capital assets	Number of employees	
				Civilian	Other
73 7331	Miscellaneous business services—Continued				
	Duplicating, addressing, mailing, mailing list, and stenographic services—Con.				
	Department of Labor: Office of the Secretary.....	1	\$56,604	71	
	Post Office Department:				
	Deputy Postmaster General.....	1	72,600	27	
	Bureau of Post Office Operations.....	61	594,300	181	
	Subtotal.....	62	666,900	208	
	Department of State.....	1	848,772	53	
	Treasury Department:				
	Office of the Secretary, Office of Administrative Services.....	1	20,549	17	
	Bureau of Customs.....	2	27,409	7	
	Internal Revenue Service.....	11	313,500	138	
	Fiscal Service, Bureau of the Public Debt.....	2	24,422	8	
	United States Savings Bonds Division.....	1	16,021	4	
	U. S. Coast Guard.....	2	119,947	15	8
	Federal Facilities Corporation.....	1	26,000	12	
	Subtotal.....	20	556,848	201	8
	General Services Administration:				
	Office of the Administrator, Office of Management.....	1	45,288	43	
	Staff offices.....	7	59,277	37	
	Subtotal.....	8	104,565	80	
	Bureau of the Budget.....	1	6,786	5	
	General Accounting Office.....	1	137,051	14	
	Civil Service Commission.....	11	169,107	92	
	Federal Communications Commission.....	1	32,377	25	
	Federal Power Commission.....	1	47,220	20	
	Interstate Commerce Commission.....	1	42,254	47	
	National Labor Relations Board.....	1	20,200	13	
	Railroad Retirement Board.....	1	50,191	17	
	Securities and Exchange Commission.....	1	64,582	13	
	Small Business Administration.....	1	14,375	4	
	Tennessee Valley Authority.....	3	151,073	48	
	United States Information Agency, Press Service.....	1	20,000	24	
	Veterans' Administration:				
	Assistant Administrator for Administration.....	2	322,497	147	
	Department of Medicine and Surgery.....	4	39,810	66	
	Subtotal.....	6	362,307	213	
	Total, duplicating, addressing, mailing, mailing list and stenographic services.....	212	4,889,920	1,870	
7332	Blueprinting and photostating services:				
	Department of Agriculture:				
	Library.....	1	19,319	8	
	Office of Plant and Operations.....	(1)	(1)	(1)	
	Department of Commerce:				
	Office of the Secretary, Office of Publications.....	(1)	(22,000)	(4)	
	Bureau of the Census.....	2	29,342	6	
	Civil Aeronautics Administration.....	(8)	(19,020)	(9)	
	Subtotal.....	2	29,342	6	
	Department of Defense: Civil Functions—Corps of Engineers.....	(41)	(344,000)	(79)	
Department of Health, Education, and Welfare: Social Security Administration, Bureau of Old-Age and Survivors Insurance.....	3 (1)	73,773 (13,175)	50 (6)		

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.



**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
73 7332	<b>Miscellaneous business services—Continued</b>				
	<b>Blueprinting and photostating services—Con.</b>				
	<b>Department of the Interior:</b>				
	Office of the Secretary.....	(1)	(1)	(1)	-----
	Bureau of Land Management.....	1	\$8,105	3	-----
	Bureau of Mines.....	3	44,275	11	-----
	Bureau of Reclamation.....	12	164,890	29	-----
	Bonneville Power Administration.....	(3)	(1)	(1)	-----
	.....	(1)	(1)	(1)	-----
	Subtotal.....	16	217,270	43	-----
	<b>Department of Justice:</b>				
	Administrative Division.....	(1)	(7,700)	(4)	-----
	Federal Bureau of Investigation.....	(6)	(1)	(1)	-----
	Post Office Department: Deputy Post- master General.....	(1)	(25,800)	(2)	-----
	State Department.....	(1)	(74,848)	(4)	-----
	<b>Treasury Department:</b>				
	Office of the Secretary, Office of Admin- istrative Services.....	(1)	(1)	(1)	-----
	Bureau of Customs.....	(1)	(6,858)	(2)	-----
	Internal Revenue Service.....	(1)	(1)	(1)	-----
	Fiscal Service, Bureau of the Public Debt.....	1	7,889	1	-----
	Federal Facilities Corporation.....	(1)	(6,000)	(1)	-----
	Subtotal.....	1	7,889	1	-----
	<b>General Services Administration:</b>				
	Office of the Administrator, Office of Management.....	1	45,012	10	-----
	.....	(1)	(11,301)	(5)	-----
	Staff offices.....	(3)	(3,530)	(1)	-----
	National Archives and Records Service.....	1	10,800	1	-----
	Subtotal.....	2	55,812	11	-----
	General Accounting Office.....	(1)	(80,125)	(6)	-----
	Civil Service Commission.....	(11)	(80,758)	(7)	-----
	Interstate Commerce Commission.....	(1)	(5,871)	(3)	-----
	National Advisory Committee for Aero- nautics.....	5	216,000	35	-----
	Railroad Retirement Board.....	(1)	(5,715)	(1)	-----
	Securities and Exchange Commission.....	(1)	(6,702)	(1)	-----
	Tennessee Valley Authority.....	2	128,000	32	-----
	<b>Veterans' Administration:</b>				
	Assistant Administrator for Admin- istration.....	(1)	(18,745)	(7)	-----
	Assistant Administrator for Construc- tion.....	1	60,790	11	-----
	Department of Insurance.....	1	33,838	9	-----
	Subtotal.....	2	94,618	20	-----
	<b>Total, blueprinting and photostating services.....</b>	<b>34</b>	<b>842,023</b>	<b>206</b>	<b>-----</b>
7341	<b>Window cleaning:</b>				
	General Services Administration: Public Buildings Service.....	28	-----	15	-----
7342	<b>Disinfecting and exterminating services:</b>				
	General Services Administration: Public Buildings Service.....	(1)	(1)	(1)	-----
7349	<b>Miscellaneous services to dwellings and other buildings:</b>				
	Department of Agriculture:				
	Agricultural Research Service.....	4	11,955	64	-----
	Forest Service.....	1	-----	10	-----
	Subtotal.....	5	11,955	74	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
73 7340	<b>Miscellaneous business services—Continued</b>				
	<b>Miscellaneous services to dwellings and other buildings—Continued</b>				
	Department of Commerce:				
	Civil Aeronautics Administration.....	2	\$7,719	43	-----
	National Bureau of Standards.....	2	(1) 17,971	6 48	----- -----
	Subtotal.....	6	25,690	97	-----
	Department of Defense: Civil functions, Corps of Engineers.....	5	44,000	45	-----
	Department of Health, Education, and Welfare: Bureau of Medical Services.....	15	63,809	500	-----
	Department of the Interior:				
	Bonneville Power Administration.....	(1)	(1)	(1)	-----
	Bureau of Mines.....	2	1,932	26	-----
	Bureau of Reclamation.....	6	20,900	78	-----
	Subtotal.....	8	22,832	104	-----
	Post Office Department.....	8,000	1,500,000	20,700	-----
	Treasury Department:				
	Office of the Secretary, Office of Ad- ministrative Services.....	1	8,371	74	-----
	Bureau of Engraving and Printing.....	1	24,746	446	-----
	Subtotal.....	2	33,117	520	-----
	General Services Administration: Public Buildings Service.....	308	8,658,810	6,325	-----
	Smithsonian Institution: National Gallery of Art.....	1	8,000	35	-----
	Subtotal.....	8,360	10,368,213	28,400	-----
	7351	News syndicates: United States Information Agency: Press Service.....	1		13
7371	<b>Accounting, auditing and bookkeeping services:</b>				
	Department of Agriculture:				
	Commodity Stabilization Service.....	4		10	-----
	Agricultural Marketing Service.....	5	13,345	22	-----
	Subtotal.....	9	13,345	32	-----
	Department of Commerce: Civil Aeronau- tics Administration.....	6		15	-----
	Department of Health, Education, and Welfare:				
	Office of the Secretary, Office of Ad- ministration.....	54		108	-----
	Public Health Service, National Insti- tutes of Health.....	1	4,790	12	-----
	Subtotal.....	55	4,790	120	-----
	Housing and Home Finance Agency:				
	Office of the Administrator.....	7	(1)	27	-----
	Federal National Mortgage Association.....	6	(1)	10	-----
	Home Loan Bank Board.....	11	(1)	(1)	-----
	Federal Housing Administration.....	1	(1)	10	-----
Public Housing Administration.....	22	(1)	88	-----	
Subtotal.....	47	(1)	135	-----	
Total, accounting, auditing, and bookkeeping services.....	117	18,135	302	-----	
7399	<b>Business services not elsewhere classified:</b>				
	Department of Agriculture:				
	Agricultural Research Service.....	3	17,682	17	-----
	Soil Conservation Service.....	1		7	-----
	Agricultural Marketing Service.....	1	9,534	2	-----
	Office of Information.....	1	29,302	21	-----
Subtotal.....	6	56,518	47	-----	

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SIOM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
73 7300	<b>Miscellaneous business services—Continued</b>				
	<b>Business services not elsewhere classified—Con.</b>				
	Department of Commerce:				
	Office of the Secretary, Office of Publications.....	2	\$12,000	25	-----
	Civil Aeronautics Administration.....	1	35,000	9	-----
	Coast and Geodetic Survey.....	1	1,072	14	-----
	Bureau of Public Roads.....	1	4,683	7	-----
	National Bureau of Standards.....	7	839,690	96	-----
		2	( <sup>1</sup> )	( <sup>1</sup> )	-----
	Subtotal.....	14	894,075	151	-----
	Department of Health, Education, and Welfare: Public Health Service, National Institutes of Health.....	2	20,776	22	-----
	Department of the Interior:				
	Bureau of Mines.....	6	669,287	160	-----
	Bureau of Reclamation.....	36	409,400	94	-----
	Bonneville Power Administration.....	1	180,962	32	-----
	Subtotal.....	43	1,259,649	286	-----
	Department of Justice: Immigration and Naturalization Service.....	7	49,650	14	-----
	Post Office Department: Deputy Postmaster General.....	(1)	-----	(4)	-----
	Treasury Department: Fiscal Service, Bureau of the Public Debt.....	5	44,230	55	-----
	General Services Administration:				
	Federal Supply Service.....	19	335,845	169	-----
		( <sup>1</sup> )	1,527	9	-----
	Emergency Procurement Service.....	1	104,157	10	-----
Public Buildings Service.....	6	7,300	73	-----	
National Archives and Records Service.....	2	84,000	15	-----	
	28	532,829	276	-----	
Atomic Energy Commission.....	2	2,330,000	136	-----	
Federal Communications Commission.....	1	-----	7	-----	
Tennessee Valley Authority.....	1	13,450	269	-----	
Veterans' Administration:					
Assistant Administrator for Construction.....	1	13,700	12	-----	
Department of Medicine and Surgery.....	2	176,057	28	-----	
Subtotal.....	3	189,757	40	-----	
Total, business services not elsewhere classified.....	112	5,390,934	1,303	-----	
Total, miscellaneous business services.....	8,932	21,544,668	32,336	-----	
75 7522	<b>Automobile repair services and garages:</b>				
	Storage garages:				
	Department of Commerce: Bureau of Public Roads.....	( <sup>1</sup> )	(13,560)	( <sup>1</sup> )	-----
		( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	-----
	Department of Defense: Civil functions, Corps of Engineers.....	15	306,000	20	-----
	Department of the Interior: Bureau of Reclamation.....	14	284,426	-----	-----
	General Services Administration: Federal Supply Service.....	1	307,000	1	-----
	Veterans' Administration: Department of Medicine and Surgery.....	1	15,100	-----	-----
Subtotal.....	31	911,526	21	-----	

<sup>1</sup> Information not available.

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## FEDERAL EXPENDITURE POLICY

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
75 7538	Automobile repair, etc.—Continued				
	General automobile repair shops:				
	Department of Agriculture:				
	Agricultural Research Service.....	1	\$37, 448	9	-----
	Forest Service.....	24	1, 165, 425	186	-----
	Soil Conservation Service.....	5	174, 343	46	-----
	Subtotal.....	30	1, 377, 216	241	-----
	Department of Commerce:				
	Civil Aeronautics Administration.....	5	184, 425	40	-----
	Bureau of Public Roads.....	8	943, 830	111	-----
	National Bureau of Standards.....	2	87, 075	15	-----
	Subtotal.....	15	1, 215, 330	166	-----
	Department of Defense: Civil Functions—				
	Corps of Engineers.....	16	561, 000	124	-----
	Department of Health, Education, and				
	Welfare:				
	Public Health Service, National Insti- tutes of Health.....	1	13, 500	7	-----
	St. Elizabeths Hospital.....	1	21, 371	7	-----
	Subtotal.....	2	34, 871	14	-----
	Department of the Interior:				
	Bureau of Indian Affairs.....	75	1, 109, 273	161	-----
	Bureau of Mines.....	3	55, 714	20	-----
	Bureau of Reclamation.....	12	637, 329	39	-----
	Bonneville Power Administration.....	7	( <sup>1</sup> )	( <sup>1</sup> )	-----
	Office of Territories.....	13	1, 675, 000	112	-----
	Subtotal.....	110	3, 477, 316	332	-----
	Department of Justice:				
	Bureau of Prisons.....	26	1, 162, 782	34	-----
	Immigration and Naturalization Ser- vice.....	16	211, 964	44	-----
	Subtotal.....	42	1, 374, 746	78	-----
7538	General automobile repair shops (cont'd.):				
	Post Office Department: Bureau of Facili- ties.....	166	1, 551, 000	2, 736	-----
	Department of State: International Bound- ary and Water Commission.....	2	44, 900	23	-----
	General Services Administration: Federal Supply Service.....	1	190, 996	78	-----
	National Advisory Committee for Aero- nautics.....	5	153, 000	15	-----
	Veterans' Administration: Department of Medicine and Surgery.....	48	1, 255, 308	130	-----
	Tennessee Valley Authority.....	6	1, 039, 309	134	-----
	Total, general automobile repair shops....	443	12, 274, 992	4, 071	-----
7541	Automobile services except repair:				
	Department of Defense: Civil functions, Corps of Engineers.....	7	69, 000	11	-----
	Department of the Interior: Bureau of Re- clamation.....	(1)	( <sup>1</sup> )	( <sup>1</sup> )	-----
	General Services Administration: Federal Supply Service.....	2	123, 861	15	-----
	Veterans' Administration: Department of Medicine and Surgery.....	15	258, 977	36	-----
	Subtotal.....	24	456, 838	62	-----
	Total, automobile repair services and garages.....	498	13, 643, 356	4, 154	-----

<sup>1</sup> Information not available.

\* Standard Industrial Classification Manual.

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
76	Miscellaneous repair services:				
7611	Blacksmith shops: Department of the Interior: Bonneville Power Administration.....	(1)	(1)	(1)	-----
7621	Electrical repair shops:				
	Department of Commerce:				
	Civil Aeronautics Administration.....	7	\$228,667	58	-----
	Weather Bureau.....	1	32,631	12	-----
	Subtotal.....	8	261,298	70	-----
	Department of Justice:				
	Federal Bureau of Investigation.....	6	300	5	-----
	Bureau of Prisons.....	26	398,476	36	-----
	Subtotal.....	32	398,776	41	-----
	Treasury Department: U. S. Coast Guard.....	1	187,160	7	5
	Subtotal.....	41	847,284	118	5
7641	Upholstery and furniture repair:				
	Department of Health, Education, and Welfare: Bureau of Medical Services.....	1	34,450	39	-----
	Department of Justice: Federal Prison In- dustries, Inc.....	3	29,026	4	61
	General Services Administration:				
	Federal Supply Service.....	2	51,715	90	-----
	Public Buildings Service.....	1	15,600	3	-----
	Subtotal.....	3	67,315	93	-----
	Veterans' Administration: Assistant Ad- ministrator for Administration.....	1	4,144	7	-----
	Subtotal.....	8	134,935	143	61
7695	Locksmith and gunsmith shops:				
	Post Office Department: Bureau of Facili- ties.....	1	11,301	8	-----
	Treasury Department: United States Coast Guard.....	1	11,982	-----	6
	Subtotal.....	2	23,283	8	6
7699	Repair shops, not elsewhere classified:				
	Department of Agriculture:				
	Agricultural Research Service.....	3	134,882	25	-----
	Forest Service.....	2	15,500	12	-----
	Soil Conservation Service.....	2	36,743	5	-----
	Subtotal.....	7	187,125	42	-----
	Department of Commerce:				
	Office of Administrative Operations.....	1	-----	9	-----
	Civil Aeronautics Administration.....	14	586,309	190	-----
	Weather Bureau.....	4	16,814	16	-----
	Coast and Geodetic Survey.....	3	44,614	6	-----
	Subtotal.....	22	647,737	221	-----
	Department of Defense: Civil Functions— Corps of Engineers.....	29	7,311,000	992	-----
	Department of Health, Education, and Welfare:				
	Public Health Service, National Insti- tutes of Health.....	1	322,250	103	-----
	St. Elizabeths Hospital.....	3	97,147	35	-----
	Subtotal.....	4	419,397	138	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
76 7699	Miscellaneous repair services—Continued				
	Repair shops, not elsewhere classified—Con.				
	Department of the Interior:				
	Bonneville Power Administration.....	(1)	(1)	(1)	-----
	Bureau of Mines.....	18	\$546,910	104	-----
	Fish and Wildlife Service.....	2	315,000	12	-----
	Subtotal.....	20	861,910	116	-----
	Department of Justice: Federal Bureau of Investigation.....	2	5,076	6	-----
	Post Office Department:				
	Bureau of Post Office Operations.....	6	50,000	240	-----
	Bureau of Facilities.....	22	6,600	22	-----
	Subtotal.....	28	56,600	262	-----
	Treasury Department:				
	Fiscal Service—Bureau of the Public Debt.....	1	10,000	6	-----
	U. S. Coast Guard.....	34	6,846,000	973	872
	Subtotal.....	35	6,856,000	979	872
	General Services Administration:				
	Federal Supply Service.....	3	24,238	68	-----
	Public Buildings Service.....	3	6,715	12	-----
	Subtotal.....	6	30,953	80	-----
	National Advisory Committee for Aero- nautics.....	4	459,000	192	-----
Veterans' Administration:					
Assistant Administrator for Adminis- tration.....	1	2,157	8	-----	
Department of Medicine and Surgery..	7	323,527	90	-----	
Subtotal.....	8	325,684	98	-----	
Total, repair shops, not elsewhere classified.....	165	17,160,482	3,126	872	
Total, miscellaneous repair services...	216	18,165,934	3,395	944	
77 7712	Radio broadcasting (including facsimile broad- casting) and television:				
	Radio broadcasting (including facsimile broad- casting):				
	Department of Commerce: National Bu- reau of Standards.....	2	529,500	7	-----
	United States Information Agency: Broad- casting Service.....	12	15,998,399	136	-----
Total, radio broadcasting (including facsimile broadcasting) and television...	14	16,527,899	143	-----	
78 7811	Motion pictures:				
	Motion picture production:				
	Department of Agriculture:				
	Forest Service.....	1	5,000	1	-----
	Office of Information.....	1	353,712	25	-----
	Subtotal.....	2	358,712	26	-----
Department of Commerce: Bureau of Pub- lic Roads.....	1	24,327	5	-----	
Department of Health, Education, and Welfare: Public Health Service—Bureau of State Services.....	1	120,000	25	-----	
Subtotal.....	4	503,039	56	-----	

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

## A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued

SICM* Code	Industry	Number of installations	Capital assets	Number of employees	
				Civilian	Other
78	Motion pictures—Continued				
7831	Motion picture service industries:				
	Department of Agriculture: Office of Information.....	(1)	(1)	(23)	-----
	General Services Administration: National Archives and Records Service.....	1	-----	1	-----
	National Advisory Committee for Aeronautics.....	4	\$138,000	10	-----
	Subtotal.....	5	138,000	11	-----
	Total, motion pictures.....	9	641,039	67	-----
79	Amusement and recreation services, except motion pictures:				
7942	Golf courses: Department of Health, Education, and Welfare: Public Health Service—Bureau of Medical Services.....	1	5,313	2	-----
80	Medical and other health services:				
8061	Hospitals: Department of Justice: Bureau of Prisons.....	26	3,622,700	187	-----
8072	Dental laboratories:				
	Department of Health, Education, and Welfare: Public Health Service—Bureau of Medical Services.....	1	4,098	6	-----
	Department of Justice: Federal Prison Industries, Inc.....	1	17,635	4	15
	Veterans' Administration: Department of Medicine and Surgery.....	24	362,629	191	-----
	Subtotal.....	26	384,362	201	15
	Total, medical and other health services.....	52	4,007,062	388	15
81	Legal services:				
8111	Legal services: Department of Agriculture: Office of the Solicitor.....	1	2,250	6	-----
82	Educational services:				
8211	Elementary and secondary schools, except denominational and sectarian schools: Department of Justice: Bureau of Prisons.....	26	1,970,232	102	-----
8242	Vocational schools: Department of Justice: Federal Prison Industries, Inc.....	22	261,497	70	-----
	Total, educational services.....	48	2,231,729	172	-----
89	Miscellaneous services:				
8911	Engineering and architectural services:				
	Department of Agriculture:				
	Agricultural Research Service.....	1	2,741	4	-----
	Forest Service.....	65	250,000	350	-----
	Subtotal.....	66	252,741	354	-----
	Department of Commerce:				
	Bureau of the Census.....	1	96,366	29	-----
	Coast and Geodetic Survey.....	8	202,624	39	-----
	National Bureau of Standards.....	11	946,917	47	-----
	Subtotal.....	11	(1)	(1)	-----
	Department of Defense: Civil functions, Corps of Engineers.....	31	1,245,907	115	-----
	Subtotal.....	44	8,381,000	4,611	-----
	Department of the Interior:				
	Bureau of Land Management.....	11	-----	18	-----
	Bureau of Reclamation.....	77	2,294,141	1,567	-----
	Fish and Wildlife Service.....	2	10,000	6	-----
	National Park Service.....	2	-----	46	-----
	Bonneville Power Administration.....	(1)	5,000	4	-----
	Subtotal.....	1	2,625	7	-----
	Subtotal.....	93	2,311,766	1,648	-----

<sup>1</sup> Information not available.

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## FEDERAL EXPENDITURE POLICY

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**A. GOVERNMENT OPERATED, CIVILIAN AGENCIES—Continued**

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
89 8911	Miscellaneous services—Continued Engineering and architectural services—Con. Treasury Department: Bureau of Engraving and Printing.....	1	\$578,366	17	-----
	General Services Administration: Public Buildings Service.....	421	32,325	52	-----
	National Advisory Committee for Aeronautics.....	3	395,000	189	-----
	Tennessee Valley Authority.....	2	16,680	447	-----
	United States Information Agency: Broadcasting Service.....	1		14	-----
	Veterans' Administration: Assistant Administrator for Construction.....	2	12,200	215	-----
	Subtotal.....	664	13,225,985	7,662	-----
8921	Nonprofit educational and scientific research agencies: Tennessee Valley Authority.....	1	268,327	181	-----
8999	Services not elsewhere classified: Department of Agriculture: Office of Information.....	1	26,084	42	-----
	Department of Justice: Federal Bureau of Investigation.....	1	23,853	25	-----
	Department of State.....	1	36,852	18	-----
	Subtotal.....	3	85,739	80	-----
	Total, miscellaneous services.....	668	13,580,051	7,923	-----
	Grand total, Government-operated civilian agencies.....	18,964	760,655,575	92,320	4,524

**B. GOVERNMENT-OWNED, CONTRACTOR-OPERATED, CIVILIAN AGENCIES**

14 1403	Mining and quarrying of nonmetallic minerals, except fuels: Mica: General Services Administration: Emergency Procurement Service.....	3	\$28,910	21	-----
16 1631	Construction other than building construction, general contractors: Heavy construction, except highway and street construction: Department of Defense: Civil functions: Corps of Engineers.....	1	1,020,000	18	-----
19 1911	Ordnance and accessories: Guns, howitzers, mortars, and related equipment: Atomic Energy Commission.....	9	594,709,000	17,378	-----
27 2751	Printing, publishing, and allied industries: Commercial printing: Atomic Energy Commission.....	16	1,064,000	291	-----
28 2810	Chemicals and allied products: Industrial inorganic chemicals, not elsewhere classified: Atomic Energy Commission.....	13	2,746,023,000	26,882	-----
32 3271	Stone, clay, and glass products: Concrete products: Department of Defense: Civil functions, Corps of Engineers.....	7	1,177,000	327	-----
3294	Natural graphite, ground, refined, or blended: General Services Administration: Public Buildings Service.....	1	860,000	25	-----
	Total, stone, clay, and glass products.....	8	2,037,000	352	-----
33 3339	Primary metal industries: Primary smelting and refining of nonferrous metals and alloys: Treasury Department: Federal Facilities Corporation.....	1	13,184,000	600	-----
42 4251	Trucking and warehousing: Special warehousing and storage, not elsewhere classified: General Services Administration: Emergency Procurement Service.....	3	489,844	3	-----

\*Standard Industrial Classification Manual.



**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**B. GOVERNMENT-OWNED, CONTRACTOR-OPERATED, CIVILIAN AGENCIES—Con.**

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
42	Trucking and warehousing—Continued				
4291	General warehousing and storage: Atomic Energy Commission.....	66	\$13,591,000	1,213	-----
	Total, trucking and warehousing.....	69	14,080,844	1,216	-----
45	Transportation by air:				
4521	Air carriers, except common carriers: Department of Defense: Civil functions, Corps of Engineers.....	3	198,000	5	-----
48	Telecommunications:				
4811	Telephone communication (wire or radio): Atomic Energy Commission.....	3	5,350,000	93	-----
49	Utilities and sanitary services:				
4911	Electric light and power: Atomic Energy Commission.....	18	94,033,000	513	-----
4922	Natural-gas transmission: Atomic Energy Commission.....	1	5,752,000	7	-----
4941	Water supply: Atomic Energy Commission.....	7	27,448,000	104	-----
4952	Sewerage systems: Atomic Energy Commission.....	6	12,823,000	39	-----
4961	Steam heating system: Atomic Energy Commission.....	6	8,261,000	107	-----
	Total, utilities and sanitary services.....	38	148,317,000	770	-----
58	Retail trade, eating and drinking places:				
5812	Eating places:				
	Atomic Energy Commission.....	5	1,044,000	71	-----
	Tennessee Valley Authority.....	1	148,904		-----
	Total, eating places.....	6	1,192,904	71	-----
65	Real estate:				
6514	Operators of dwellings other than apartment buildings: Atomic Energy Commission.....	2	165,000		-----
72	Personal services:				
7211	Power laundries: Atomic Energy Commission.....	13	2,061,000	243	-----
73	Miscellaneous business services:				
7349	Miscellaneous services to dwellings and other buildings:				
	General Services Administration: Public Buildings Service.....	1		19	-----
	Atomic Energy Commission.....	46	11,152,000	2,640	-----
	Subtotal.....	47	11,152,000	2,659	-----
7399	Business services, not elsewhere classified: Atomic Energy Commission.....	18	448,254,000	14,977	-----
	Total, miscellaneous business services.....	65	459,406,000	17,636	-----
75	Automobile repair services and garages:				
7533	Radiator repair shop: Atomic Energy Commission.....	1	148,000	14	-----
7538	General automobile repair shop: Atomic Energy Commission.....	22	10,934,000	899	-----
	Total, automobile repair services and garages.....	23	11,082,000	913	-----
76	Miscellaneous repair services:				
7699	Repair shops, not elsewhere classified: Atomic Energy Commission.....	27	26,286,000	2,918	-----
80	Medical and other health services:				
8071	Medical laboratories: Atomic Energy Commission.....	1	2,351,000	260	-----
	Grand total, Government-owned, contractor-operated, civilian agencies.....	301	4,028,545,658	69,667	-----
	Grand total, civilian agencies.....	19,265	4,789,201,233	161,987	4,524

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

C. GOVERNMENT-OPERATED MANUFACTURING ACTIVITIES,  
DEPARTMENT OF DEFENSE

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
19	Ordnance and accessories:				
1911	Guns, howitzers, mortars, and related equip- ment:				
	Department of the Navy.....	3	\$197,270,168	9,724	65
	Department of the Navy.....	4 (2)	74,767,099 (1)	4,730 (1)	79 (1)
	Subtotal.....	7	272,037,267	14,454	144
1921	Artillery ammunition:				
	Department of the Army.....	2	23,238,025	1,060	2
	Department of the Navy.....	2	52,216,964	3,063	25
	Subtotal.....	4	75,455,009	4,123	27
1922	Ammunition loading and assembling:				
	Department of the Army.....	5	95,767,305	5,995	15
	Department of the Navy.....	6	44,439,289	4,177	9
	Subtotal.....	11	140,206,594	10,172	24
1929	Ammunition, not elsewhere classified:				
	Department of the Army.....	3	57,569,726	3,693	-----
	Department of the Navy.....	3 (2)	9,302,459 (1)	1,718 (1)	5 -----
	Subtotal.....	6	66,872,185	5,411	5
1931	Tanks and tank components: Department of the Army.....	1	8,230,752	1,444	-----
1941	Sighting and fire-control equipment:				
	Department of the Army.....	1	8,250,009	408	-----
	Department of the Navy.....	2	21,017,575	3,043	10
	Subtotal.....	3	29,267,584	3,451	10
1951	Small arms: Department of the Army.....	1 (1)	26,098,995 (1)	5,031 (1)	-----
1961	Small arms ammunition: Department of the Army.....	1	25,739,760	498	-----
1999	Ordnance and accessories, not elsewhere clas- sified: Department of the Navy.....	1	13,887,700	1,103	-----
	Total, ordnance and accessories.....	35	657,795,846	45,687	210
20	Food and kindred products:				
2024	Ice cream and ices:				
	Department of the Army.....	1	45,978	8	-----
	Department of the Navy.....	3 1	(1) 113,700	(1) 3	-----
	Subtotal.....	5	159,678	11	-----
2051	Bread and other bakery products (except biscuits, crackers, and pretzels):				
	Department of the Army.....	31 4	(1) 537,387	(1) 16	34 -----
	Department of the Navy.....	15	(1)	(1)	-----
	Department of the Air Force.....	1 4 3	176,000 (1) 423,747	8 (1) 27	----- ----- 35
	Subtotal.....	58	1,137,134	51	69
2097	Manufactured ice:				
	Department of the Army.....	1	231,808	6	-----
	Department of the Navy.....	5	(1)	(1)	-----
	Department of the Air Force.....	10	14,400	1	-----
	Subtotal.....	17	304,408	7	2

<sup>1</sup>Information not available.

\*Standard Industrial Classification Manual.

TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

C. GOVERNMENT-OPERATED MANUFACTURING ACTIVITIES,  
DEPARTMENT OF DEFENSE—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
20	Food, etc.—Continued				
2099	Food preparation, not elsewhere classified:				
	Department of the Army.....	2	(1)	(1)	(1)
	Department of the Navy.....	2	(1)	(1)	(1)
	Subtotal.....	4			
	Total, food and kindred products.....	84	\$1,601,220	69	71
22	Textile mill products:				
2298	Cordage and twine: Department of the Navy..	1	(1)	(1)	
23	Apparel and other finished products made from fabrics and similar materials:				
2329	Men's, youths', and boys' work, sport, and other clothing not elsewhere classified:				
	Department of the Army.....	1	(1)	(1)	(1)
	Department of the Navy.....	1	(1)	(1)	
	Subtotal.....	2			
2393	Textile bags:				
	Department of the Army.....	1	200,000	150	
	Department of the Navy.....	1	50,000	5	
	Subtotal.....	2	250,000	155	
2394	Canvas products:				
	Department of the Army.....	2	448,374	296	
	Department of the Navy.....	1	224,100	45	
	Subtotal.....	(6)	(1)	(1)	
	Subtotal.....	3	672,374	341	
2399	Fabricated textile products, not elsewhere classified:				
	Department of the Army.....	(1)	(1)	(1)	(1)
	Department of the Navy.....	1	265,758	50	(1)
	Subtotal.....	(1)	(1)	(1)	(1)
	Subtotal.....	1	265,758	50	
	Total, apparel and other finished products made from similar materials.....	8	1,188,132	546	
24	Lumber and wood products (except furniture):				
2444	Wooden boxes (except cigarboxes):				
	Department of the Army.....	41	4,320,555	2,021	21
	Department of the Navy.....	15	1,734,728	255	
	Department of the Air Force.....	18	1,420,753	889	
	Subtotal.....	74	7,476,036	3,165	21
2491	Wood preserving: Department of the Navy.....	3	(1)	(1)	(1)
2499	Wood products, not elsewhere classified: De- partment of the Navy.....	1	362,835	18	
	Total, lumber and wood products (except furniture).....	78	7,838,871	3,183	21
26	Paper and allied products:				
2671	Paperboard boxes, folded, set up, and corru- gated:				
	Department of the Army.....	22	889,236	66	
	Department of the Navy.....	6	320,341	28	
	Total, paper and allied products.....	28	1,209,577	94	
28	Chemicals and allied products:				
2811	Sulfuric acid: Department of the Navy.....	(1)	(1)	(1)	
2812	Alkalies and chlorine: Department of the Army..	2	(1)	(1)	
2826	Explosives:				
	Department of the Army.....	1	4,390,457	164	
	Department of the Navy.....	(1)	(1)	(1)	

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

C. GOVERNMENT-OPERATED MANUFACTURING ACTIVITIES,  
DEPARTMENT OF DEFENSE—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
28 2851	Chemicals, etc.—Continued Paints, varnishes, lacquers, japans, and enam- els: Department of the Navy.....	2 (1)	(1) (1)	(1) (1)	-----
2896	Compressed and liquefied gases: Department of the Army..... Department of the Navy.....	1 7	(1) (1)	(1) (1)	----- -----
	Department of the Air Force.....	{ 2 1	{ \$35, 729 (1) 252, 200	{ (1) (1)	5 ----- 18 -----
	Subtotal.....	12	287, 929	23	-----
	Total, chemicals and allied products.....	17	4, 678, 386	187	2
30 3099	Rubber products: Rubber industries, not elsewhere classified: Department of the Army..... Department of the Navy.....	1 3	7, 921 225, 516	1 15	----- -----
	Total rubber products.....	4	233, 437	16	-----
31 3199	Leather and leather products: Leather goods, not elsewhere classified: Depart- ment of the Army.....	1	150, 000	185	-----
33 3320	Primary metal industries: Iron and steel foundries: Department of the Army..... Department of the Navy.....	(1) (10)	(1) (1)	(1) (1)	(1) (1)
3322	Malleable-iron foundries: Department of the Navy.....	1	3, 319, 300	131	-----
3341	Secondary smelting and refining of nonferrous metals and alloys: Department of the Navy..... Department of the Air Force.....	4 5	(1) (1)	(1) (1)	(1) (1)
	Subtotal.....	9	-----	-----	-----
3361	Nonferrous foundries: Department of the Army..... Department of the Navy.....	1 3	269, 880 2, 795, 489	7 81	----- -----
	Subtotal.....	{ 4 (2)	{ 3, 065, 369 (1)	{ (1) (1)	88 -----
3391	Iron and steel forgings: Department of the Army..... Department of the Navy.....	(1) 2	(1) 4, 341, 400	(1) (1)	(1) 79 (1)
	Subtotal.....	{ (1) (1)	{ (1) (1)	{ (1) (1)	(1) 79 (1)
	Total, primary metal industries.....	2	4, 341, 400	79	-----
	Total, primary metal industries.....	16	10, 726, 069	298	-----
34 3443 3444	Fabricated metal products (except ordnance, ma- chinery, and transportation equipment): Boilershop products: Department of the Navy. Sheet-metal work: Department of the Army..... Department of the Navy.....	(11) (1) 1	(1) (1) 583, 495	(1) (1) (1)	(1) (1) 3 (1)
3495	Screw-machine products: Department of the Army..... Department of the Navy.....	(1) (1)	(1) (1)	(1) (1)	(1) (1)
3463	Stamped and pressed metal products (except automobile stampings): Department of the Army..... Department of the Navy.....	(1) 1	(1) 62, 880	(1) (1)	(1) 10 (1)
3464	Powder metallurgy: Department of the Navy.....	1	41, 667	4	-----
3465	Enameling, japanning, and lacquering: Depart- ment of the Army.....	1	201, 000	33	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

C. GOVERNMENT-OPERATED MANUFACTURING ACTIVITIES,  
DEPARTMENT OF DEFENSE—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
34 3466	Fabricated metal products, etc.—Continued Galvanizing and other hot-dip coating: Depart- ment of the Navy.....	(9)	(1)	(1)	-----
3468	Electroplating, plating, and polishing:				
	Department of the Army.....	{ 2 (1)	\$1, 124, 599 (1)	53 (1)	-----
	Department of the Navy.....	{ 5 (9)	7, 354, 407 (1)	296 (1)	-----
		7	8, 479, 006	349	-----
3471 3489	Lighting fixtures: Department of the Navy.....	1	1, 552, 549	173	-----
3492	Wirework, not elsewhere classified: Department of the Army.....	(1)	(1)	(1)	-----
	Steel springs: Department of the Navy.....	1	1, 534, 300	11	-----
3495	Screw-machine products:				
	Department of the Army.....	{ 1 (1)	95, 495 (1)	7 (1)	-----
	Department of the Navy.....	{ 4 (2)	3, 019, 875 (1)	115 (1)	-----
	Subtotal.....	5	3, 115, 370	122	-----
3499	Fabricated metal products, not elsewhere classi- fied:				
	Department of the Army.....	2	2, 797, 839	275	1
	Total, fabricated metal products (except ordnance, machinery, and transportation equipment).....	20	18, 368, 106	980	1
35 3543	Machinery (except electrical):				
	Machine-tool accessories, other metalworking- machinery accessories, and machinists' pre- cision tools:				
	Department of the Army.....	{ 1 (1)	826, 336 (1)	131 (1)	-----
	Department of the Navy.....	{ 4 (16)	4, 560, 073 (1)	170 (1)	1 (1)
	Subtotal.....	5	5, 406, 409	301	1
3599	Machine shops jobbing and repair):				
	Department of the Army.....	(33)	(1)	(1)	(1)
	Department of the Navy.....	5	1, 988, 968	149	-----
	Total, machinery (except electrical).....	10	7, 395, 377	450	1
37 3729	Transportation equipment:				
	Aircraft parts and auxiliary equipment, not elsewhere classified: Department of the Navy.....	1	206, 030	55	-----
3731	Ship building and repairing: Department of the Navy.....	{ 14 (1)	1, 511, 903, 154 (1)	113, 707 (1)	3, 188 (1)
3732	Boat building and repairing: Department of the Navy.....	{ 1 (1)	(1)	(1)	(1)
	Total, transportation equipment.....	15	1, 512, 109, 184	113, 762	3, 188
38	Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks:				
3831	Optical instruments and lenses: Department of the Navy.....	(4)	(1)	(1)	(1)
3842	Surgical and orthopedic appliances and suppl- ies; and personal safety devices, not else- where classified:				
	Department of the Navy.....	2	(1)	(1)	(1)
	Department of the Air Force.....	8	(1)	(1)	(1)
	Subtotal.....	10	-----	-----	-----

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

C. GOVERNMENT-OPERATED MANUFACTURING ACTIVITIES,  
DEPARTMENT OF DEFENSE—Continued

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
38	Professional, scientific, etc.—Continued				
3851	Ophthalmic goods:				
	Department of the Army.....	2	(1)	(1)	(1)
	Department of the Navy.....	3	(1)	(1)	(1)
	Subtotal.....	5			
3861	Photographic equipment and supplies: Depart- ment of the Navy.....	2	(1)	(1)	(1)
3871	Watches, clocks, and parts (except watchcases): Department of the Navy.....	1	(1)	(1)	(1)
	Total, professional, scientific, and control- ling instruments, etc.....	18	(1)	(1)	(1)
39	Miscellaneous manufacturing industries:				
3953	Hand stamps, stencils, and brands: Depart- ment of the Navy.....	1	(1)	(1)	(1)
3971	Fabricated plastics products, not elsewhere classified: Department of the Navy.....	{ 2 (2)	{ \$81,640 (1)	{ (1) (1)	{ (1) (1)
3985	Fireworks and pyrotechnics:				
	Department of the Army.....	1	154,991	27	
	Department of the Navy.....	1	2,707,981	206	
	Subtotal.....	2	2,862,972	233	
3998	Models and patters (except paper patterns):				
	Department of the Army.....	{ 12 (1)	{ 1,320,547 (1)	{ 119 (1)	{ 78 (1)
	Department of the Navy.....	{ 3 (9)	{ 1,604,768 (1)	{ 154 (1)	{ (1) (1)
	Subtotal.....	15	2,925,315	273	78
3999	Miscellaneous fabricated products, not else- where classified:				
	Department of the Army.....	1	8,015	4	
	Department of the Air Force.....	1	282,013	52	
	Subtotal.....	2	290,028	56	
	Total, miscellaneous manufacturing in- dustries.....	22	6,159,955	648	78
	Grand total, Government-operated man- ufacturing activities, Department of Defense.....	357	2,229,454,160	166,105	3,572

D. GOVERNMENT-OWNED, CONTRACTOR-OPERATED MANUFACTURING  
ACTIVITIES, DEPARTMENT OF DEFENSE

19	Ordnance and accessories:				
1911	Guns, howitzers, mortars, and related equip- ment:				
	Department of the Army.....	1	\$38,977,862		
	Department of the Navy.....	3	75,087,758		
	Subtotal.....	4	114,065,620		
1921	Artillery ammunition:				
	Department of the Army.....	5	95,278,916		
	Department of the Navy.....	12	217,056,069		
	Subtotal.....	17	312,334,985		

<sup>1</sup> Information not available.

\*Standard Industrial Classification Manual.

TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued

D. GOVERNMENT-OWNED, CONTRACTOR-OPERATED MANUFACTURING ACTIVITIES, DEPARTMENT OF DEFENSE—Continued

SIOM* Code	Industry	Number of installations	Capital assets	Number of employees	
				Civilian	Other
19	Ordnance and accessories—Continued				
1922	Ammunition loading and assembling:				
	Department of the Army.....	8	\$452,764,554	-----	-----
	Department of the Navy.....	1	114,597,508	-----	-----
	Subtotal.....	9	567,362,062	-----	-----
1929	Ammunition, not elsewhere classified: Department of the Navy.....	4	68,243,449	-----	-----
1931	Tanks and tank components: Department of the Army.....	3	133,491,766	-----	-----
1941	Sighting and fire-control equipment:				
	Department of the Army.....	1	11,504,409	-----	-----
	Department of the Navy.....	2	12,617,688	-----	-----
	Department of the Air Force.....	4	31,646,034	-----	-----
	Subtotal.....	7	55,768,131	-----	-----
1961	Small arms ammunition: Department of the Army.....	3	430,674,173	-----	-----
1999	Ordnance and accessories, not elsewhere classified: Department of the Army.....	1	5,912,792	-----	-----
	Total, ordnance and accessories.....	48	1,687,852,978	-----	-----
28	Chemicals and allied products:				
2826	Explosives:				
	Department of the Army.....	10	1,114,984,569	-----	-----
	Department of the Navy.....	1	9,488,418	-----	-----
	Department of the Air Force.....	1	15,594,904	-----	-----
	Subtotal.....	12	1,140,067,886	-----	-----
33	Primary metal industries:				
3352	Rolling, drawing, and alloying of aluminum: Department of the Air Force.....	2	40,354,680	-----	-----
35	Machinery (except electrical):				
3519	Diesel and semidiesel engines; and other internal-combustion engines, not elsewhere classified: Department of the Army.....	2	45,928,056	-----	-----
36	Electrical machinery, equipment, and supplies:				
3692	Primary batteries (dry and wet): Department of the Army.....	1	2,367,497	-----	-----
37	Transportation equipment:				
3721	Aircraft:				
	Department of the Navy.....	8	306,209,374	-----	-----
	Department of the Air Force.....	18	301,927,733	-----	-----
	Subtotal.....	21	608,137,107	-----	-----
3722	Aircraft engines and engine parts:				
	Department of the Navy.....	5	187,074,849	-----	-----
	Department of the Air Force.....	7	315,532,069	-----	-----
	Subtotal.....	12	502,606,918	-----	-----
3723	Aircraft propellers and propeller parts:				
	Department of the Navy.....	1	7,984,979	-----	-----
	Department of the Air Force.....	1	6,859,744	-----	-----
	Subtotal.....	2	14,844,723	-----	-----
3729	Aircraft parts and auxiliary equipment, not elsewhere classified:				
	Department of the Navy.....	1	16,017,335	-----	-----
	Department of the Air Force.....	2	96,087,604	-----	-----
	Subtotal.....	3	112,104,939	-----	-----
3731	Ship building and repairing: Department of the Navy.....	1	8,434,365	-----	-----
	Total, transportation equipment.....	39	1,246,128,052	-----	-----

\*Standard Industrial Classification Manual.

## FEDERAL EXPENDITURE POLICY

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**TABLE V.—Commercial activities (excluding nonmanufacturing activities of the Department of Defense), arranged by industrial group and organization unit—Reported under Budget Bulletin No. 55-4—Continued**

**D. GOVERNMENT-OWNED, CONTRACTOR-OPERATED MANUFACTURING ACTIVITIES, DEPARTMENT OF DEFENSE—Continued**

SICM* Code	Industry	Number of instal- lations	Capital assets	Number of employees	
				Civilian	Other
38	Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks:				
3811	Laboratory, scientific, and engineering instruments (except surgical, medical, and dental): Department of the Navy.....	2	\$23,999,097		
	Grand total, Government-owned, contractor operated manufacturing activities, Department of Defense.....	106	4,191,698,246		

**E. GOVERNMENT PARTLY OWNED, CONTRACTOR-OPERATED, MANUFACTURING ACTIVITIES, DEPARTMENT OF DEFENSE**

19	Ordnance and accessories:				
1921	Artillery ammunition: Department of the Army.....	1	\$1,826,854		
1931	Tanks and tank components: Department of the Army.....	2	26,663,688		
	Total, ordnance and accessories.....	3	28,490,542		
33	Primary metal industries:				
3312	Steelworks and rolling mills: Department of the Navy.....	1	23,655,205		
3391	Iron and steel forgings: Department of the Navy.....	3	21,034,536		
	Total, primary metal industries.....	4	44,689,741		
36	Electrical machinery, equipment, and supplies:				
3641	Electrical equipment for motor vehicles, aircraft, and railway locomotives and cars: Department of the Air Force.....	1	4,137,387		
37	Transportation equipment:				
3721	Aircraft: Department of the Air Force.....	6	130,198,128		
3722	Aircraft engines and engine parts: Department of the Air Force.....	5	283,108,640		
3729	Aircraft parts and auxiliary equipment, not elsewhere classified: Department of the Air Force.....	1	5,091,065		
3731	Shipbuilding and repairing: Department of the Navy.....	21	157,064,190		
3732	Boatbuilding and repairing: Department of the Navy.....	2	857,217		
	Total, transportation equipment.....	35	576,319,260		
	Grand total, Government partly owned, contractor-operated, manufacturing activities, Department of Defense.....	43	653,636,930		
	Grand total, Department of Defense.....	506	7,074,789,336	166,105	3,572
	Grand total, civilian agencies and Department of Defense.....	19,771	11,863,990,569	328,092	8,096

\*Standard Industrial Classification Manual.

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D. C.

(OD-112—Information Office. For release Tuesday a. m., February 12, 1957)

An expansion of the review of the Government's commercial and industrial activities that provide products or services for the Government's own use, which could otherwise be procured from private enterprise, was announced today by



## 1959 OMB Circular No. A-49

dividual and group motivations, the state of management science, and so forth. The conference was directed toward the management of a number of these factors affecting productivity.

A seminar course in budget preparation has also been developed and the first meeting of the first group to receive this course was also held last week. These classes meet one-half day a week for 12 weeks. Bureau staff and senior budget officers of the departments and agencies lead the sessions of these seminars. Assignments are made to participants to be performed between the weekly meetings of the class. After this 12-week seminar on budget formulation has been held a few times, attention will be given to development of a comparable course of budget execution. It is contemplated both courses would be repeated a number of times each year.

#### CONTRACTING OUT WORK

Contracting for the performance of Government work is an area in which the Bureau has a strong continuing interest. I would like to bring you up to date on the Bureau's activities in relation to the problems and issues involved.

#### MANAGEMENT AND OPERATING CONTRACTS

As I indicated in previous appearances before your subcommittee, the Bureau has developed guidelines for Federal agencies on the use of management and operating contracts. Those guides were issued on February 25, 1959, in the form of Bureau of the Budget Circular No. A-49. That circular incorporated the best and most successful practices of those agencies having the most experience with management and operating contracts. It established general criteria on the use of such contracts for all agencies and particularly those contemplating use of the contract device for the first time.

Mr. DAVIS. If that Circular A-49 is not too lengthy, I would like to have it inserted in the record.

Mr. STAATS. Very well.  
(The document follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D.C., February 25, 1959.

#### CIRCULAR No. A-49

Subject: Use of management and operating contracts.

To the Heads of Executive Departments and Establishments:

1. *Purpose.*—This circular establishes general criteria to assist Federal agencies in developing policies concerning the use of management and operating contracts. The circular has been developed in consultation with the agencies concerned and is based upon the most successful agency experience. Nothing in this circular shall be construed to modify provisions of applicable laws, Executive orders, agency regulations, or existing contracts, including renewals thereof.

2. *Definition of management and operating contracts.*—As used in this circular, the term "management and operating contracts" applies to cost-reimbursement-type contracts under which the Government contracts with nonprofit institutions, private businesses, or universities (a) to administer, on behalf of the Government, research or development establishments wholly devoted to Government work or Government research or development programs; (b) to administer and operate Government owned or leased industrial facilities; or (c) to provide such personal or professional services as are authorized by law.

3. *Establishment of criteria for use of management and operating contracts.*—Each agency that uses or expects to use management and operating contracts, as defined in paragraph 2, should develop criteria defining the circumstances in which this type of contract may be employed as an alternative to procurement of goods and services directly from non-Government suppliers or to Government operation. These criteria should generally take into account the factors listed below, together with such other considerations as are peculiarly appropriate to the agency.

(a) Management and operating contracts have been found particularly useful for the performance of functions requiring specialized knowledge and experience in large-scale industrial management or in conduct of research.

(b) Management and operating contracts have been employed successfully when unusual speed has been required in the organization of a new program or service.

(c) Use of a management and operating contract is not generally considered suitable unless—

(1) Contractor operations are judged to be more economical than direct operation by the agency, or where probable increased cost of contractor operations is likely to be outweighed by a significant increase in effectiveness of operations;

(2) The agency has no essential need for the inservice capability which would be acquired if agency personnel performed the function; or the agency cannot perform the function at the standard of excellence required or within the time limit or under other conditions required;

(3) The products or services required are not readily obtainable from another Federal agency;

(4) Qualified contractors, desirous of performing the function, are known to be available and willing to assume full management responsibility; and

(5) As a minimum, the agency has made a finding that the product or service cannot be procured from private enterprise through ordinary business channels.

(d) Management and operating contracts are not regarded as suitable for the following functions:

(1) Functions involving the direction, supervision, and control of Government personnel, except for supervision incidental to training;

(2) Functions involving the exercise of police and regulatory powers in the name of the Government, exclusive of guard and plant protection services;

(3) Functions of determining basic Government policies;

(4) The day-to-day staff of management functions of the agency, or any element thereof, such as internal personnel administration and budget preparation (other than specialized studies of an intermittent nature relating to the analysis of organization, personnel administration, and management systems).

4. *Selection and supervision of contractors.*—Suggestions concerning procedures to be followed in the selection and supervision of management and operating contractors are set forth in attachment A, "Suggestions Relating to Selection and Supervision of Contractors."

MAURICE H. STANS, *Director.*

#### ATTACHMENT A. SUGGESTIONS RELATING TO SELECTION AND SUPERVISION OF CONTRACTORS

1. *Purpose.*—This attachment sets forth a number of suggestions to assist Federal agencies in developing procedures for the selection and supervision of management and operating contractors. These suggestions generally are based on successful current agency experience.

2. *Selection of the contractor.*—Agencies that make use of management and operating contracts should take the necessary steps to assure that a fully qualified contractor is selected. The following steps should be included in the agency's selection process:

(a) Selection of organizations to submit proposals:

(1) The agency should in all cases canvass the field of potential contractors to assure the selection of the best available contractor, and to allow for favorable negotiating conditions.

(2) The agency should request proposals only from reputable and established organizations with experience in the field or in related fields. Ability and experience in the management of the type of facility or program should be considered as well as other qualifications.

(3) The agency should require the organizations submitting proposals to indicate the names and qualifications and the total number of key staff that would be made available.

(4) The agency should consider other feasible alternatives and contractors before requesting an institution of higher learning directly to administer a large-scale applied research and development facility under an operating and management contract, particularly if the work is concerned with development and testing.

(b) Selection of the contractor: In the final selection, the agency should give emphasis to the following factors:

(1) Reputation and standing of the organization in its field;

(2) Past record in work for the contracting agency and other Federal agencies;

(3) Adequacy of the contractor's existing organization, and extent of contribution expected from existing facilities and organization;

(4) Quality and quantity of key personnel to be assigned;

(5) Financial resources available to the contractor;

(6) Avoidance of contracts which might tend to promote a private monopoly.

(c) Absence of qualified contractors: If no qualified organizations are able or desire to perform the function required under the contract, the decision to contract should be reconsidered. The alternative of an outside independent organization being created to perform the contract should not be used except where no other arrangement would be in the best interests of the Government.

3. *Supervision and evaluation of contractors.*—Agencies should take the necessary steps to assure that contractors operate with maximum efficiency. Proper discharge of a contractor's responsibilities for management requires that, to the fullest extent compatible with law, he be encouraged to exercise maximum initiative and ingenuity. Proper discharge of the responsibilities of the Government requires that the contracting agency have full access to all pertinent information concerning the contract and the contractor's performance and possess the power to exercise such control and supervision as may be found necessary.

The following guidelines describe suggested methods of supervising the contractor and of evaluating his performance:

(a) Management appraisal: Periodic appraisals of the overall performance of contractors should be made by the administering agency. Basic to the ability to evaluate or appraise is the existence of performance standards and the comprehensive collection and analysis of information on all aspects of performance, managerial and programmatic.

Agencies should make use of such yardsticks as comparison of performance with previous years and with other contractors and industries performing the same or similar functions. To reduce costs among contractors performing similar functions, competition should be encouraged whenever feasible.

The contractor's systems, methods, and controls should be appraised in the early stages of contract negotiation and reviewed periodically thereafter. Their relative effectiveness should determine the degree of control over the contractor.

(b) Audit: Provision should be made for a Government postaudit designed to test the adequacy of the contractor's accounting records and internal financial controls; to verify expenditures for reimbursement and compliance with the terms of the contract; and to establish the integrity of the contractor's financial representations.

(c) Preapproval of vouchers: If there is adequate postaudit, and the contractor's systems and procedures are satisfactory, detailed prior approval of purchase orders, personnel actions, travel vouchers, and the like, is both undesirable and unnecessary. As the Government develops confidence in the contractor, the preferred practice is progressively to increase the dollar limits, subject to provisions of applicable laws, under which the contractor can spend without prior approval.

(d) Budgets: Except for contracts for personal or professional services, the contractor should be required, at least annually, to develop and present for agency review and approval the estimated costs of accomplishing established program goals.

(e) Personnel: Because of the critical importance of the quality of top management, the agency should retain the right under the contract to review and approve proposed appointments to principal executive positions under

the contract. The agency should also retain the right to require the contractor to withdraw unsatisfactory personnel from the contract activities. Below the top level, and with the exception of security clearances, the agency should limit its approval powers to the grade and salary structure and personnel system established for the activity under contract.

(f) Assignment of Government personnel to the contract site: Agencies should emphasize the quality of staff assigned to the contract activity, rather than quantity. The number of Government employees should be limited. Top staff should have the rank and stature to enable them to work effectively with top contractor personnel.

(g) Use of contractor's supervisory staff: Agencies should encourage contractors to evaluate their own performance systematically in order to reduce the need for Government supervision, especially by—

(1) Establishment of management appraisal systems, including internal audits, to keep contractor and agency management currently informed of the effectiveness of operations, which is useful in industrial operations; and

(2) Appointment of visiting committees of experts to appraise activities on a periodic basis, which is useful in research and development laboratories.

#### 4. General contracting guidelines.—

(a) Costs: Operating and management contracts should include provisions specifying the manner in which the contractor will be reimbursed for the cost of carrying out the work under the contract and incorporate by reference established comprehensive cost principles, or include them in the contract when incorporating by reference is impracticable. Where established cost principles are not applicable, provisions should either list the specific costs to be reimbursed or set forth the cost-accounting principles which will govern the determination of amounts to be reimbursed. It is also desirable to list unallowable costs in the contract. It may further be feasible to list only certain specific costs and to set forth the principles for determining other costs. In any case, contract provisions should indicate that costs are to be fair and reasonable and chargeable directly or allocable to the contract in accordance with generally accepted accounting principles and practices. Unusual costs requiring special consideration for inclusion or exclusion should be specifically mentioned if they are not covered adequately by any cost principles which may be mentioned in the contract.

(b) Purchases from sources controlled by contractor: Agencies should require advance notice of proposed purchases by a contractor from sources under his control. Agencies should reserve authority to determine whether such purchases would be advantageous to the Government and to prescribe procurement from other sources when deemed necessary to secure full and free competition.

(c) Incentives: Agencies should adopt policies which will provide an incentive to efficient and economical performance under these contracts.

Mr. STAATS. As Circular A-49 pointed out, the Bureau believes that the use of contracts is appropriate under certain circumstances as an alternative to direct Federal operation and to procurement of goods and services directly from private sources. The final responsibility for the use of such contracts and for implementation of the criteria rests with the individual agencies. Specific policies and procedures are to be worked out by each agency in the context of applicable laws, Executive orders, regulations, and program needs. Circular A-49 remains in effect and is the basic statement of policy on contracting out.

However, I would like to point out that the President, in a letter of July 31, 1961, to the Director of the Bureau of the Budget, requested a new broad review of—

(1) The Government's experience with, and the effectiveness of contracts with private institutions and enterprises to provide for the operation and management of research and development facilities and programs, for analytical studies and advisory service, and for

## 1962 Bell Report

87TH CONGRESS }  
2d Session }

SENATE

{ DOCUMENT  
No. 94 }

REPORT TO THE PRESIDENT  
ON  
GOVERNMENT CONTRACTING FOR  
RESEARCH AND DEVELOPMENT

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PREPARED BY THE  
BUREAU OF THE BUDGET  
AND REFERRED TO THE  
COMMITTEE ON GOVERNMENT OPERATIONS  
UNITED STATES SENATE



MAY 17 (legislative day, MAY 16), 1962.—Ordered to be printed

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**S. Res. 336**

IN THE SENATE OF THE U.S.

MAY 17 (legislative day, MAY 16), 1962

*Resolved*, That there be printed with illustrations as a Senate document a report compiled by the Bureau of the Budget entitled "Report to the President on Government Contracting for Research and Development", submitted by the President of the United States to the Congress on April 30, 1962; and that there be printed two thousand additional copies of such document for the use of the Committee on Government Operations.

Amend the title so as to read: "Resolution authorizing the printing as a Senate document of a report compiled by the Bureau of the Budget entitled 'Report to the President on Government Contracting for Research and Development'."

Attest:

FELTON M. JOHNSTON,  
*Secretary.*



## LETTER OF TRANSMITTAL

---

MAY 17, 1962.

The PRESIDENT OF THE SENATE.

DEAR MR. PRESIDENT: I am transmitting herewith, for printing as a Senate document, a report compiled by the Bureau of the Budget entitled "Report to the President on Government Contracting for Research and Development," submitted by the President of the United States to the Congress on April 30, 1962, which was referred to the Committee on Government Operations.

This committee made recommendations of similar import to the Congress and to the President on April 17, 1958 ("Science and Technology Act of 1958," S. Doc. 90, 85th Cong., pp. 41-45, 66-68), on September 9, 1958 ("Progress Report on Science Programs of the Federal Government," S. Rept. 2498, 85th Cong., pp. 30-34), and on March 23, 1959 ("Science Program—86th Congress," S. Rept. 120, pp. 41-58).

JOHN L. McCLELLAN,  
*Chairman, Committee on Government Operations.*

**LETTER OF TRANSMITTAL FROM THE PRESIDENT OF THE  
UNITED STATES**

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The WHITE HOUSE,  
*Washington, April 30, 1962.*

Hon. LYNDON B. JOHNSON,  
*President of the Senate, Washington, D.C.*

DEAR MR. PRESIDENT: I transmit herewith for the information of the Senate a report on "Government Contracting for Research and Development," prepared at my request by the Director of the Bureau of the Budget, with the participation of the Secretary of Defense, the Chairman of the Atomic Energy Commission, the Chairman of the U.S. Civil Service Commission, the Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, and the special assistant to the President for science and technology.

I have approved the report and have transmitted it to the heads of departments and agencies for their guidance and action.

The subjects discussed in the report will, I believe, be of particular interest to several committees of the Congress which are concerned with various aspects of the complex problems resulting from the rapid growth of Federal research and development programs. These include criteria for deciding whether to contract out research and development work, improving policies and practices applying to research and development contracting, avoiding possible conflicts of interest by Government contractors, and improving the Government's ability to carry out research and development work directly.

It is plain that the Government's research and development effort must continue to rely heavily on contracts with non-Federal institutions, in order to combine the scientific and technical talents and facilities of the Nation's colleges and universities, businesses, nonprofit organizations, and other private institutions with the Government's own scientific and technical resources. This report points the way to a number of improvements in the present system for conducting the Government's research and development program—improvements which can and will be undertaken by the executive branch under existing authority.

I wish to call particular attention to the conclusions reached in the report regarding Federal salaries. Those who prepared the report—including the heads of the Government's three largest research and development agencies: the Department of Defense, the Atomic Energy Commission, and the National Aeronautics and Space Administration—have stated in the strongest terms the need to raise Federal salaries, especially in the higher grades, if the Government is to obtain and hold first-class scientists, engineers, and administrators. If we are not able to pay these men salaries reasonably comparable with what they can earn in private employment, we cannot hope to have enough

VI

## LETTER OF TRANSMITTAL

of them in Government to ensure the effective application of science and technology to the great national problems of defense, atomic energy, space exploration, medical research, development assistance, and many other programs heavily dependent on research and development.

Consequently, I most strongly urge action at this session of the Congress to reform the Federal pay structure in accordance with the principle of comparability, as recommended in my message of February 20, 1962.

Sincerely;

JOHN F. KENNEDY.

## LETTER TO THE PRESIDENT OF THE UNITED STATES FROM THE BUREAU OF THE BUDGET

---

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
*Washington, D.C., April 30, 1962.*

DEAR MR. PRESIDENT: As requested by your letter of July 31, 1961,<sup>1</sup> we have reviewed the experience of the Government in using contracts with private institutions and enterprises to obtain research and development work needed for public purposes.

The attached report presents our findings and conclusions. Without attempting to summarize the complete report, we include in this letter a few of our most significant conclusions, as follows:

1. Federally financed research and development work has been increasing at a phenomenal rate—from \$100 million per year in the late 1930's to over \$10 billion per year at present, with the bulk of the increase coming since 1950. Over 80 percent of such work is conducted today through non-Federal institutions rather than through direct Federal operations. The growth and size of this work, and the heavy reliance on non-Federal organizations to carry it out, have had a striking impact on the Nation's universities and its industries, and have given rise to the establishment of new kinds of professional and technical organizations. At present the system for conducting Federal research and development work can best be described as a highly complex partnership among various kinds of public and private agencies, related in large part by contractual arrangements.

While many improvements are needed in the conduct of research and development work, and in the contracting systems used, it is our fundamental conclusion that it is in the national interest for the Government to continue to rely heavily on contracts with non-Federal institutions to accomplish scientific and technical work needed for public purposes. A partnership among public and private agencies is the best way in our society to enlist the Nation's resources and achieve the most rapid progress.

2. The basic purposes to be served by Federal research and development programs are public purposes, considered by the President and the Congress to be of sufficient national importance to warrant the expenditure of public funds. The management and control of such programs must be firmly in the hands of full-time Government officials clearly responsible to the President and the Congress. With programs of the size and complexity now common, this requires that the Government have on its staff exceptionally strong and able executives, scientists, and engineers, fully qualified to weigh the views and advice of technical specialists, to make policy decisions concerning the types of work to be undertaken, when, by whom, and at what cost, to supervise the execution of work undertaken, and to evaluate the results.

<sup>1</sup>Ed. note.—See Annex 1, p. 25, for complete text of letter.

At the present time we consider that one of the most serious obstacles to the recruitment and retention of first-class scientists, administrators, and engineers in the Government service is the serious disparity between governmental and private compensation for comparable work. We cannot stress too strongly the importance of rectifying this situation, through congressional enactment of civilian pay reform legislation as you have recommended.

3. Given proper arrangements to maintain management control in the hands of Government officials, federally financed research and development work can be accomplished through several different means: Direct governmental operations of laboratories and other installations; operation of Government-owned facilities by contractors; grants and contracts with universities; contracts with not-for-profit corporations or with profit corporations. Choices among these means should be made on the basis of relative efficiency and effectiveness in accomplishing the desired work, with due regard to the need to maintain and enlarge the long-term strength of the Nation's scientific resources, both public and private.

In addition, the rapid expansion of the use of Government contracts, in a field where 25 years ago they were relatively rare, has brought to the fore a number of different types of possible conflicts of interests, and these should be avoided in assigning research and development work. Clear-cut standards exist with respect to some of these potential conflict-of-interest situations—as is the case with respect to persons in private life acting as advisers and consultants to Government, which was covered in your memorandum of February 9, 1962. Some other standards are now widely accepted—for example, the undesirability of permitting a firm which holds a contract for technical advisory services to seek a contract to develop or to supply any major item with respect to which the firm has advised the Government. Still other standards are needed, and we recommend that you request the head of each department and agency which does a significant amount of contracting for research and development to develop, in consultation with the Attorney General, clear-cut codes of conduct, to provide standards and criteria to guide the public officials and private persons and organizations engaged in research and development activities.

4. We have identified a number of ways in which the contracting system can and should be improved, including:

Providing more incentives for reducing costs and improving performance;

Improving our ability to evaluate the quality of research and development work;

Giving more attention to feasibility studies and the development of specifications prior to inviting private proposals for major systems development, thus reducing "brochuremanship" with its heavy waste of scarce talent.

We have carefully considered the question whether standards should be applied to salaries and related benefits paid by research and development contractors doing work for the Government. We believe it is desirable to do so in those cases in which the system of letting contracts does not result in cost control through competition. We believe the basic standard to be applied should be essentially the same as the standard you recently recommended to the Congress with

respect to Federal employees—namely, comparability with salaries and related benefits paid to persons doing similar work in the private economy. Insofar as a comparability standard cannot be applied—as would be the case with respect to the very top jobs in an organization, for example—we would make it the personal responsibility of the head of the contracting agency to make sure that reasonable limits are applied.

5. Finally, we consider that in recent years there has been a serious trend toward eroding the competence of the Government's research and development establishments—in part owing to the keen competition for scarce talent which has come from Government contractors. We believe it to be highly important to improve this situation—not by setting artificial or arbitrary limits on Government contractors but by sharply improving the working environment within the Government, in order to attract and hold first-class scientists and technicians. In our judgement, the most important improvements that are needed within Government are:

To insure that governmental research and development establishments are assigned significant and challenging work;

To simplify management controls, eliminate unnecessary echelons of review and supervision, and give to laboratory directors more authority to command resources and make administrative decisions; and

To raise salaries, particularly in the higher grades, in order to provide greater comparability with salaries available in private activities.

Action is underway along the first two lines—some of it begun as the result of our review. Only the Congress can act on the third aspect of the problem, and we strongly hope it will do so promptly.

In preparing this report, we have benefited from comments and suggestions by the Attorney General, the Secretaries of Agriculture, Commerce, Labor, and Health, Education, and Welfare, and the Administrator, Federal Aviation Agency, and they concur in general with our findings and conclusions.

ROBERT S. McNAMARA,  
*Secretary of Defense.*

JAMES E. WEBB,  
*Administrator, National Aeronautics and Space Administration.*

JOHN W. MACY, JR.,  
*Chairman, Civil Service Commission.*

DR. GLENN T. SEABORG,  
*Chairman, Atomic Energy Commission.*

DR. ALAN T. WATERMAN,  
*Director, National Science Foundation.*

JEROME B. WIESNER,  
*Special Assistant to the President for Science and Technology.*

DAVID E. BELL,  
*Director, Bureau of the Budget.*

## FOREWORD

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This report has been prepared in response to the President's letter of July 31, 1961, to the Director of the Bureau of the Budget, asking for a review of the use of Government contracts with private institutions and enterprises to obtain scientific and technical work needed for public purposes.

Such contracts have been used extensively since the end of World War II to provide for the operation and management of research and development facilities and programs, for analytical studies and advisory services, and for technical supervision of complex systems, as well as for the conduct of research and development projects.

As the President noted in his letter, there is a consensus that the use of contracts is appropriate in many cases. At the same time, a number of important issues have been raised, including the appropriate extent of reliance on contractors, the comparative salaries paid by contractors and the Government, the effect of extensive contracting on the Government's own research and development capabilities, and the extent to which contracts may have been used to avoid limitations which exist on direct Federal operations.

Accordingly, the President asked that the review focus on—

Criteria that should be used in determining whether to perform a function through a contractor or through direct Federal operations;

Actions needed to increase the Government's ability to review contractor operations and to perform scientific and technical work; and

Policies which should be followed by the Government in obtaining maximum efficiency from contractor operations and in reviewing contractor performance and costs (including standards for salaries, fees, and other items).

The President requested the following officials to participate in the study: The Secretary of Defense, the Chairman of the Atomic Energy Commission, the Chairman of the Civil Service Commission, the Administrator of the National Aeronautics and Space Administration, and the Special Assistant to the President for Science and Technology. The Director of the National Science Foundation was also invited to participate.

In making the review requested by the President, a great deal of material was available from hearings and reports of the Senate and House Committees on Appropriations, Armed Services, Judiciary, and Government Operations, the House Committees on Post Office and Civil Service and on Science and Astronautics, the second Hoover Commission, and various governmental and private studies. In addition, information was obtained:

By questionnaires to which 10 Federal agencies and 71 Government field installations, universities, and contract establishments responded; and

By interviews conducted at 28 Government field installations and non-Federal establishments, and with a number of agency headquarters officials.

These data were obtained and analyzed with respect to major policy implications by an interdepartmental staff group which included representatives of each of the officials whom the President asked to participate in the review.

This report presents a summary analysis and recommendations growing out of this review. It is organized in four parts:

1. Statement of major issues.
2. Considerations in deciding whether to contract out research and development work.
3. Proposals for improving policies and practices applying to research and development contracting.
4. Proposals for improving the Government's ability to carry out research and development work directly.

In addition, there are attached to the report the following annexes intended to present additional supporting information:

1. Letter from the President to the Director of the Budget of July 31, 1961.
2. Summary information concerning respondents to Bureau of the Budget questionnaire and organizations interviewed.
3. Special analysis on Federal research and development programs, reprinted from the Federal budget for fiscal year 1963.
4. Summary information concerning the distribution of national research and development funds, activities, and personnel.
5. Summary of information obtained regarding salaries and related benefits and turnover of personnel.
6. Annotated bibliography on Federal contracting-out of research and development.



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## PART 1

### STATEMENT OF MAJOR ISSUES

Policy questions relating to Government contracting for research and development<sup>1</sup> must be considered in the perspective of the phenomenal growth, diversity, and change in Federal activities in this field.

#### FEDERAL RESEARCH AND DEVELOPMENT ACTIVITIES AND THEIR IMPACT

Prior to World War II, the total Federal research and development program is estimated to have cost annually about \$100 million. In the fiscal year 1950, total Federal research and development expenditures were about \$1.1 billion. In the fiscal year 1963, the total is expected to reach \$12.4 billion.

The fundamental reason for this growth in expenditures has been the importance of scientific and technical work to the achievement of major public purposes. Since World War II the national defense effort has rested more and more on the search for new technology. Our military posture has come to depend less on production capacity in being and more on the race for shorter lead times in the development and deployment of new weapons systems and of countermeasures against similar systems in the hands of potential enemies. The Defense Department alone is expected to spend \$7.1 billion on research and development in fiscal 1963, and the Atomic Energy Commission another \$1.4 billion.

Aside from the national defense, science and technology are of increasing significance to many other Federal programs. The Nation's effort in nonmilitary space exploration—which is virtually entirely a research and development effort—is growing extremely rapidly; the National Aeronautics and Space Administration is expected to spend \$2.4 billion in fiscal 1963, and additional sums related to the national space program will be spent by the Department of Commerce and other agencies. Moreover, scientific and technological efforts are of major significance in agriculture, health, natural resources, and many other Federal programs.

The end of this period of rapid growth is not yet in sight. Public purposes will continue to require larger and larger scientific and technological efforts for as far ahead as we can see.

The increase in Federal expenditures for research and development has had an enormous impact on the Nation's scientific and technical resources. It is not too much to say that the major initiative and responsibility for promoting and financing research and development have in many important areas been shifted from private enterprise (including academic as well as business institutions) to the Federal

<sup>1</sup> Note on terminology: The term "research and development" is used in this report in the sense in which it is used in the Federal budget—that is, it means the conduct of activities intended to obtain new knowledge or to apply existing knowledge to new uses. The Department of Defense uses the term "research, development, test, and evaluation," which is a somewhat fuller but more cumbersome term for the same concept. In this report the shorter term is used for convenience. For a summary of all Federal activities of this type, see Annex 3, "Federal Research and Development Programs," reprinted from "The Budget of the U.S. Government for fiscal year 1963."

## 2 CONTRACTING FOR RESEARCH AND DEVELOPMENT

Government. Prior to World War II, the great bulk of the Nation's research achievements occurred with little support from Federal funds—although there were notable exceptions, such as in the field of agriculture. Today it is estimated by the National Science Foundation that the Federal budget finances about 65 percent of the total national expenditure for research and development. Moreover, the Federal share is rising.

Federal financing, however, does not necessarily imply Federal operation. As the Federal research and development effort has risen, there has been a steady reduction in the proportion conducted through direct Federal operations. Today about 80 percent of Federal expenditures for research and development are made through non-Federal institutions. Furthermore, while a major finding of this report is that the Government's capabilities for direct operations in research and development need to be substantially strengthened, there is no doubt that the Government must continue to rely on the private sector for the major share of the scientific and technical work which it requires.<sup>2</sup>

The effects of the extraordinary increase in Federal expenditures for research and development, and the increasing reliance on the private sector to perform such work, have been very far reaching.

The impact on private industry has been striking. In the past the Government utilized profitmaking industry mainly for production engineering and the manufacture of final products—not for research and development. Industries with which it dealt in securing the bulk of its equipment were primarily the traditional large manufacturers for the civilian economy—such as the automotive, machinery, shipbuilding, steel, and oil industries—which relied on the Government for only a portion, usually a minority, of their sales and revenues. In the current scientific age, the older industries have declined in prominence in the advanced equipment area and newer research and development-oriented industries have come to the fore—such as those dealing in aircraft, rockets, electronics, and atomic energy.

There are significant differences between these newer industries and others. While the older industries were organized along mass-production principles, and used large numbers of production workers, the newer ones show roughly a 1-to-1 ratio between production workers and scientist-engineers. Moreover, the proportion of production workers is steadily declining. Between 1954 and 1959, production workers in the aircraft industry declined 17 percent while engineers and scientists increased 96 percent. Also, while the average ratio of research and development expenditures to sales in all industry is about 3 percent, the advanced weapons industry averages about 20 percent and the aerospace industry averages about 31 percent.

But the most striking difference is the reliance of the newer industries almost entirely on Government sales for their business. In 1958, a reasonably representative year, in an older industry, the automotive industry, military sales ranged from 5 percent for General Motors to 15 percent for Chrysler. In the same year in the aircraft industry, military sales ranged from a low of 67 percent for Beech Aircraft to a high of 99.2 percent for the Martin Co.

<sup>2</sup> Annex 4 provides data, supplied by the National Science Foundation, on the sources of funds for the national research and development effort and on the distribution of work between the various types of performing installations—direct Federal operations, industry, universities, and not-for-profit establishments.

The present situation, therefore, is one in which a large group of economically significant and technologically advanced industries depend for their existence and growth not on the open competitive market of traditional economic theory, but on sales only to the U.S. Government. And, moreover, companies in these industries have the strongest incentives to seek contracts for research and development work which will give them both the know-how and the preferred position to seek later follow-on production contracts.

The rapid increase in Federal research and development expenditures has had striking effects on other institutions in our society apart from private industry.

There has been a major impact on the universities. The Nation has always depended largely on the universities for carrying out fundamental research. As such work has become more important to Government and more expensive, an increasing share—particularly in the physical and life sciences and engineering—has been supported by Federal funds. The total impact on a university can be sizable. Well over half of the research budgets of such universities as Harvard, Brown, Columbia, Massachusetts Institute of Technology, Stanford, California Institute of Technology, University of Illinois, New York University, and Princeton, for illustration, is supported by Federal funds.

New institutional arrangements have been established in many cases, related to but organized separately from the universities, in order to respond to the needs of the Federal Government. Thus, the Lincoln Laboratory of the Massachusetts Institute of Technology was established by contract with the Air Force to supply research and development services and to establish systems concepts for the continental air defense, and similarly the Jet Propulsion Laboratory was established at the California Institute of Technology to conduct research on rocket propulsion for the Department of the Army and later to supply space craft design and systems engineering services to the National Aeronautics and Space Administration. In addition, other research institutions—such as the Stanford Research Institute—which were established to conduct research on contract for private or public customers, now do a major share of their business with the Federal Government.

In addition to altering the traditional patterns of organization of private industry and the universities, the rise in Federal research and development expenditures has resulted in the creation of entirely new kinds of organizations.

One kind of organization is typified by the Rand Corp., established immediately after World War II, to provide operations research and other analytical services by contract to the Air Force. A number of similar organizations have been established since, more or less modeled on Rand, to provide similar services to other governmental agencies.

A second new kind of organization is the private corporation, generally not-for-profit but sometimes profit, created to furnish the Government with "systems engineering and technical direction" and other professional services. The Aerospace Corp., the MITRE Corp., the Systems Development Corp., and the Planning Research Corporation are illustrations.

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A third new organizational arrangement was pioneered by the Office of Scientific Research and Development during World War II and used by the Atomic Energy Commission, which took over the wartime atomic energy laboratories and added others—all consisting of facilities and equipment owned by the Government but operated under contract by private organizations, either industrial companies or universities.

Apart from their impact on the institutions of our society, Federal needs in research and development are placing critical demands on the national pool of scientific and engineering talent. The National Science Foundation points out that the country's supply of scientists and engineers is increasing at the fairly stable rate of 6 percent annually, while the number engaged in research and development activities is growing at about 10 percent each year. Accordingly, the task of developing our manpower resources in sufficient quality and quantity to keep pace with the expanding research and development effort is a matter of great urgency. The competition for scientists and engineers is becoming keener all the time and requires urgent attention to the expansion of education and training, and to the efficient use of the scientific and technical personnel we have now.

#### QUESTIONS AND ISSUES CONSIDERED IN THIS REPORT

The dynamic character of the Nation's research and development efforts, as summarized in the preceding paragraphs, has given rise to a number of criticisms and points of concern. For example, concern has been expressed that the Government's ability to perform essential management functions has diminished because of an increasing dependence on contractors to determine policies of a technical nature and to exercise the type of management functions which Government itself should perform. Some have criticized the new not-for-profit contractors, performing systems engineering and technical direction work for the Government, on the grounds that they are intruding on traditional functions performed by competitive industry. Some concern has been expressed that universities are undertaking research and development programs of a nature and size which may interfere with their traditional educational functions. The cost-reimbursement type of contracts the Government uses, particularly with respect to research and development work on weapons and space systems, have been criticized as providing insufficient incentives to keep costs down and insure effective performance. Criticism has been leveled against relying so heavily on contractors to perform research and development work as simply a device for circumventing civil service rules and regulations.

Finally, the developments of recent years have inevitably blurred the traditional dividing lines between the public and private sectors of our Nation. A number of profound questions affecting the structure of our society are raised by our inability to apply the classical distinctions between what is public and what is private. For example, should a corporation created to provide services to Government and receiving 100 percent of its financial support from Government be considered a "public" or a "private" agency? In what sense is a business corporation doing nearly 100 percent of its business with the Government engaged in "free enterprise"?

In light of these criticisms and concerns, an appraisal of the experience in using contracts to accomplish the Government's research and development purposes is evidently timely. We have not, however, in the course of the present review attempted to treat the fundamental philosophical issues indicated in the preceding paragraph. We accept as desirable the present high degree of interdependence and collaboration between Government and private institutions. We believe the present intermingling of the public and private sectors is in the national interest because it affords the largest opportunity for initiative and the competition of ideas from all elements of the technical community. Consequently, it is our judgment that the present complex partnership between Government and private institutions should continue.

On these assumptions, the present report is intended to deal with the practical question: What should the Government do to make the partnership work better in the public interest and with maximum effectiveness and economy?

We deal principally with three aspects of this main question.

There is first the question, what aspects of the research and development effort should be contracted out? This question falls into two parts. One part relates to those crucial powers to manage and control governmental activities which must be retained in the hands of public officials directly answerable to the President and Congress. Are we in danger of contracting out such powers to private organizations? If so, what should be done about it?

The other part of this question relates to activities which do not have to be carried out by Government officials, but on which there is an option: they may be accomplished either by direct Government operations or by contract with non-Federal institutions. What are the criteria that should guide this choice? And if a private institution is chosen, what are the criteria for choice as among universities, not-for-profit corporations, profit corporations, or other possible contractors?

The second question we deal with is what standards and criteria should govern contract terms in cases where research and development is contracted out. For example, to what extent is competition effective in insuring efficient performance at low cost, and when—if at all—must special rules be established to control fees, salaries paid, and other elements of contractor cost?

The third question we deal with is how we can maintain strong research and development institutions as direct Government operations. How can we prevent the best of the Government's research scientists, engineers, and administrators from being drained off to private institutions as a result of higher private salaries and superior private working environments, and how can we attract an adequate number of the most talented new college graduates to a career in Government service?

These questions are treated in the sections which follow.

## PART 2

### CONSIDERATIONS IN DECIDING WHETHER TO CONTRACT OUT RESEARCH AND DEVELOPMENT WORK

Generalizations about criteria for contracting out research and development work must be reached with caution, in view of the wide variety of different circumstances which must be covered.

A great many Government agencies are involved. The Department of Defense, the National Aeronautics and Space Administration, and the Atomic Energy Commission provide the bulk of Federal financing, but a dozen or more agencies also play significant roles.

Most Federal research and development work is closely related to the specific purpose of the agency concerned—to the creation of new weapons systems for the Department of Defense, for example, or the exploration of new types of atomic power reactors for the Atomic Energy Commission. But a significant portion of the research financed by the Federal Government is aimed at more general targets: to enlarge the national supply of highly trained scientists, for example, as is the case with some programs of the National Science Foundation. And even the most “mission oriented” agencies have often found it desirable to make funds available for basic research to advance the fundamental state of knowledge in fields that are relevant to their missions. Both the Department of Defense and the AEC, for example, make substantial funds available for fundamental research, not related to any specific item of equipment or other end product.

A great many different kinds of activity are involved, which have been classified by some under five headings:

- (1) Fundamental research.
- (2) Supporting research or exploratory development.
- (3) Feasibility studies, operations analysis, and technical advice.
- (4) Development and engineering of products, processes, or systems.
- (5) Test and evaluation activities.

The lines between many of the activities listed are necessarily uncertain. Nevertheless, it is clear that “research and development” is a phrase that covers a considerable number of different kinds of activity.

Finally, there have been distinct historical developments affecting the different Government agencies. Some agencies, for example, have a tradition of relying primarily on direct Government operations of laboratories—others have precisely the opposite tradition of relying primarily on contracting for the operation of such installations.

Against this background of diversity in several dimensions we have asked what criteria should be used in deciding whether or not to contract out any given research and development task? In outline, our judgment on this question runs as follows:

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There are certain functions which should under no circumstances be contracted out. The management and control of the Federal research and development effort must be firmly in the hands of full-time Government officials clearly responsible to the President and the Congress.

Subject to this principle, many kinds of arrangements—including both direct Federal operations and the various patterns of contracting now in use—can and should be used to mobilize the talent and facilities needed to carry out the Federal research and development effort. Not all arrangements, however, are equally suitable for all purposes and under all circumstances, and discriminating choices must be made among them by the Government agencies having research and development responsibilities. These choices should be based primarily on two considerations:

- (1) Getting the job done effectively and efficiently, with due regard to the long-term strength of the Nation's scientific and technical resources; and
- (2) Avoiding assignments of work which would create inherent conflicts of interest.

Each of these judgments is elaborated below:

### STRENGTHENING THE ABILITY OF THE GOVERNMENT TO MANAGE AND CONTROL RESEARCH AND DEVELOPMENT PROGRAMS

We regard it as axiomatic that policy decisions respecting the Government's research and development programs—decisions concerning the types of work to be undertaken when, by whom, and at what cost—must be made by full-time Government officials clearly responsible to the President and to the Congress. Furthermore, such officials must be in a position to supervise the execution of work undertaken, and to evaluate the results. These are basic functions of management which cannot be transferred to any contractor if we are to have proper accountability for the performance of public functions and for the use of public funds.

To say this does not imply that detailed administration of each research and development task must be kept in the hands of top public officials. Indeed, quite the contrary is true, and an appropriate delegation of responsibility—either to subordinate public officials or by contract to private persons or organizations—for the detailed administration of research and development work is essential to its efficient execution.

It is not always easy to draw the line distinguishing essential management and control responsibilities which should not be delegated to private contractors (or, indeed, to governmental research organizations such as laboratories) from those which can and should be so assigned. Recognizing this difficulty, it nevertheless seems to be the case that in recent years there have been instances—particularly in the Department of Defense—where we have come dangerously close to permitting contract employees to exercise functions which belong with top Government management officials. Insofar as this has been true, we believe it is being rectified. Government agencies are now keenly aware of this problem and have taken steps to retain functions essential to the performance of their responsibility under the law.



It is not enough, of course, to recognize that governmental managers must retain top management functions and not contract them out. In order to perform those functions effectively, they must be themselves competent to make the required management decisions and, in addition, have access to all necessary technical advice. Three conclusions follow:

First, where management decisions are based substantially on technical judgments, qualified executives, who can properly utilize the advice of technical consultants, from both inside and outside the Government, are needed to perform them. There must be sufficient technical competence within the Government so that outside technical advice does not become de facto technical decisionmaking. In many instances the executives making the decisions can and should have strong scientific backgrounds. In others, it is possible to have nonscientists so long as they are capable of understanding the technical issues involved and have otherwise appropriate administrative experience.

By and large, we believe it is necessary for the agencies concerned to give increased stress to the need to bring into governmental service as administrators men with scientific or engineering understanding, and during the development of Government career executives, to give many of them the opportunity, through appropriate training and experience, to strengthen their appreciation and understanding of scientific and technical matters. Correspondingly, scientists and engineers should be encouraged and guided to obtain, through appropriate training and experience, a broader understanding of management and public policy matters. The average governmental administrator in the years to come will be dealing with issues having larger and larger scientific and technical content, and his training and experience, both before he enters Government service and after he has joined, should reflect this fact.

At the present time, we are strongly persuaded that one of the most serious obstacles to acquiring and maintaining the managerial competence which the Government needs for its research and development programs is the discrepancy between governmental and private compensation for comparable work. This obstacle has been growing increasingly serious in recent years as increases in Federal pay have been concentrated primarily at the lower end of the pay scale—resulting in the anomalous situation that many officials of Government responsible for administering major elements of Federal research and development programs are paid substantially smaller salaries than personnel of universities, of business corporations, or of not-for-profit organizations who carry out subordinate aspects of those research and development programs.<sup>1</sup> We cannot stress too strongly the importance of rectifying this situation, and hope the Congress will take at this session the action which the President has recommended to reform Federal civilian pay scales.

Second, it is necessary for even the best qualified governmental managers to obtain technical advice from specialists. Such technical advice can be obtained from men within the Government or those outside. When it is obtained from persons outside of Government, special problems of potential conflict of interest are raised which were

<sup>1</sup> Annex 5 summarizes information obtained during the present review regarding salaries and related benefits.

dealt with in the President's recent memorandum entitled "Preventing Conflicts of Interest on the Part of Advisers and Consultants to the Government."

We believe it highly important for the Government to be able to turn to technical advice from its own establishment as well as from outside sources. One major source of this technical knowledge is the Government-operated laboratory or research installation and, as is made clear later in this report, we believe major improvements are needed at the present time in the management and staffing of these installations. A strong base of technical knowledge should be continually maintained within the Government service and available for advice to top management.

Third, we need to be particularly sensitive to the cumulative effects of contracting out Government work. A series of actions to contract out important activities, each wholly justified when considered on its own merits, may when taken together begin to erode the Government's ability to manage its research and development programs. There must be a high degree of awareness of this danger on the part of all governmental officials concerned. Particular attention must be given to strengthening the Government's ability to provide effective technical supervision in the letting and carrying out of contracts, and to developing more adequate measures for performance evaluation.

#### DETERMINING THE ASSIGNMENT OF RESEARCH AND DEVELOPMENT WORK

As indicated above, we consider it necessary and desirable to use a variety of arrangements to obtain the scientific and technical services needed to accomplish public purposes. Such arrangements include: direct governmental operations through laboratories or other installations; operation of Government-owned facilities by contractors; grants and contracts with universities and entities associated with universities; contracts with not-for-profit corporations wholly or largely devoted to performing work for Government; and contracts with private business corporations. We also feel that innovation is still needed in these matters, and each agency should be encouraged to seek new and better arrangements to accomplish its purposes. Choices among available arrangements should be based primarily on two factors:

- Relative effectiveness and efficiency, and
- Avoidance of conflicts of interest.

#### *Relative effectiveness and efficiency*

In selecting recipients, whether public or private, for research and development assignments, the basic rule (apart from the conflict-of-interest problem) should be to assign the job where it can be done most effectively and efficiently, with due regard to the strengthening of institutional resources as well as to the immediate execution of projects. This criterion does not, in our judgment, lead to a conclusion that certain kinds of work should be assigned only to certain kinds of institutions.—Too much depends on individual competence, historical evolution, and other special circumstances to permit any such simple rule to hold. However, it seems clear that some types of facilities have natural advantages which should be made use of. Thus:

Direct Federal operations, such as the governmental laboratory, enjoy a close and continuing relationship to the agency they serve which permits maximum responsiveness to the needs of that agency and a maximum sense of sharing the mission of the agency. Such operations accordingly have a natural advantage in conducting research, feasibility studies, developmental and analytical work, user tests, and evaluations which directly support the management functions of the agency. Furthermore, an agency-operated research and development installation may provide a useful source of technical management personnel for its sponsor.

At the present time we consider that the laboratories and other facilities available to Government are operating under certain important handicaps which should be removed if these facilities are to support properly the Federal research and development effort. These matters are discussed at some length in part 4 of this report.

Colleges and universities have a long tradition in basic research. The processes of graduate education and basic research have long been closely associated, and reinforce each other in many ways. This unique intellectual environment has proven to be highly conducive to successful undirected and creative research by highly skilled specialists. Such research is not amenable to management control by adherence to firm schedules, well-defined objectives, or predetermined methods of work. In the colleges and universities graduate education and basic research constitute an effective means of introducing future research workers to their fields in direct association with experienced people in those fields, and in an atmosphere of active research work. Applied research appropriate to the universities is that which broadly advances the state of the art.

University-associated research centers are well suited to basic or applied research for which the facilities are so large and expensive that the research acquires the character of a major program best carried out in an entity apart from the regular academic organization. Research in such centers often benefits from the active participation of university scientists. At the same time the sponsoring university (and sometimes other, cooperating universities) benefits from increased opportunities for research by its faculties and graduate students.

Not-for-profit organizations (other than universities and contractor-operated Government facilities), if strongly led, can provide a degree of independence, both from Government and from the commercial market, which may make them particularly useful as a source of objective analytical advice and technical services. These organizations have on occasion provided an important means for establishing a competent research organization for a particular task more rapidly than could have been possible within the less flexible administrative requirements of the Government.

Contractor-operated Government facilities appear to be effective, in some instances, in securing competent scientific and technical personnel to perform research and development work where very complex and costly facilities are required and the Government desires to maintain control of those facilities. Under such arrangements, it has been possible for the Government to retain most of the controls inherent in direct Federal operations, while at the same time gaining many of the advantages of flexibility with respect to staffing, organization, and management, which are inherent in university and industrial operations.

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Operations in the profit sector of the economy have special advantages when large and complex arrays of resources needed for advanced development and preproduction work must be marshaled quickly. If the contracting system is such as to provide appropriate incentives, operations for profit can have advantages in spurring efficiency, reducing costs, and speeding accomplishments. (It is plain that not all operations in this sector have resulted in low costs or rapid and efficient performance; we regard this as a major problem for the contracting system and discuss it further in pt. 3 of this report.) Contractors in the profit sector may have the advantage of drawing on resources developed to satisfy commercial as well as governmental customers which adds to the flexibility of procurement, and may permit resources to be phased in and out of Government work on demand.

The preceding paragraphs have stressed the advantages of these different types of organization. There are disadvantages relating to each type which must also be taken into account. Universities, for example, are not ordinarily qualified—nor would they wish—to undertake major systems engineering contracts.

We repeat that the advantages—and disadvantages—noted above do not mean that these different types of arrangements should be given areas of monopoly on different kinds of work. There are, by common agreement, considerable advantages derived from the present diversity of operations. It permits great flexibility in establishing and directing different kinds of facilities and units, and in meeting the need for managing different kinds of jobs. Comparison of operations among these various types of organizations helps provide yardsticks for evaluating performance.

Moreover, this diversity helps provide many sources of ideas and of the critical analysis of ideas, on which scientific and technical progress depend. Indeed, we believe that some research (in contrast to development) should be undertaken by most types of organizations. Basic and applied research activities related to the mission of the organization help to provide a better intellectual environment in which to carry out development work. They also assist greatly in recruiting high quality research staff.

In addition to the desirability of making use of the natural areas of advantage within this diversity of arrangements, there is one additional point we would stress. Activities closely related to governmental managerial decisions (such as those in support of contractor selection), or to activities inherently governmental (such as regulatory functions, or technical activities directly bound up with military operations), are likely to call for a direct Federal capability and to be less successfully handled by contract.

### *Conflicts of interest*

There are at least three aspects of the conflict-of-interest problem which arise in connection with governmental research and development work.

First, there are problems relating to private individuals who serve simultaneously as governmental consultants and as officers, directors, or employees of private organizations with which the Government has a contractual relationship. Many of these individuals are among the Nation's most capable people in the research and development field, and can be of very great assistance to Government agencies.

The problems arising in their case with respect to potential conflicts of interest have been dealt with in the President's memorandum of February 9, referred to earlier in this report. The essential standard set out in that memorandum was that no individual serving as an adviser or consultant should render advice on an issue whose outcome would have a direct and predictable effect on the interests of the private organization which he serves. To this end the President asked that arrangements be made whereby each adviser and consultant would disclose the full extent of his private interests, and the responsible Government officials would undertake to make sure that conflict-of-interest situations are avoided.

Second, there is a significant tendency to have on the boards of trustees and directors of the major universities, not-for-profit and profit establishments engaged in Federal research and development work, representatives of other institutions involved in such work. Such interlocking directorships may serve to reinforce and strengthen the overall management of private organizations which are heavily financed by the Government. Certainly it is in the public interest that organizations on whom so much reliance is placed for accomplishing public purposes, should be controlled by the most responsible, mature, and knowledgeable men available in the Nation. However, we see the clear possibility of conflict-of-interest situations developing through such common directorships that might be harmful to the public interest. Members of governing boards of private business enterprises, universities, or other organizations which advise the Government with respect to research and development activities are often simultaneously members of governing boards of organizations which receive or may receive contracts or grants from the Government for research, development, or production work. Unless these board members also serve as consultants to the Government, present conflict-of-interest laws do not apply. The spirit, if not the letter, of the standards of conduct for Government advisers set forth in the President's memorandum, in our judgment, can and should provide guidance to boards and their members with respect to the interrelationships among universities, not-for-profit organizations, and business corporations where Government business is involved. Some boards of trustees and directors have already taken action along these lines.

Beyond this, however, there is a third type of problem which requires consideration: This might be described as potential conflicts of interest relating to organizations rather than to individuals. It arises in several forms—not all of which by any means are yet fully understood. Indeed, in this area of potential conflicts of interest relating to individuals and organizations in the research and development field, we are in an early stage of developing accepted standards for conduct—unlike other fields, such as the law or medicine, where there are long-established standards of conduct.

One form of organizational conflict of interest relates to the distinction between organizations providing professional services (e.g., technical advice) and those providing manufactured products. A conflict of interest could arise, for example, if a private corporation received a contract to provide technical advice and guidance with respect to a weapons system for which that same private corporation later sought a development or production contract, or for which it sought to develop or supply a key sub-system or component. It is

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clear that such conflict-of-interest situations can arise whether or not the profit motive is present. The managers of the not-for-profit institutions have necessarily a strong interest in the continuation and success of such institutions, and it is part of good management of Federal research and development programs to avoid placing any contractor—whether profit or nonprofit—in a position where a conflict of interest could clearly exist.

Another kind of issue is raised by the question whether an organization which has been established to provide services to a Government agency should be permitted to seek contracts with other Government agencies—or with non-Government customers. The question has arisen particularly with respect to not-for-profit organizations established to provide professional services.

There is not a clear consensus on this question among Government officials and officers of the organizations in question. We have considered the question far enough to have the following tentative views:

In the case of organizations in the area of operations and policy research (such, for example, as the Rand Corp.), the principal advantages they have to offer are the detached quality and objectivity of their work. Here, too close control by any Government agency may tend to limit objectivity. Organizations of this kind should not be discouraged from dealing with a variety of clients, both in and out of Government.

On the other hand, a number of the organizations which have been established to provide systems engineering and technical direction (such, for example, as Aerospace Corp.) are at least for the time being of value principally as they act as agents of a single client. In time, as programs change and new requirements arise, it may be possible and desirable for such organizations also to achieve a fully independent financial basis, resting on multiple clients, but this would seem more likely to be a later rather than an earlier development.

Enough has been said to indicate that this general area of conflict of interest with respect to research and development work is turning up new kinds of questions and all the answers have not yet been found. We believe it important to continue to work toward setting forth standards of conduct, as was done by the President in his February memorandum. We recommend that the President instruct each department and agency head, in consultation with the Attorney General, to proceed to develop as much of a code of conduct for individuals and organizations in the research and development field as circumstances now permit.

Finally, we would note that beyond any formal standards, we cannot escape the necessity of relying on the sensitive conscience of officials in the Government and in private organizations to make sure that appropriate standards are continually maintained.

### PART 3

## PROPOSALS FOR IMPROVING POLICIES AND PRACTICES APPLYING TO RESEARCH AND DEVELOPMENT CONTRACTING

During the course of this review, a number of suggestions arose which we believe to indicate desirable improvements in the Government's policies and practices applying to research and development contracting.

### IMPROVING THE GOVERNMENT'S COMPETENCE AS A "SOPHISTICATED BUYER"

In order for the contracting system to work effectively, the first requirement is for the Government to be a sophisticated buyer—that is, to know what it wants and how to get it. Mention has already been made of the requirements this placed on governmental management officials. At this point four additional suggestions are made.

1. In the case of many large systems development projects, it has been the practice to invite private corporations to submit proposals to undertake research and development work—relating to a new missile system, for example, or a new aircraft system. Such proposals are often invited before usable and realistic specifications of the system have been worked out in sufficient detail. As a consequence, highly elaborate, independent, and expensive studies are often undertaken by the would-be contractors in the course of submitting their proposals. This is a very costly method of obtaining competitive proposals, and it unnecessarily consumes large amounts of the best creative talent this country possesses, both on the preparation of the proposals and their evaluation. Delivery time pressures may necessitate inviting proposals before specifications are completed, but we believe this practice can and should be substantially curtailed.

This would mean, in many instances, improving the Government's ability to accomplish feasibility studies, or letting special contracts for that purpose, before inviting proposals. In either event, it would require the acceptance of a greater degree of responsibility by Government managers for making preliminary decisions prior to inviting private proposals. We believe the gains from such a change would be substantial in the avoidance of unnecessary and wasteful use of scarce scientific and technical personnel as well as heavy costs to the private contractors concerned—costs which in most cases are passed on to the Government.

2. We believe there is a great deal of work to be done to improve the Government's ability to supervise and to evaluate the conduct of research and development efforts—whether undertaken through public or private facilities. We do not have nearly enough understanding as yet of how to know whether we are getting a good product for our money, whether research and development work is being

competently managed, or how to select the more competent from the less competent as between research and development establishments.

When inadequate technical criteria exist, there is a tendency to substitute conformity with administrative and fiscal procedures for evaluation of substantive performance. What is required is more exchange of information between agencies on their practices in contractor evaluation and on their experience with these practices. A continuing forum should be provided for such exchange. It is possible also that some central and fairly formal means of reporting methods and experience and recording them permanently should be established. We recommend that the Director of the new Office of Science and Technology, when established, be asked to study the possibility of establishing such a forum and the best means for providing information regarding evaluation practices.

3. With the tremendous proliferation of research and development operations and associated facilities in recent years, it has become difficult for the Government officials who arrange for such work to be done to be aware of all the facilities and manpower that are available. To maintain a complete and continuous roster of manpower, equipment, and organizations, sensitive to month-by-month changes, would undoubtedly be too costly in terms of its value.

Nevertheless, we believe that an organized attempt should be made to improve the current inventory of information on the scientific and technical resources of the country. We recommend that the National Science Foundation consider ways and means of improving the availability of such information for use by all concerned in public and private activities.

4. In addition, the expansion of the Nation's research and development effort has multiplied the difficulties of communication among researchers engaged on related projects at separate facilities, both public and private. It is clear that additional steps should be taken to further efforts to improve the system for the exchange of information in the field of science and technology.

At present a panel on scientific information of the President's Science Advisory Committee is at work on this subject. We expect that its report will be followed by full-scale planning for the establishment of a more effective technical information exchange system, to support the needs of the operating scientist and the engineer.

#### IMPROVING ARRANGEMENTS WITH THE PRIVATE SECTOR TYPES OF CONTRACTS

The principal type of contract for research and development work which is made with private industry is the cost-plus-fixed-fee contract. Such contracts have been used in this area because of the inherent difficulty of establishing precise objectives for the work to be done and of making costs estimates ahead of time.

At the same time, this type of contract has well-known disadvantages. It provides little or no incentive for private managers to reduce costs or otherwise increase efficiency. Indeed, the cost-plus-fixed-fee contract, in combination with strong pressures from governmental managers to accomplish work on a rapid time schedule, probably provides incentives for raising rather than for reducing costs. If a corporation is judged in terms of whether it accomplishes a result by



a given deadline rather than by whether it accomplishes that result at minimum cost, it will naturally pay less attention to costs and more attention to speed of accomplishment. On the other hand, where there is no given deadline, the cost-plus-fixed-fee contract may serve to prolong the research and development work and induce the contractor to delay completion.

Consequently, we believe it to be desirable to replace cost-plus-fixed-fee contracting with fixed-price contracting wherever that is feasible—as it should be in the procurement of some late-stage development, test work, and services. Where it is judged that cost reimbursement must be retained as the contracting principle, it should be possible in many instances to include an incentive arrangement under which the fee would not be fixed, but would vary according to a predetermined standard which would relate larger fees to lower costs, superior performance, and shorter delivery times. There is ample evidence to prove that if adequate incentives are given by rewards for outstanding performance, both time and money can be saved. Where the nature of the task permits, it may be desirable to include in the contract penalty provisions for inadequate performance.

Finally, if neither fixed-price nor incentive-type contracts are possible, it is still necessary for Government managers to insist on consideration being given to lower cost, as well as better products and shorter delivery times—and to include previous performance as one element in evaluating different contractors and the desirability of awarding them subsequent contracts.

#### *Contract administration*

The written contract itself, however well done, is only one aspect of the situation. The administration of a contract requires as much care and effort as the preparation of the contract itself. This is particularly important with respect to changes in system characteristics, for these changes often become the mechanism for justifying cost overruns. Other factors of importance in contract administration are fixing authority and responsibility in both Government and industry, excessive reporting requirements, and an all-too-frequent lack of prearranged milestones for auditing purposes.

#### *Reimbursable costs*

Concern has been expressed because of significant differences among the various agencies in policies regarding which costs are eligible for reimbursement—notably with respect to some of the indirect costs. These differences are now being reviewed by the Bureau of the Budget with the cooperation of the Department of Defense, the National Aeronautics and Space Administration, the Atomic Energy Commission, and the General Services Administration.

#### *Arrangements with universities*

With respect to universities, Government agencies share responsibility for seeing that research and development financed at universities does not weaken these institutions or distort their functions which are so vital to the national interest.

Government agencies use both grants and contracts in financing research at universities, but in our judgment the grant has proved to be a simpler and more desirable device for Federal financing of fundamental research, where it is in the interest of the Government

not to exercise close control over the objectives and direction of research. Since all relevant Government agencies are now empowered to use grants instead of contracts in supporting basic research, the wider use of this authority should be encouraged.

Apart from this matter, three others seem worthy of comment.

One arises from the extensive use of contracts (or grants) for specific and precisely identified projects. Often there is a tendency to believe that in providing support for a single specific project the chance of finding a solution to a problem is being maximized. In reality, however, less specific support often would permit more effective research in broad areas of science, or in interdisciplinary fields, and provide greater freedom in drawing in more scientists to participate in the work that is undertaken. Universities, too, often find project support cumbersome and awkward. A particular professor may be working on several projects financed by several Government agencies and must make arbitrary decisions in allocating expenses to a particular project. It thus appears both possible and desirable to move in the direction of using grants to support broader programs, or to support the more general activities of an institution, rather than to tie each allocation of funds to a specific project. A number of Government agencies have been moving in this direction and it would be desirable to expand the use of such forms of support as experience warrants.

At the same time, it would not, in our judgment, be appropriate to place major reliance on the institutional grant, since the major purpose of making grants in most cases is to assure that the university personnel and facilities concerned will be devoted to pursuing specific courses of inquiry.

A second problem associated with the support of research at universities is whether the Government should pay all costs, including indirect expenses or "overhead," associated with work financed by the Government. We believe this matter involves two related but distinct questions, which should be separated in considering the appropriate policy to be followed.

1. We believe there is no question that, in those cases in which it is desirable for the Government to pay the entire cost of work done at a university, the Government should pay for allowable indirect as well as direct costs. To do otherwise would be discriminatory against universities in comparison with other kinds of institutions. For purposes of financial and accounting simplicity, in those cases where grants are used, and it is desirable for the Government to pay all allowable costs, it may be possible to work out a uniform or average percentage figure which could be regarded as covering indirect costs.

2. We believe there are many cases in which it is neither necessary nor desirable for the Government to pay all the costs of the work to be done. In many fields of research, a university may gain a great deal from having the research in question done on its campus, with the participation of its faculty and students, and may be able and willing to share in the costs, either through its regular funds or through raising additional funds from foundations, alumni, or by other means. The extent and degree of cost-sharing can and should vary among different agencies and programs, and we are not prepared at this time to suggest any uniform standards—except the negative one that it would be plainly illogical to require that the university uniformly provide its share through the payment of all or a part of the indirect

costs. Only in the exceptional case would this turn out to be the best basis for determining the appropriate sharing of costs.

A third problem relates to the means for furnishing major capital assets for research at universities (such as a major building or a major piece of equipment such as a linear accelerator, synchrotron, or large computer). In most cases, it will be preferable to finance such facilities by a separate grant (or contract), which will insure that careful attention is given to the long-term value of the asset and to the establishment of appropriate arrangements for managing and maintaining it.

*Arrangements with respect to not-for-profit organizations other than universities*

It has been the practice in contracting for research and development work with such organizations to cover all allowable costs and, in addition, to provide what is commonly called a "fee." The reason for paying a "fee" to not-for-profit organizations is quite different from the reason for paying a fee to profit-making contractors and therefore the term "fee" is misleading. The profitmaking contractor is engaged in business for profit. His profit and the return to his shareholders or investors can only come from the fee. In the case of the not-for-profit organizations, there are no shareholders, but there are two sound reasons to justify payment of a "development" or "general support" allowance to such organizations.

One is that such allowances provide some degree of operational stability and flexibility to organizations which otherwise would be very tightly bound to the precise limitations of cost financing of specific tasks; the allowances can be used to even out variations in the income of the organization resulting from variations in the level of contract work. A second justification is that most not-for-profit organizations must conduct some independent, self-initiated research if they are to obtain and hold highly competent scientists and engineers. Such staff members, it is argued, will only be attracted if they can share, to some extent, in independently directed research efforts.

We consider that both of these arguments have merit and, in consequence, support the continuation of these payments. Both arguments represent incentives to maintain the cohesiveness and the quality of the organization, which is in the interest of the Government. They should underlie the thinking of the Government representatives who negotiate contracts with not-for-profit organizations. But the amount of the "fee" or allowance in each instance must still be determined by bargaining between Government and contractor, in accordance with the independent relationship that is essential to successful contracting.

An important question relating to not-for-profit organizations other than universities, concerns facilities and equipment. In our judgment, the normal rule should be that where facilities and equipment are required to perform research and development work desired by the Government, the Government should either provide the facilities and equipment, or cover their cost as part of the contract. This is the rule relating to profit organizations and would hold in general for not-for-profit organizations—but there are two special problems with respect to the latter.

First, we believe it is generally not desirable to furnish funds through "fees" for the purpose of enabling a contractor to acquire major capital assets. On the other hand, the Government should not attempt to dictate what a contractor does with his "fee," provided it has been established on a sound and equitable basis, and if a contractor chooses to use part of his "fee" to acquire facilities for use in his self-initiated research, we would see no objection.

Second, we would think it equitable, where the Government has provided facilities, funds to obtain facilities, substantial working capital, or other resources to a contractor, it should, upon dissolution of the organization, be entitled to a first claim upon such resources. This would seem to be a matter which should be governed, insofar as possible, by the terms of the contract—or in the case of any newly established organizations, should be provided in the provisions of its charter.

### *Salaries and related benefits*

In addition to the question of fees and allowances, there has been a great deal of concern over the salaries and related benefits received by persons employed on federally financed research and development work in private institutions, particularly persons employed in not-for-profit establishments doing work exclusively for the Government. Controls have been suggested or urged by congressional committees and others to make sure that there is no excessive expenditure of public funds and to minimize the undesirable competitive effect on the Federal career service.

We agree that where the contracting system does not provide built-in controls (for example, through competitive bidding), attention should be paid to the reasonableness of contractors' salaries and related benefits, and contractors should be reimbursed only for reasonable compensation costs.

The key question is how to decide what is reasonable and appropriate compensation. We believe the basic standard for reimbursement of salaries and related benefits should be one of comparability to compensation of persons doing similar work in the private economy. The President recently proposed to the Congress that the pay for Federal civilian employees should be based on the concept of reasonable comparability with employees doing similar work in the private economy. We believe this to be a sound principle which can be applied in the present circumstances as well.

Application of this comparability principle may require some special compensation surveys (perhaps made by the Bureau of Labor Statistics), which can and should be arranged for as necessary. Furthermore, there will undoubtedly be cases in which comparable data are difficult to obtain—as, for example, with respect to top management jobs. In such cases the specific approval of the head of the Government contracting agency or his designee should be required.

In view of the inherent complexity and sensitivity of this subject, we suggest that special administrative arrangements should be established in each agency. Contract policies respecting salaries and related benefits in each contracting agency should be controlled by an official reporting directly to the head of the agency (in the Department of Defense, to assure uniformity of treatment, by an official reporting directly to the Secretary of Defense), and salaries above a certain level—say \$25,000—should require the personal approval of that official.

## PART 4

### **PROPOSALS FOR IMPROVING THE GOVERNMENT'S ABILITY TO CARRY OUT RESEARCH AND DEVELOPMENT ACTIVITIES DIRECTLY**

Based on the evidence acquired in the course of this review, we believe there is no doubt that the effects of the substantial increase in contracting out Federal research and development work on the Government's own ability to execute research and development work have been deleterious.

The effects of the sharp rise in contracting out have included the following. First, contractors have often been able to provide a superior working environment for their scientists and engineers—better salaries, better facilities, better administrative support—making contracting operations attractive alternatives to Federal work. Second, it has often seemed that contractors have been given the more significant and more interesting work assignments, leaving Government research and development establishments with routine missions and static programs which do not attract the best talent. Third, additional burdens have often been placed on Government research establishments to assist in evaluating the work of increasing numbers of contractors and to train and educate less skilled contractor personnel—without adding to the total staff and thus detracting from the direct research work which appeals to the most competent personnel. Fourth, scientists in contracting institutions have often had freedom to move “outside of channels” in the Government hierarchy and to participate in program determination and technical advice at the highest levels—freedom frequently not available to the Government's own scientists. Finally, one of the most serious aspects of the contracting out process has been that it has provided an alternative to correcting the deficiencies in the Government's own operations.

In consequence, for some time there has been a serious trend toward the reduction of the competence of Government research and development establishments. Recently a number of significant actions have been started which are intended to reverse this trend. We point particularly to the strong leadership being given within the Defense Department by the Director of Defense Research and Engineering, in striving to raise the capabilities of the Department's laboratories and other research and development facilities.

Nevertheless, we believe the situation is still serious and that major efforts are required.

We consider it a most important objective for the Government to maintain first-class facilities and equipment of its own to carry out research and development work. This observation applies not only to the newer research and development agencies but equally to the older agencies such as Commerce, Interior, and Agriculture.

No matter how heavily the Government relies on private contracting, it should never lose a strong internal competence in research and development. By maintaining such competence it can be sure of

being able to make the difficult but extraordinarily important program decisions which rest on scientific and technical judgments. Moreover, the Government's research facilities are a significant source of management personnel.

Major steps seem to us to be necessary in the following matters:

1. It is generally recognized that having significant and challenging work to do is the most important element in establishing a successful research and development organization. It is suggested that responsibility should be assigned in each department and agency to the Assistant Secretary for Research and Development or his equivalent to make sure that assignments to governmental research facilities are such as to attract and hold first-class men. Furthermore, arrangements should be made to call on Government laboratory and development center personnel to a larger extent for technical advice and participation in broad program and management decisions—in contrast to the predominant use of outside advisers.

2. The evidence is compelling that managerial arrangements for many Government-operated research and development facilities are cumbersome and awkward. Several improvements are needed in many instances, including—

Delegating to research laboratory directors more authority to make program and personnel decisions, to control funds, and otherwise to command the resources which are necessary to carry out the mission of the installation;

Providing the research laboratory director a discretionary allotment of funds, to be available for projects of his choosing, and for the results of which he is to be responsible;

Eliminating where possible excess layers or echelons of supervisory management, and insuring that technical, administrative, and fiscal reviews be conducted concurrently and in coordinated fashion; and

Making laboratory research assignments in the form of a few major items with a reasonable degree of continuity rather than a multiplicity of small narrowly specified tasks; this will put responsibility for detailed definition of the work to be done at the laboratory level where it belongs.

To carry out these improvements will require careful and detailed analysis of the different situations in different agencies. Above all, it will require the energetic direction of top officials in each agency.

Plans have already been developed for joint teams of Civil Service Commission and Department of Defense research and manpower personnel to visit nine defense laboratories during April and May 1962, in order to analyze precisely what administrative restrictions exist that hamper research effectiveness. In this fashion, those unwarranted limitations that can be eliminated by executive action can be identified as distinguished from those that may require legislative change.

3. Salary limitations, as already mentioned, in our opinion play a major role in preventing the Government from obtaining or retaining highly competent men and women. Largely because of the lack of comparable salaries, the Government is not now and has not for at least the past 10 years been able to attract or retain its share of such critically necessary people as: recently graduated, highly recommended Ph. D.'s in mathematics and physics; recent B.S.-M.S. scientific and

engineering graduates in the upper 25 percent of their classes at top-ranked universities; good experienced, weapons systems engineers and missile, space, and electronic specialists at intermediate and senior levels; and senior-level laboratory directors, scientific managers, and administrators. This obstacle will be substantially overcome if the Congress approves the President's recommendation to establish a standard of comparability with private pay levels for higher professional and technical jobs in the Federal service.

4. A special problem in the Defense Department is the relationship between uniformed and civilian personnel. This is a difficult and sensitive problem of which the Department of Defense is well aware. We do not attempt in this report to propose detailed solutions, but we do suggest that certain principles are becoming evident as a result of the experience of recent years.

It seems clear, for example, that the military services will have increasing need for substantial numbers of officers who have extensive scientific and technical training and experience. Such officers bring firsthand knowledge of operational conditions and requirements to research and development installations and, in turn, learn about the state of the art and the feasible applications of technology to military operations. The military officer is needed to communicate the needs of the user, to prepare the operational forces for new equipment, to plan for the use of developing equipment, and later to install it and supervise its use.

All of the above roles suggest that when military personnel are used in research and development activities, they should perform as "technical men" rather than "military men" except when there is a need for their military skills. Military command and direction become important only as one moves from the research end of the spectrum into the area where operational considerations predominate. Both at middle management and policy levels, a well-balanced mixture of military and civilian personnel may be most advantageous in programs designed to meet military needs.

In research, there are many instances in which the existence of military supervision, and the decreased opportunities for advancement because of military occupancy of top jobs, are among the principal reasons why the Defense Department has had difficulty in attracting outstanding civilian scientists and engineers. On the other hand, there are examples within the Department of cases in which enlightened policies of civil-military relationships have drawn on the strengths of each and produced excellent results. In such instances, the military head of the laboratory has usually concentrated on administrative problems and the civilian technical director has had complete control of technical programs.

Military officers should not be substituted for civilians in the direction and management of research and development unless they are technically qualified and their military background is directly needed and applicable.

In the course of the next year, the Department of Defense intends to give consideration to the delineation of those research and development installations in which operational considerations are predominant and those installations in which scientific and technical considerations are predominant. Having done so, the assignment of military officers

to head the former type of installation, and civilians (or equally qualified military officers) to head the latter will be encouraged. Furthermore, when military personnel are assigned to work in civilian-directed installations on the basis of their technical abilities, it is intended that they should be free of the usual rotation-of-duty requirements and not have separate lines of reporting.

5. In addition to the recommendations above, we have given consideration to the possible establishment of a new kind of Government research and development establishment, which might be called a Government institute. Such an institute would provide a means for reproducing within the Government structure some of the more positive attributes of the nonprofit corporation. Each institute would be created pursuant to authority granted by the Congress and be subject to the supervision of a Cabinet officer or agency head. It would, however, as a separate corporate entity directly managed by its own board of regents, enjoy a considerable degree of independence in the conduct of its internal affairs. An institute would have authority to operate its own career merit system, as the Tennessee Valley Authority does, would be able to establish a compensation system based on the comparability principle, and would have broad authority to use funds and to acquire and dispose of property.

The objective of establishing such an instrumentality would be to achieve in the administration of certain research and development programs the kind of flexibility which has been obtained by Government corporations while retaining, as was done with the Government corporation, effective public accountability and control.

We regard this idea as promising and recommend that the Bureau of the Budget study it further, in cooperation with some of the agencies having major research and development programs. It may well prove to be a useful additional means for carrying out governmental research and development efforts.

6. It would seem, based on the results of this review, that it would be possible and desirable to make more use of existing governmental facilities and avoid the creation of duplicate facilities. This is not as easy a problem as it might seem. It is ordinarily necessary for a laboratory, if it is to provide strong and competent facilities, to have a major mission and a major source of funding. This will limit the extent to which it is possible to make such facilities available for the work of other agencies. Nevertheless, in some cases and to some extent it is clearly possible to do this and a continuing scrutiny is necessary in order to make sure that the facilities which the Government has are used to their fullest extent.

7. Finally, together with the better use of existing facilities, the Government must also make better use of its existing scientific and engineering personnel. This implies not only a careful watch over work assignments, but also a continual upgrading of the capabilities of Federal personnel through education and training. At the present time, technology is changing so rapidly that on-the-job scientists and engineers find themselves out of date after a decade or so out of the university. To remedy this, the Government must strengthen its educational program for its own personnel, to the extent of sending them back to the university for about an academic year every decade. This program, necessary as it is, will only become attractive if the employee is insured job security on his return from school and if his parent organization is allowed to carry him on its personnel roster.



## ANNEX 1

THE WHITE HOUSE,  
July 31, 1961.

HON. DAVID E. BELL,  
Director, Bureau of the Budget,  
Washington, D.C.

DEAR MR. BELL: Since the end of World War II, the Federal Government has been making extensive use of contracts with private institutions and enterprises to provide for the operation and management of research and development facilities and programs, for analytical studies and advisory services, and for technical supervision of weapons systems and other programs administered on a systems basis. Through such contracts the Government has been able to accomplish scientific and technical work essential to urgent public purposes.

In part, the use of such contracts has been made necessary by the Government's entry into new fields, such as atomic energy, missile development and space exploration, and the need for talents and services not previously employed. In part, the use of contracts has also been induced by the recommendations of the second Hoover Commission and other groups that the Government terminate activities which could better be performed for it by private enterprise. Present Federal policies with respect to contracting-out Government activities are outlined generally in Bureau of the Budget Circular No. A-49, "Use of Management and Operating Contracts," and Bureau of the Budget Bulletin No. 60-2, "Commercial-Industrial Activities of the Government Providing Products or Services for Governmental Use."

After a decade or more of experience with such contracts, I think it would be desirable to review the effectiveness of this means of accomplishing the Government's purposes. Some of the questions that require review have been posed recently in studies and reports by several committees of Congress. I would like to have you undertake, with the assistance and cooperation of the other Federal officials most concerned, a review of the experience with respect to the types of contracts mentioned above. I am requesting the following officials to participate in the study: the Secretary of Defense, the Chairman of the Atomic Energy Commission, the Chairman of the U.S. Civil Service Commission, the Administrator of the National Aeronautics and Space Administration, and the Special Assistant to the President for Science and Technology.

The product of the review should be recommendations to guide future executive branch action. While there is a consensus that the use of contracts is essential and appropriate to carry on certain types of Federal operations, it also appears that use of the contract device has been made necessary in part by the limitations which exist with respect to direct Federal operations. I would like to have you explore the circumstances and conditions under which contractor operations provide the most effective means for accomplishing the Government's

objectives in the areas under review. I would also like to have full consideration given to the limitations which make direct Federal operations difficult, and to the development of proposals for adjustments and new concepts in direct Federal operations which would provide the Government with greater flexibility in determining whether the public interest would best be served by the use of contractor or direct Government operations.

The review should focus on the following matters: (1) The effect of the use of contractors on direct Federal operations, the Federal personnel system, and the Government's own capabilities, including the capability to review contractor operations and carry on scientific and technical work in areas where the contract device has not been used, and policies and actions needed to increase the Government's capabilities in these respects; (2) the policies, if any, that the Government should follow in controlling the salaries and fringe benefits of personnel working under a contract, and the appointment, management and dismissal of such personnel; (3) the criteria to be used in determining whether to perform a service or function through a contractor or through direct Federal operations, including any special considerations to be given to the nature of the contractor and his relationship to production contractors; (4) the policies which should apply in selecting contractors, including the organization of institutions for the sole purpose of entering into contracts with the Government; (5) the means for reviewing and supervising contractor operations, and for achieving maximum efficiency in such operations; and (6) the policies which should apply with respect to contractor fees and cost reimbursement practices on items such as overhead, facilities and equipment, and advertising.

The results of the review should be available not later than December 1.

Sincerely,

JOHN F. KENNEDY.

## ANNEX 2

## SUMMARY INFORMATION CONCERNING RESPONDENTS TO BUREAU OF THE BUDGET QUESTIONNAIRE AND ORGANIZATIONS INTERVIEWED

This annex lists the respondents to the questionnaires sent out by the Bureau of the Budget in connection with the study of Government contracting for research and development. It presents certain data as to the types of organizations involved and their staff characteristics.

### 1. Departments and agencies

Ten departments and agencies, and some organizations attached to the Office of the Secretary of Defense,<sup>1</sup> were asked to respond to questionnaires concerning the means of conducting their research and development programs. The 10 were the Departments of the Army, Navy, Air Force, Agriculture, Commerce, and Health, Education, and Welfare, National Aeronautics and Space Administration, Atomic Energy Commission, National Science Foundation, and Federal Aviation Agency.

Those establishments were selected to participate in the study because of the magnitude and diversity of their research and development activities. Other departments and agencies, such as Interior and the Tennessee Valley Authority conduct significant R. & D. programs, but the 10 participants account for over 98 percent of Federal expenditures for research and development (\$12,138 million out of a total \$12,365 million estimated for fiscal year 1963). By the same token they employ the bulk of Federal scientists, engineers, and other personnel engaged in R. & D. and utilize the large majority of contractual services in support of such Federal programs.

The following table summarizes the scientific and engineering staff resources in the R. & D. programs of the 10 departments and agencies:

*Technical professional R. & D. personnel<sup>1</sup>*

	Military	Civilians	Total
Department of Defense.....	6,582	23,481	30,063
Other agencies.....	<sup>2</sup> 1,977	16,124	18,101
Total.....	8,559	<sup>3</sup> 39,605	48,164

<sup>1</sup> The following definitions were furnished to departments and agencies for reporting of these data. The definitions are consistent with National Science Foundation and Bureau of Labor Statistics practice.

Scientists: Count as scientists all persons actually engaged in scientific work at a level which requires knowledge of physical, life, engineering, or mathematical sciences equivalent at least to that acquired through completion of a 4-year college course with a major in one of these fields, regardless of whether they hold a college degree in the field. Include those persons in research-development, management, technical service, technical sales, and other positions which require them to use the indicated level of knowledge in their work. Do not include persons trained in science but currently employed in positions not requiring the use of such training. Exclude psychologists and social scientists.

Engineers: Count as engineers all persons actually engaged in chemical, civil, electrical, mechanical, metallurgical, and all other types of engineering work at a level which requires knowledge of engineering, physical, life, or mathematical sciences equivalent at least to that acquired through completion of a 4-year college course with a major in one of these fields, regardless of whether they hold a college degree in the field. Include those persons in research-development, management, technical service, technical sales, and other positions which require them to use the indicated level of knowledge in their work. Do not include persons trained in engineering, but currently employed in positions not requiring the use of such training. Include architectural engineers, exclude architects.

<sup>2</sup> Includes members of the Public Health Service.

<sup>3</sup> Includes 1,425 personnel employed under special authority such as Public Law 313, "excepted positions" for the NASA, and others.

<sup>1</sup> National Security Agency, Advanced Research Projects Agency, Defense Atomic Support Agency, Defense Communications Agency, Defense Intelligence Agency.

## 28      CONTRACTING FOR RESEARCH AND DEVELOPMENT

2. *Government and contractor installations performing research and development*

Seventy-one Government laboratories and other types of installations, universities, private businesses and not-for-profit institutions were asked to respond to questionnaires calling for presentation of information on the nature and amount of their work, personnel and personnel systems, and certain operating characteristics. They were selected from among the several thousand (the Department of Defense alone has contracts with over 300 universities and not-for-profit institutions) public and private enterprises engaged in doing R. & D. work for the Federal Government because of the significance of their activities and because they were representative of the variety of: (1) types of organization—Government-owned-and-operated laboratories, development centers and test ranges, and universities, university-associated research centers, Government-owned contractor-operated facilities, not-for-profit enterprises and industry; (2) fields of endeavor—physical and biological sciences, medicine, operations research, etc.; (3) primary functions—research, analytical services, systems engineering, testing, etc.; (4) organizations performing under various Government agency sponsoring arrangements; and (5) geographic locations. No attempt was made to select participants in the study on a statistical sample basis.

The significance, however, of the participating group is apparent in terms of their expenditures and staff resources. The non-Federal installations involved had expenditures for R. & D. of over \$2.7 billion in fiscal year 1961 of which over 90 percent was received from Federal sources. The staffs of the Federal and contractor institutions (excluding universities, but including university-associated research centers) queried total about 250,000 people, including 77,000 Federal civilian and military employees.

The following tables indicate the type and size of organizations involved.

TABLE 1.—*Types of respondents*

The following table lists the 71 installations under two categories: direct Federal operations and contractors. "On campus" college and university respondents are identified as a group separately from other contractors. The other contractors are marked to indicate type according to the following: (1) university-associated institutions (i.e., a laboratory or division which has been separately organized by, but remains legally a part of, a university to handle certain major Government R. & D., efforts); (2) other not-for-profit institutions; (3) industry; and (4) Government-owned, contractor-operated facilities. There is overlap between the latter group and the others.

NOTE.—An asterisk (\*) indicates those institutions whose officers were also interviewed by a Bureau of the Budget interview team, having representation from the Bureau, the office of the special assistant to the President for science and technology, the Civil Service Commission, and the department or agency primarily involved.

**CONTRACTING FOR RESEARCH AND DEVELOPMENT****29****DIRECT FEDERAL OPERATIONS**

- \*Ordnance Materials Research Office (U.S. Army).
  - U.S. Army Chemical Research and Development Laboratories.
  - Army Rocket and Guided Missile Agency Research Laboratories.
- \*U.S. Army Signal Research and Development Laboratory, Fort Monmouth.
  - White Sands Missile Range (U.S. Army).
  - Diamond Ordnance Fuze Laboratories (U.S. Army).
  - Walter Reed Army Institute of Research.
- \*U.S. Naval Research Laboratory.
  - U.S. Naval Ordnance Laboratories:
    - White Oak.
    - Corona.
- \*U.S. Naval Ordnance Test Station.
  - Pacific Missile Range (including organizational elements primarily at Point Mugu and Point Arguello).
  - Aeronautical Systems Division, Air Force Systems Command.
- \*Air Force Cambridge Research Laboratories.
  - Rome Air Development Center (U.S. Air Force).
  - Air Force Flight Test Center, Edwards Air Force Base.
  - Office of the Deputy Commander for Aerospace Systems, including the Ballistic Systems Division and the Space Systems Division (U.S. Air Force).
  - Langley Research Center (NASA).
  - Goddard Space Flight Center (NASA).
- \*Ames Research Center (NASA).
  - Weather Bureau (Commerce).
- \*National Bureau of Standards (Commerce).
  - National Aviation Facilities Experimental Center (FAA).
  - Regional Poultry Research Laboratory (Agriculture).
  - U.S. Salinity Laboratory (Agriculture).
  - U.S. Vegetable Breeding Laboratory (Agriculture).
  - Fresno Horticultural Field Station (Agriculture).
  - Forest Products Laboratory (Agriculture).
  - Northern Utilization R. & D. Division (Agriculture).
- \*National Institutes of Health (HEW).
  - Robert A. Taft Sanitary Engineering Center (HEW).

**CONTRACTORS****Colleges and universities:**

- \*Massachusetts Institute of Technology.
- New Mexico State University.
- \*California Institute of Technology.
- Michigan State University.
- Georgia Institute of Technology.

## CONTRACTING FOR RESEARCH AND DEVELOPMENT

## OTHER CONTRACTORS

Title of organization	Univer- sity associ- ated	Not for profit	GO-CO <sup>1</sup>	Industry
*Lincoln Laboratory (MIT).....	X			
Operations Evaluation Group (MIT).....	X			
Hudson Laboratories (Columbia University).....	X			
*Applied Physics Laboratory (Johns Hopkins University).....	X			
Institute of Science and Technology, University of Michigan.....	X			
MITRE Corp.....		X		
Institute for Defense Analyses.....		X		
*Rand Corp.....		X		
Vitro Laboratories, Division of Vitro Corp. of America.....				X
*Research Analysis Corp.....		X		
System Development Corp.....		X		
Analytic Services, Inc.....		X		
*Aerospace Corp.....		X		
Stanford Research Institute.....		X		
*Space Technology Laboratories, Inc.....				X
Cornell Aeronautical Laboratory, Inc.....		X		
*Bell Telephone Laboratories, Inc.....		X		
Thiokol Chemical Co., Redstone Division.....			X	X
Boeing Co., Aero-Space Division.....				X
Martin Marietta Corp., Aerospace Division.....				X
Lockheed Missiles & Space Co.....				X
Land-Air, Inc., White Sands, Holloman Division.....				X
Pacific Missile Range (Bendix Corp., Radio Division).....				X
Atlantic Missile Range (Pan American World Airways, Guided Missiles Range Division).....				X
*Tullahoma Test Facility (ARO, Inc.).....			X	X
*Rocketdyne, a division of North American Aviation, Inc.....				X
*Jet Propulsion Laboratory (California Institute of Tech- nology).....	X		X	
*Brookhaven National Laboratory (Associated Universities, Inc.).....		X	X	
*Oak Ridge National Laboratory (Union Carbide).....			X	X
Los Alamos Scientific Laboratory (University of California)....	X		X	
Sandia Corp. (Western Electric Co.).....			X	X
Bettis Atomic Power Laboratory (Westinghouse).....			X	X
Idaho Test Station (Phillips Petroleum Co., Atomic Energy Division).....				X
Nevada Test Site (Reynolds Electrical & Engineering Co., Inc.).....				X
National Radio Astronomy Observatory (Associated Univer- sities, Inc.).....		X	X	

\*In addition, officers of the following private institutions were interviewed: Jerrold Electronics Corp. General Atronics Corp., GEIR, Inc., and the University of Chicago.

<sup>1</sup> Government owned and contractor operated.

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TABLE 2.—Total staff reported by contractor and direct Federal operation establishments performing research and development operations

Group	Total staff	Scientists and engineers	Other technical and management	Other
Contractors <sup>1</sup> .....	171,935	38,535	57,174	76,226
Government.....	77,071	21,880	22,298	32,893
Civilian.....	(62,837)	(18,575)	(18,556)	(25,706)
Military.....	(14,234)	(3,305)	(3,742)	(7,187)
Total.....	<sup>2</sup> 249,006	<sup>3</sup> 60,415	<sup>4</sup> 79,472	109,119

<sup>1</sup> Exclusive of colleges and universities ("on campus" contracts).

<sup>2</sup> Questionnaire requested the reporting of full-time personnel employed on or about Sept. 30, 1961.

<sup>3</sup> Includes 961 individuals classified by respondents as executives, as defined in the questionnaire as follows: "Executives (highest levels of management, either line or staff, not directly and necessarily involved in the scientific and engineering aspects of work in progress)."

Also includes 7,681 personnel classified by respondents as scientists and engineers who do not have academic degrees. These individuals are not included in the salary analysis for the reason that respondents were asked to tabulate staff salaries since year of bachelors degree.

<sup>4</sup> Defined in the questionnaire as follows: "Other technical and management personnel (including such personnel as accountants, attorneys, personnel specialists, technical support personnel, draftsmen, engineering aides, technicians, and laboratory assistants, but excluding clerks, typists, janitors, etc.)."

TABLE 3.—Staff reported, by contractor

Contractor <sup>1</sup>	Total staff	Scientists and engineers <sup>2</sup>
Lincoln Laboratory.....	1,805	666
Operations Evaluation Group.....	173	98
Institute of Science and Technology (University of Michigan).....	620	268
Hudson Laboratories.....	254	102
Applied Physics Laboratory (Johns Hopkins University).....	2,002	787
MITRE Corp.....	1,476	424
Institute for Defense Analyses.....	357	146
Rand Corp.....	1,036	464
Vitro Laboratories Division of Vitro Corp. of America.....	2,663	510
Research Analysis Corp.....	418	96
System Development Corp.....	3,827	1,839
Analytic Services Inc.....	70	45
Aerospace Corp.....	3,053	886
Stanford Research Institute.....	1,727	843
Space Technology Laboratories, Inc.....	4,560	1,749
Cornell Aeronautical Laboratory, Inc.....	1,027	400
Bell Telephone Laboratories, Inc.....	12,794	4,543
Thiokol Chemical Co. Redstone Division.....	1,679	369
Boeing Co. Aerospace Division.....	42,180	5,695
Martin-Marietta Corp. Aerospace Division.....	13,394	2,309
Lockheed Missiles & Space Co.....	26,183	4,892
Land-Air Inc. (WSMR-Holloman).....	550	161
Bendix Corp. Radio Division at PMR.....	207	20
Pan American World Airways Guided Missiles Range Division.....	8,730	601
Rocketdyne.....	12,197	1,719
Jet Propulsion Laboratory.....	2,867	963
Brookhaven National Laboratory.....	2,402	672
Oak Ridge National Laboratory.....	1,193	1,549
Los Alamos Scientific Laboratory.....	3,389	1,300
Sandia Corp.....	7,888	2,068
Bettis Atomic Power Laboratory.....	3,598	1,149
Phillips Petroleum Co. Atomic Energy Division (Idaho test station).....	1,747	517
Reynolds Electrical & Engineering Co. Inc. (Nevada test site).....	2,903	45
ARO Inc. (Tullahoma test facility).....	2,851	610
National Radio Astronomy Observatory.....	103	24

<sup>1</sup> Exclusive of colleges and universities ("on campus contracts").

<sup>2</sup> Includes those individuals classified by respondents as "executives."

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TABLE 4.—Staff reported, by Government-operated laboratory, test station, or range

Organization	Total staff		Scientists and engineers <sup>1</sup>	
	Civilian	Military	Civilian	Military
Ordnance Materials Research Office.....	80	1	52	1
Army chemical R. & D. laboratories.....	1,106	377	389	208
Army Rocket and Guided Missile Agency research laboratories.....	480	41	257	0
Army Signal R. & D. laboratory, Fort Monmouth.....	2,920	501	1,130	181
White Sands Missile Range.....	4,874	3,271	1,009	125
Diamond ordnance fuse laboratories.....	1,369	5	487	0
Walter Reed Army Institute of Research.....	455	326	192	182
Naval Research Laboratory.....	3,214	84	1,023	17
Naval ordnance laboratories:				
White Oak.....	3,084	49	959	14
Corona.....	999	3	406	3
Naval ordnance test station.....	4,648	1,018	1,228	29
Pacific Missile Range.....	3,152	2,412	398	53
Aeronautical Systems Division, Aeronautical Systems Command.....	7,879	1,664	2,658	856
Air Force Cambridge research laboratories.....	848	200	426	93
Rome Air Development Center.....	1,214	351	481	137
Air Force Flight Test Center, Edwards AFB.....	2,129	2,528	104	104
Air Force, Office of Aerospace Systems.....	2,196	1,403	212	1,302
Langley Research Center.....	3,416	0	1,249	0
Goddard Space Flight Center.....	1,725	0	624	0
Ames Research Center.....	1,512	0	516	0
Weather Bureau.....	511	0	275	0
National Bureau of Standards.....	3,396	0	1,516	0
National Aviation Facilities Experimental Center.....	1,188	0	348	0
U.S. Vegetable Breeding Laboratory.....	19	0	5	0
U.S. Salinity Laboratory.....	43	0	19	0
Fresno Horticultural Field Station.....	10	0	6	0
Regional Poultry Research Laboratory.....	35	0	11	0
Northern Utilization R. & D. Division.....	384	0	201	0
Forest Products Laboratory.....	427	0	156	0
National Institutes of Health.....	8,660	0	1,916	0
Robert A. Taft Sanitary Engineering Center.....	864	0	322	0

<sup>1</sup> Includes those individuals classified by respondents as "executives."

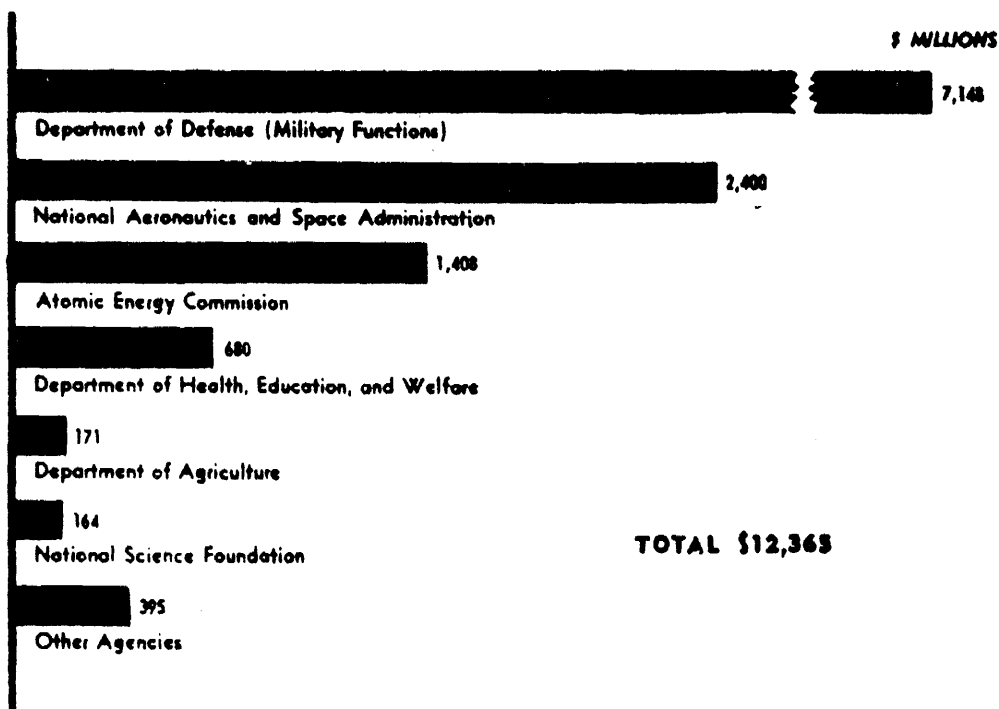


ANNEX 3  
SPECIAL ANALYSIS G  
**FEDERAL RESEARCH AND DEVELOPMENT PROGRAMS**

This analysis summarizes Federal expenditures in the fiscal years 1961, 1962, and 1963 for the conduct of research and development and for the construction, improvement, and equipping of research and development facilities.<sup>1</sup>

**Research and Development**

*Estimated Budget Expenditures in 1963*



Net budget expenditures for research and development in 1963 are estimated to total \$12,365 million, an increase of \$2,121 million over 1962 and \$3,074 million over 1961.

<sup>1</sup> The term "Conduct of research and development" includes activities in which the primary aim is either to develop new knowledge or to apply existing knowledge to new uses. These activities may be carried out in Government installations or in the facilities of private, State, or local organizations using Federal funds. Generally excluded from this definition are expenditures for routine testing, experimental production, information activities, and training programs. This analysis also omits expenditures for research performed independently by contractors within overhead arrangements on some procurement contracts funded in Department of Defense procurement accounts and for the collection of general-purpose statistics by the Census Bureau and other agencies.

Expenditures for "Research and development facilities" include amounts for physical facilities such as land, buildings, and major equipment, regardless of whether the facility is to be used or owned by the Federal Government or by a private, State, or local organization.

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TABLE G-1.—Total Federal research and development expenditures

[In millions of dollars]

Purpose	1961 actual	1962 estimate	1963 estimate
Conduct of research and development.....	8,754.0	9,618.0	11,475.9
Research and development facilities.....	536.8	625.9	889.4
Total.....	9,290.8	10,243.9	12,365.3

NOTE.—Totals in text tables may not add due to rounding.

Through its programs the Federal Government now supports over two-thirds of the research and development of the Nation. Of the total Federal expenditures for this purpose about two-thirds are made through contracts with private industry; over 10% through grants and contracts with universities and other nonprofit institutions; and the remainder by Government scientists in Federal facilities.

TABLE G-2.—Federal expenditures for research and development divided between national defense and other programs, fiscal years 1953-63

[In millions of dollars]

Fiscal year	National Defense	Other	Total
1953.....	2,832	260	3,101
1954.....	2,868	280	3,148
1955.....	2,979	289	3,268
1956.....	3,104	332	3,435
1957.....	4,027	433	4,460
1958.....	4,463	523	4,985
1959.....	5,048	744	5,792
1960.....	6,639	1,103	7,742
1961.....	7,719	1,572	9,291
1962.....	7,820	2,424	10,244
1963.....	8,572	3,793	12,365

NOTE.—Amounts included in this table under "National Defense" for the Department of Defense have been compiled from the best available summary data to provide maximum possible comparability for the years shown.

Within the totals for research and development, expenditures for basic research will increase to about \$1.6 billion in 1963 as compared with well over \$1 billion in 1962. A major portion of the increase in 1963 is attributable to the National Aeronautics and Space Administration.

Included in this analysis, but not separately identified, are the funds of a number of agencies in certain scientific fields of broad national interest. These include space programs, medical and related research, and several fields which have been given special attention by the Federal Council for Science and Technology and its committees, including oceanography, atmospheric sciences, high and low energy physics, and materials and water research.

*Space programs.*—Expenditures for space research and development will amount to about \$3.7 billion in 1963 as compared with about \$2.3 billion in 1962 and \$1.5 billion in 1961. A better index of the growth of Federal activities in this field is shown by the new obligatory authority for all space activities summarized in table G-3.

The amounts shown for the National Aeronautics and Space Administration cover all activities of that agency except those specifically identified with aircraft or missile technology. The estimates

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for the Department of Defense include all the principal amounts identifiable with the Department's space programs but exclude certain amounts which cannot feasibly be separated from other military expenses, such as the development of missiles which are also used in the space programs, military personnel costs, and various other operating costs. For the Atomic Energy Commission, the table includes the amounts associated with the development of nuclear rocket propulsion and nuclear power sources for space applications. The Weather Bureau amounts are primarily those related to the establishment of an operational meteorological satellite system, which, therefore, are not included in the totals for research and development in this special analysis. The amounts for the National Science Foundation are for a space telescope project.

**TABLE G-3.—New obligational authority for Federal space programs**

[In millions of dollars]

Agency	1961 actual	1962 estimate	1963 estimate
National Aeronautics and Space Administration.....	926.2	1,786.3	3,732.9
Department of Defense.....	793.8	1,147.2	1,517.7
Atomic Energy Commission.....	63.2	120.1	192.9
Department of Commerce: Weather Bureau.....	.6	50.2	47.2
National Science Foundation.....	.6	1.6	1.7
Total.....	1,783.8	3,105.4	5,492.4

*Medical Research.*—The Federal Government now supports over three-fifths of the medical and health-related research of the Nation. Total obligations of Federal agencies for the conduct of such research and for research facilities are estimated at \$1,024 million in 1963 as compared with \$857 million in 1962 and \$623 million in 1961.

The rapid growth in the Federal support of medical and health-related research reflects chiefly the increases in the Department of Health, Education, and Welfare, particularly for intramural and research grants programs of the National Institutes of Health, which presently account for about two-thirds of the Federal support of medical research and roughly two-fifths of national expenditures in this field.

The major field of interest to the Atomic Energy Commission is research on the effects of radiation on human beings. Medical research in the Department of Defense emphasizes preventive medicine and medical problems of military operations. The Veterans Administration undertakes clinical research related to the special problems of patient care in its hospitals. A portion of the rapidly growing research programs of the National Aeronautics and Space Administration is directly related to health, particularly the effects of space flight on humans. Research programs of the Department of Agriculture include such fields as nutrition and veterinary medicine. The National Science Foundation supports basic research in the life sciences, a portion of which is of direct significance to health.

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TABLE G-4.—Obligations of Federal agencies for medical and health related research

[In millions of dollars]

Agency	1961		1962		1963	
	Budgeted as medical and health related	Directly related <sup>1</sup>	Budgeted as medical and health related	Directly related <sup>1</sup>	Budgeted as medical and health related	Directly related <sup>1</sup>
Department of Health, Education, and Welfare:						
Public Health Service.....	434		613		735	
National Institutes of Health.....	(410)		(562)		(679)	
Other.....	13		20		21	
Total, Department of Health, Education, and Welfare.....	447		633		756	
Department of Defense.....	22	28	32	31	43	41
Atomic Energy Commission.....	7	54	8	61	8	71
National Aeronautics and Space Administration.....		5		22		29
Veterans' Administration.....	24		32		32	
Department of Agriculture.....		19		23		22
National Science Foundation.....		14		14		17
Other.....	3		1		4	1
Total, medical and health related research.....	503	120	706	151	843	181
Total, conduct of research.....	(459)	(111)	(650)	(140)	(750)	(169)
Total, research facilities.....	(44)	(9)	(56)	(12)	(93)	(11)

<sup>1</sup> Includes obligations for research with other than medical or health objectives but related to health in terms of substance or probable applications.

*Oceanography.*—The national oceanographic program of the Federal Government for 1963 will total \$123.6 million in obligations.

TABLE G-5.—Obligations of Federal agencies for oceanographic research and surveys

[In millions of dollars]

Agency	1961 actual	1962 estimate	1963 estimate
Departments of—			
Commerce.....	11.4	23.0	23.9
Defense.....	31.6	42.1	57.3
Health, Education, and Welfare.....	.7	1.3	1.6
Interior.....	8.7	14.2	14.9
Atomic Energy Commission.....	1.7	3.6	5.4
National Science Foundation.....	7.9	16.7	20.1
Other.....	.1	.1	.4
Total.....	62.1	101.0	123.6

An estimated \$53.1 million for research and instrumentation will provide for studies by the Navy particularly of the physical and chemical properties of the sea; grants of the National Science Foundation for oceanography including marine biology; the work of the AEC related principally to radiation and atomic wastes; and research by Department of the Interior on commercial fish resources. Survey programs, principally those of the Departments of Commerce and Navy to map and provide basic statistics on depths, currents, temperatures and related data, will total \$17.1 million. Funds for the construction of ships and facilities will total \$49.1 million. Also included is \$3.7 million for the International Indian Ocean Expedition and \$0.6 million for the National Oceanographic Data Center.

*Atmospheric sciences.*—The atmospheric sciences are undergoing rapid development as an increasing array of new techniques become available to obtain and process data bearing on atmospheric properties and dynamics. The Federal Government's program in this field is estimated to grow to over \$200 million in 1963, roughly double the past year's effort. Almost one-half of the increase in 1963 is being directed to the meteorological and scientific satellite programs of the National Aeronautics and Space Administration. Other increases have been required by the rigorous needs of new defense programs, detection and prediction of radioactive fallout, air pollution, and aviation and air-traffic control as well as the desire to advance the science generally through basic research grants and facilities. A notable step to be taken in 1963 will be the financing by the National Science Foundation of a major construction and operating program for the National Center for Atmospheric Research.

*High and low energy physics.*—High energy physics is concerned with the study of elementary particles at the subatomic level and related nuclear forces. It is characterized by high costs for high energy particle accelerators and related equipment. In 1963, total Federal expenditures for high energy physics research and construction are estimated to be \$138 million—of which the Atomic Energy Commission's share is \$126 million—as compared with a total of \$109 million in 1962 and \$86 million in 1961. The balance is chiefly accounted for by the Department of Defense and the National Science Foundation.

Low energy physics is concerned with the structure and properties of the nucleus of the atom and the character of related nuclear processes. The research is conducted primarily with particles produced from relatively small accelerators and research reactors. Total Federal expenditures for low energy physics in 1963 are estimated at \$61 million—of which Atomic Energy Commission will provide \$40 million and the National Science Foundation \$14 million—as compared with a total of \$52 million in 1962 and \$39 million in 1961. The balance is chiefly accounted for by the Departments of Defense and Commerce.

*Materials research.*—Attention has been given over the past 2 years to strengthening materials research with emphasis on basic research and related graduate education. While no overall figures are available, basic materials research is being given increased support particularly through Federal financing of interdisciplinary materials research laboratories on a number of major campuses.

*Water research.*—A long range study of future needs for research in natural resources has been initiated by this administration. Particular attention has been given in recent months to Federal programs in water research. While no precise estimates are available, this budget provides for a significant strengthening of several agency programs in water research particularly in the Department of the Interior.

In the following paragraphs are described the programs of the Federal agencies with the largest expenditures for research and development. The expenditures for these and other agencies are listed separately in the table at the end of this text.

#### DEPARTMENT OF DEFENSE—MILITARY FUNCTIONS

The research, development, test, and evaluation programs of the Department of Defense include basic research in the sciences, applied

research, and technical developments; development of new weapons and equipment; fabrication and procurement of items under development for test and evaluation; and construction, operation, and maintenance of laboratories and test facilities.

TABLE G-6.—*Expenditures of the Department of Defense—Military functions for research and development*

[In millions of dollars]

Function, purpose, and budget title	1961 actual	1962 estimate	1963 estimate
<b>Conduct of research and development:</b>			
Research, development, test, and evaluation.....	6,130.5	6,039.2	6,650.1
Procurement.....	130.3	141.7	134.9
Military personnel.....	205.1	206.1	206.6
Civil Defense.....		10.0	17.0
<b>Total, expenditures for the conduct of research and development.....</b>	<b>6,465.9</b>	<b>6,397.0</b>	<b>7,008.6</b>
Research and development facilities.....	115.9	82.3	139.7
<b>Total, expenditures for research and development.....</b>	<b>6,581.8</b>	<b>6,479.3</b>	<b>7,148.3</b>

The present high levels of effort in basic research and applied research will be augmented in 1963 in certain areas to exploit new possibilities that are emerging and to place further emphasis in areas of fundamental importance to military applications. The planned expenditures will also carry forward the development of a wide variety of major weapon systems and other specific developments for which the annual requirements fluctuate depending on the status of development, the phasing of the effort, and the quantities and cost of the test articles required.

Estimates of expenditures for research and development facilities of the Department of Defense shown in table G-6 include the amounts in the military construction programs for technical facilities having as their primary mission, research, development, or testing functions. The expenditure pattern indicated for the 3 years results from heavy expenditures for the Nike-Zeus test facilities in 1961 and the substantial expenditures for the large radar telescope at Sugar Grove, W. Va., which are estimated to occur in 1963.

The composition of and trends in the programs of the Department are shown in terms of obligations by major fields of effort in table G-7.

Missile development, including an emphasis in the field of defense against ballistic missiles under the Army's Nike-Zeus anti-missile project, continues in 1963 to represent the largest area of activity. The decrease within this field is caused primarily by the trend in major intercontinental ballistic missile programs for which 1961 was the year in which the highest obligations were required. In the strategic area, the Navy's Polaris system is continued at a high level as are the Air Force Minuteman and Skybolt programs. The initiation of development effort for a mobile midrange ballistic missile is included in the 1963 program. The decrease in the missile field is approximately offset by the increases estimated for military astronautics and related equipment. The 1963 estimates provide for the initiation of a new multipurpose space booster vehicle for the national space program. Provision is also made for programs for the development of satellite systems in support of military requirements, together

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with essential supporting research and development on subsystems and components. Requirements in the field of aircraft development remain comparatively high due to the new multipurpose tactical fighter-bomber aircraft and the B-70 prototype aircraft in Air Force, the new jet cargo aircraft for the Military Air Transport Service, the triservice vertical takeoff and landing aircraft, and mobility and surveillance aircraft types for the Army.

TABLE G-7.—Obligations of the Department of Defense—Military functions for research and development

[In millions of dollars]

Purpose, budget title and program	1961 actual	1962 estimate	1963 estimate
Conduct of research and development:			
Research, development, test, and evaluation:			
Military sciences.....	620.5	785.5	964.4
Aircraft and related equipment.....	680.3	630.3	690.9
Missiles and related equipment.....	3,194.8	2,640.0	2,386.0
Military astronautics and related equipment.....	608.6	1,058.5	1,327.4
Ships and small craft and related equipment.....	212.9	211.3	234.4
Ordnance, combat vehicles, and related equipment.....	168.1	191.1	221.9
Other equipment.....	443.0	532.7	801.5
Programwide management and support.....	236.8	239.9	268.4
Emergency fund.....		99.5	150.0
Total, direct obligations, research, development, test, and evaluation.....	6,165.0	6,388.8	7,044.9
Procurement:			
Aircraft.....	112.7	71.2	8.2
Missiles.....	13.4	12.8	
Ships.....	40.1	31.0	78.6
Other.....	3.7		
Total, direct obligations, procurement.....	169.9	115.0	86.8
Military personnel.....	205.1	206.1	206.6
Civil defense.....		15.5	17.0
Total, direct obligations for the conduct of research and development.....	6,540.0	6,725.0	7,355.3
Research and development facilities.....	113.1	93.0	106.0
Total, direct obligations for research and development..	6,653.1	6,818.4	7,461.3

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

All of the activities of the National Aeronautics and Space Administration are classified as research and development for purposes of this special analysis. The NASA is responsible for the development, test, and operation of space vehicles for manned and unmanned exploration of space and other non-military applications, and for conducting the broad programs of supporting research and development required for these purposes. In addition NASA is responsible for conducting research to advance aircraft and missile technology in support of both military and civil interests.

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TABLE G-8.—*Expenditures of the National Aeronautics and Space Administration for research and development*

[In millions of dollars]

Function and purpose	Conduct of research and development			Research and development facilities		
	1961 actual	1962 estimate	1963 estimate	1961 actual	1962 estimate	1963 estimate
Manned space flight.....	231.7	437.7	997.0	5.6	33.5	165.3
Space applications.....	14.9	77.8	135.0	1.3	4.0	2.8
Unmanned investigations in space.....	208.4	312.1	462.1	7.7	21.4	33.0
Space technology.....	122.8	207.5	342.5	19.4	27.7	49.5
Aircraft and missile technology.....	35.8	40.1	50.1	14.5	17.7	5.7
Supporting operations.....	32.5	71.0	128.5	49.7	49.5	28.5
Total, National Aeronautics and Space Administration.....	646.1	1,146.2	2,115.2	98.2	153.8	284.8

Expenditures for manned space flight support programs which will lead to manned lunar landing and return within this decade. Expanded effort will be devoted to the two methods now under consideration to achieve this goal—direct ascent from the earth to the moon and the use of the rendezvous technique to bring large spacecraft components together in earth orbit, after which the combined spacecraft would continue to the moon. Propulsion development, spacecraft development, ground testing and launching required to carry out the Saturn, Advanced Saturn, Apollo, and Nova programs are also provided for. The space application program includes funds for research and development on the Tiros and Nimbus meteorological satellites and the Rebound, Relay, and Syncom communication satellites. Major emphasis in the unmanned investigations in space will be devoted to earth orbiting geophysical, astronomical, and solar observatories; lunar exploration with the Ranger and Surveyor programs; and planetary exploration with the Mariner series. Funds for space technology provide for a variety of technological advancements including development of advanced propulsion systems and electric power techniques and systems for future space vehicles. Aircraft and missile technology includes activities for basic and applied research on problems related to design, development, construction, and operation of aircraft and missiles. It includes research on new types of military and commercial aircraft, as well as on techniques of aerodynamic flight which may prove applicable to space travel. Supporting operations include the development and operation of the worldwide tracking and data acquisition networks required for the civilian space programs.

## ATOMIC ENERGY COMMISSION

The research and development program of the Atomic Energy Commission, including supporting construction, constitutes nearly half of the Commission's total annual expenditures. Basic research is conducted in the physical and life sciences to secure a better understanding of nuclear processes and of the effects of nuclear radiation on living organisms. The Commission's applied research and development program includes efforts to improve the processes used in the production of special nuclear materials, to develop improved types of nuclear weapons, and to find ways of obtaining useful power from nuclear reactions.



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While a large portion of the development effort is aimed at military uses of atomic energy, an increasing portion is devoted to civilian applications. However, much of the information from military programs is applicable to peaceful uses. The research and development programs are carried on in the Commission's contractor-operated laboratories, in universities and other private research institutions, and by industrial contractors. In support of the actual conduct of research and development the Commission provides necessary facilities, including laboratories, particle accelerators, research and test reactors, and other test facilities.

TABLE G-9.—*Expenditures of the Atomic Energy Commission for research and development*

[In millions of dollars]

Function and program	Conduct of research and development			Research and development facilities		
	1961 actual	1962 estimate	1963 estimate	1961 actual	1962 estimate	1963 estimate
Special nuclear materials and weapons.....	240.0	412.2	393.5	13.9	16.7	17.0
Reactor development.....	399.9	408.3	463.2	125.8	87.6	97.5
Physical research.....	142.2	156.9	182.7	47.2	61.7	65.5
Biology and medicine.....	50.2	58.5	67.4	3.4	5.2	3.5
Other research and development.....	10.7	13.5	14.9	1.3	1.4	.5
Major operating equipment not included above.....				69.5	101.0	102.0
Total, Atomic Energy Commission..	843.0	-1,049.4	1,121.6	261.1	273.6	286.1

The principal increases in 1963 occur in the reactor development and physical research programs.

The reactor development program comprises primarily efforts to develop reactors for the economic generation of electric power, for propulsion of submarines and naval ships, for propulsion of rockets (Project Rover), and for auxiliary long-lived power sources for satellites and space vehicles (Project SNAP). The space applications (Projects Rover and SNAP) will be expanded substantially in 1963.

The physical research program, which also increases in 1963, comprises research in high and low energy physics and in those aspects of chemistry, metallurgy, and mathematics of particular importance to nuclear science and technology. Included also is a continuing program to achieve a controlled thermonuclear reaction.

The "other research and development" item includes the isotopes development program, which is directed toward utilization of radioisotopes and radiation for a variety of useful purposes, and Project Plowshare, a program to develop peaceful uses of nuclear explosives.

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The expenditures in the Department of Health, Education, and Welfare for research will total an estimated \$679.9 million in 1963, as compared with \$558.2 million in 1962, and \$383.6 million in 1961.

The principal research effort of the Department is the support of medical research by the Public Health Service, particularly the National Institutes of Health. The major increases in National Institutes of Health research expenditures in 1963 are for the con-

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tinuation of previously approved research projects and for the support of a larger number of clinical research centers. Elsewhere in the Public Health Service, research programs in community and environmental health will increase.

The research programs of the Office of Vocational Rehabilitation, the Food and Drug Administration, and the Office of Education will also be strengthened in 1963.

### DEPARTMENT OF AGRICULTURE

The expenditures of the Department of Agriculture for research and development are estimated at \$170.7 million in 1963 as compared with \$157.6 million in 1962 and \$141.8 million in 1961.

The largest program of the Department is that of the Agricultural Research Service which conducts research on the production of animals and crops, soil and water conservation, the utilization of farm products, agricultural engineering, human nutrition, and consumer use of agricultural products. Similar research is supported in the experiment stations of the land grant universities through grants of the Cooperative State Experiment Station Service.

Other research programs are undertaken in the Department by the Forest Service, the Economic Research Service, the Agricultural Marketing Service, the Foreign Agricultural Service, the Farmer Cooperative Service, and the National Agricultural Library.

The expenditures of the Department in 1963 include additional funds to initiate a program of project grants to universities and other nonprofit institutions for basic research and to complete staffing of the Department's new laboratories.

### NATIONAL SCIENCE FOUNDATION

The total expenditures of the National Science Foundation for research and research facilities are estimated at \$163.9 million in 1963 as compared with \$124.3 million in 1962 and \$81.9 million in 1961.

The 1963 budget will provide increased support for basic research project grants, the Antarctic research program, U.S. participation in the International Indian Ocean Expedition, and for a program of research in the geology and geophysics of the deeper layers of the earth. Additional funds are also estimated in 1963 for radio and optical astronomy observatories; a national center for atmospheric research; oceanographic ships and shore facilities; specialized biological and social science research facilities; and for university nuclear research facilities, computers, and atmospheric research facilities. Further, the Foundation is planning to increase its program of matching grants for the modernization of graduate laboratories at universities.

### DEPARTMENT OF THE INTERIOR

The 1963 expenditures of the Department for research and development are estimated at \$128.8 million, compared with \$107.3 million in 1962, and \$92.9 million in 1961. These expenditures are directed primarily to the conservation and utilization of the Nation's natural resources. The increases in 1963 are primarily in the Geological Survey's programs of hydrology, geology, and marine geology; the Bureau of Mines' research on extractive metallurgy; the coal research of the Office of Coal Research; the expanded biological research

## CONTRACTING FOR RESEARCH AND DEVELOPMENT

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activities of the Fish and Wildlife Service, and the Office of Saline Water's program of research to reduce the cost of converting salt water to fresh water.

## DEPARTMENT OF COMMERCE

In 1963 the expenditures of the Department of Commerce for research and development are estimated at \$90.8 million as compared with \$48.0 million in 1962 and \$30.8 million in 1961. Of the increase of \$42.8 million in 1963, \$30.7 million is for the construction of facilities chiefly to complete the new center for the National Bureau of Standards at Gaithersburg, Md.

A variety of research programs are conducted by the Department of Commerce—some in support of the missions of constituent bureaus and others to meet general needs of the Nation's science and industry. In the latter category are the programs of the National Bureau of Standards, which serves not only as the national laboratory for standardization and development of measurement techniques but also as a center for specialized research services in radio propagation, computer techniques, building technology, and cryogenics engineering.

A new program in 1963 is the research and technical assistance activities of the Area Redevelopment Administration.

TABLE G-10.—*Net budget expenditures for Federal research and development programs, based on existing and proposed legislation*

[In millions of dollars]

Description	Functional code	Conduct of research and development			Research and development facilities		
		1961 actual	1962 estimate	1963 estimate	1961 actual	1962 estimate	1963 estimate
Executive Office of the President:							
Office of Emergency Planning.....	050	2.0					
	900	1.2	1.3	0.2			
Total, Executive Office of the President.....		3.3	1.3	.2			
Funds appropriated to the President:							
Expansion of Defense Production: General Services Administration.....	050	.2	(1)				
Foreign assistance—economic: Agency for International Development.....	150	2.2	6.9	17.8	2.4	4.0	1.6
Special foreign currency programs: Translation of publications and scientific cooperation.....	350	1.1	3.6				
Total, funds appropriated to the President.....		3.5	10.5	17.8	2.4	4.0	1.6
Department of Agriculture:							
Agricultural Research Service.....	350	73.9	75.3	81.1	6.0	5.6	6.2
Cooperative State Experiment Station Service.....	350	32.7	35.8	38.2			
Economic Research Service.....	350		7.9	10.5			
Agricultural Marketing Service.....	350	9.8	7.2	6.1	(1)	.1	1.6
Forest Service.....	400	17.5	21.4	23.1	1.0	3.0	2.0
Other.....	350	.9	1.3	1.8			
Total, Department of Agriculture.....		134.8	148.9	160.9	7.0	8.7	9.8

See footnote at end of table, p. 44.

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TABLE G-10.—Net budget expenditures for Federal research and development programs, based on existing and proposed legislation—Continued

[In millions of dollars]

Description	Functional code	Conduct of research and development			Research and development facilities		
		1961 actual	1962 estimate	1963 estimate	1961 actual	1962 estimate	1963 estimate
<b>Department of Commerce:</b>							
Area Redevelopment Administration.....	500		.9	1.8			
Maritime Administration.....	500	4.5	5.5	8.0			
National Bureau of Standards.....	500	16.6	19.2	25.4	2.9	11.4	40.7
Weather Bureau.....	500	4.5	8.2	10.3	.5	.2	1.6
Other.....	500	1.8	2.5	3.0			
<b>Total, Department of Commerce.....</b>		<b>27.3</b>	<b>36.4</b>	<b>48.5</b>	<b>3.4</b>	<b>11.6</b>	<b>42.3</b>
<b>Department of Defense:</b>							
Military functions.....	050	6,465.9	6,397.0	7,008.6	115.9	82.3	139.7
Military assistance.....	050	31.0	17.9	16.0			
Civil functions.....	400	2.4	2.5	2.7			
<b>Total, Department of Defense.....</b>		<b>6,499.3</b>	<b>6,417.4</b>	<b>7,027.3</b>	<b>115.9</b>	<b>82.3</b>	<b>139.7</b>
<b>Department of Health, Education, and Welfare:</b>							
Food and Drug Administration.....	650	3.1	3.5	4.1	(1)	0.3	1.5
Office of Education.....	700	11.1	11.2	20.6			
Office of Vocational Rehabilitation.....	650	7.5	10.6	12.2			
Public Health Service.....	650	329.7	494.5	583.4	30.9	35.6	54.1
Social Security Administration.....	650	1.2	2.5	4.0			
<b>Total, Department of Health, Education, and Welfare.....</b>		<b>352.7</b>	<b>522.3</b>	<b>624.3</b>	<b>30.9</b>	<b>35.9</b>	<b>55.6</b>
<b>Department of the Interior:</b>							
Geological Survey.....	400	42.2	46.0	54.0			
Bureau of Mines.....	400	23.8	24.8	24.9	.5	1.0	2.0
	650	.9	.9	1.5			
Fish and Wildlife Service.....	400	19.2	23.3	26.5	1.6	1.8	5.9
Office of Saline Water.....	400	1.9	1.4	6.3	1.5	5.0	2.7
Other.....	400	1.4	3.1	5.0			
<b>Total, Department of the Interior.....</b>		<b>89.4</b>	<b>99.5</b>	<b>118.1</b>	<b>3.5</b>	<b>7.9</b>	<b>10.6</b>
Department of Labor.....	650	2.4	3.7	4.5			
Post Office Department.....	500	6.3	8.6	10.7			
Department of State.....	150		.8	3.7			
<b>Treasury Department:</b>							
Bureau of Engraving and Printing.....	900	.3	.3	.3			
Coast Guard.....	500	.7	.7	.8			
<b>Total, Treasury Department.....</b>		<b>1.0</b>	<b>1.0</b>	<b>1.1</b>			
Atomic Energy Commission.....	050	843.0	1,049.4	1,121.6	261.1	273.6	286.1
Federal Aviation Agency.....	500	49.8	57.0	73.5	1.5	1.9	3.4
Housing and Home Finance Agency.....	550	(1)	.3	.8			
National Aeronautics and Space Administration.....	250	646.1	1,146.2	2,115.2	96.2	153.8	284.8
Veterans' Administration.....	800	18.5	23.2	24.3	.9	2.2	4.0
Civil Service Commission.....	900	.2	.2	.2			
National Science Foundation.....	700	70.5	84.5	116.0	11.4	39.8	47.9
Smithsonian Institution.....	700	1.3	1.6	2.5			
Tennessee Valley Authority.....	400	3.0	3.1	3.3	(1)	(1)	(1)
U.S. Information Agency.....	150	.2	.3	.5	.8	3.3	3.2
Other.....	500	1.3	1.7	.8	(1)	.9	.4
<b>Total, research and development.....</b>		<b>8,754.0</b>	<b>9,618.0</b>	<b>11,475.9</b>	<b>536.8</b>	<b>625.9</b>	<b>889.4</b>

1 Less than \$50,000.

## ANNEX 4

## SUMMARY INFORMATION CONCERNING THE DISTRIBUTION OF NATIONAL RESEARCH AND DEVELOPMENT FUNDS, ACTIVITIES AND PERSONNEL

The three tables below illustrate the growth of the total national expenditures for research and development, their distribution among basic types of performing institutions and types of functions, and the numbers of scientists and engineers involved. (Source: National Science Foundation.)

### 1. National research and development expenditures <sup>1</sup>

[Dollars in millions]

	Fiscal years					Percent of increase		
	1954	1955	1959	1960	1961	1954-61	1959-61	1960-61
<b>By source of funds:</b>								
Federal Government.....	\$2,740	\$3,070	\$7,170	\$8,290	\$9,220	236	29	11
Industry.....	2,240	2,365	3,620	4,030	4,490	100	24	11
Universities and university research centers.....	130	140	190	200	210	62	11	5
Other not-for-profits.....	40	45	90	100	120	200	122	20
<b>Total.....</b>	<b>5,150</b>	<b>5,620</b>	<b>11,070</b>	<b>12,620</b>	<b>14,040</b>	<b>173</b>	<b>27</b>	<b>11</b>
<b>By performer:</b>								
Federal Government.....	970	950	1,730	1,830	2,060	112	19	13
Industry.....	3,630	4,070	8,300	9,550	10,500	189	27	10
Universities and university research centers.....	450	490	840	1,000	1,200	167	43	20
Other not-for-profits.....	100	120	200	240	290	180	40	17
<b>Total.....</b>	<b>5,150</b>	<b>5,620</b>	<b>11,070</b>	<b>12,620</b>	<b>14,040</b>	<b>173</b>	<b>27</b>	<b>11</b>

<sup>1</sup> Expenditures tabulated in this annex are based on reports to the NSF by performers of R. & D. work. Expenditures reported in annex 3 are taken from data within program and account structures used in the Federal Government. The 2 sources of data are not directly comparable.

### 2. Expenditures by functional area in fiscal year 1960 <sup>1</sup>

[Dollars in millions]

	Total R. & D.	Functional area			Percentage distribution		
		Basic	Applied	Development	Basic	Applied	Development
Federal Government.....	\$1,830	\$220	\$460	\$1,150	12	25	63
Industry.....	9,550	345	1,955	7,250	4	20	76
Universities and university research centers.....	1,000	550	330	170	50	33	17
Other not-for-profit organizations.....	240	85	105	50	35	44	21
<b>Total.....</b>	<b>12,620</b>	<b>1,150</b>	<b>2,850</b>	<b>8,620</b>	<b>9</b>	<b>23</b>	<b>68</b>

<sup>1</sup> Expenditures tabulated in this annex are based on reports to the NSF by performers of R. & D. work. Expenditures reported in annex 3 are taken from data within program and account structures used in the Federal Government. The 2 sources of data are not directly comparable.

## CONTRACTING FOR RESEARCH AND DEVELOPMENT

*3. Scientists and engineers in research and development*

	Calendar years (numbers in thousands)			Percent of increase	
	1954	1958	1960	1954-60	1958-60
Federal Government.....	29.5	40.2	41.8	42	4
Private industry.....	164.1	239.5	286.2	74	20
Universities and university research centers.....	25.2	42.0	52.0	107	24
Other.....	4.4	5.4	7.0	59	30
<b>Total.....</b>	<b>223.2</b>	<b>327.1</b>	<b>387.0</b>	<b>73</b>	<b>18</b>

## ANNEX 5

**SALARIES AND RELATED BENEFITS AND TURNOVER OF PERSONNEL**

This annex presents and analyzes certain of the data compiled from the questionnaires sent out by the Bureau of the Budget in connection with the review of contracting for research and development. (Annex 2 cites the organizations involved, describes the nature of the sample and some of the staff characteristics of the organizations.) Included are summary data on the salaries and related benefits provided by the 71 Government laboratories and other types of installations, universities, private businesses, and not-for-profit institutions responding to the questionnaires. The annex also presents summary data on the turnover of personnel experienced by those respondents.

## 1. SALARIES

Salary data regarding the scientific and engineering personnel in establishments included in the study are presented in charts 1-4 in a manner to indicate the highest college degree held, the number of years since receipt of the bachelor degree, and the category of employing establishment (colleges and universities, contractors, and Government).

Separate salary tabulations are provided in schedule A for selected categories of top level executive, technical, and other management personnel in contractor establishments. In addition data are presented in narrative form covering a number of related salary and other employment benefits, including bonus, stock option, and deferred payment plans; life, health and accident insurance plans; annual, sick and other leave plans; retirement plans; and similar matters.

Although no detailed analyses of college and university salary data are presented because of the sparseness of data provided, it was possible to discern that base salaries paid by such institutions were the lowest of the three employer groups studied. However, employees of colleges and universities as a group undoubtedly have substantially higher total income than the data indicate, as a result of related earnings derived from lecturing, off-duty consulting, and book authorship.

The data indicate that, overall, related benefits provided by contractor and Government establishments are reasonably comparable, except that cash bonuses, stock options, and deferred payment plans, provided for top management and senior staff members by about one-third of the contractor establishments, have no counterpart in the Federal service.

Most significantly the data indicate the clear-cut advantage held by contractor over Government-operated establishments in terms of overall salary policies and levels. Contractor salaries consistently are higher than Federal salaries regardless of highest degree held and

period of time at which measured. Contractors offer higher average starting salaries, provide greater annual salary growth over a longer period of time, and consequently provide the average employee with a higher maximum salary expectancy. The difference in favor of the contractor is so consistent and so great that at any point during employment, the average contractor employee with only a bachelor degree can expect to receive a considerably higher salary than the average Federal employee with a doctor degree.

Basic salary data were obtained using the salary-maturity approach, in which salaries are related to the highest college degree held and the number of years since receipt of the bachelor degree. It is recognized that the salary-maturity approach does not permit consideration of variations in individual job responsibility. However, time and staff limitations precluded the use of the more valid job matching technique. It is emphasized that the salary data provided relate to base salaries only, and are exclusive of cash bonuses, stock options, or any other item of remuneration which might be received from the employing establishment.

Salary-maturity data were reported for a total of 50,635 employees, including 1,606 employed by educational institutions (colleges and universities), 16,547 employed by the Government directly, and 32,482 employed by contractors (business firms holding research and development or operational contracts with the Government). These totals do not include employees without degrees, and some executive level personnel not reported in this manner, both of which are included in totals presented in table 2, annex 2.

Charts 1-4 reflect salary progression for each of the degree-employer groups as reflected by the mean salary paid at each yearly interval following receipt of the bachelor degree.

All groupings of data indicate relatively consistent patterns of salary growth. The most active period of salary growth is that beginning immediately after receipt of the highest degree held, and ending at about the 20th year following receipt of the bachelor degree, although an occasional individual grouping may have a slightly longer or shorter growth period. After reaching peak levels at about the 20th year, salaries tend to level off.

Comparisons of Government and contractor salary data show that contractors typically pay higher initial salaries than the Government, provide significantly larger year-to-year salary increases, provide a generally longer period of salary growth, and as a result, offer a much higher maximum salary expectancy for the individual employee. This is consistently true regardless of the highest degree held.

#### (A) BACHELOR DEGREE EMPLOYEES

Employees with bachelor degrees start working at average salaries of approximately \$5,954 per annum for the Government and \$6,881, or \$927 per year more for contractors. The average Government salary advances to \$10,627 during the 13th year and \$11,608 at the 20th year. Contractor salaries increase steadily through 20 years to \$13,608; although a leveling off trend then appears, some salary growth continues beyond the 20th year. Contractor salaries continue rising gradually but steadily to a high of \$15,367 at the 40th year, compared to average Federal salaries of \$10,555 or \$4,812 less, at the same point.



**CONTRACTING FOR RESEARCH AND DEVELOPMENT 49****(B) MASTER DEGREE EMPLOYEES**

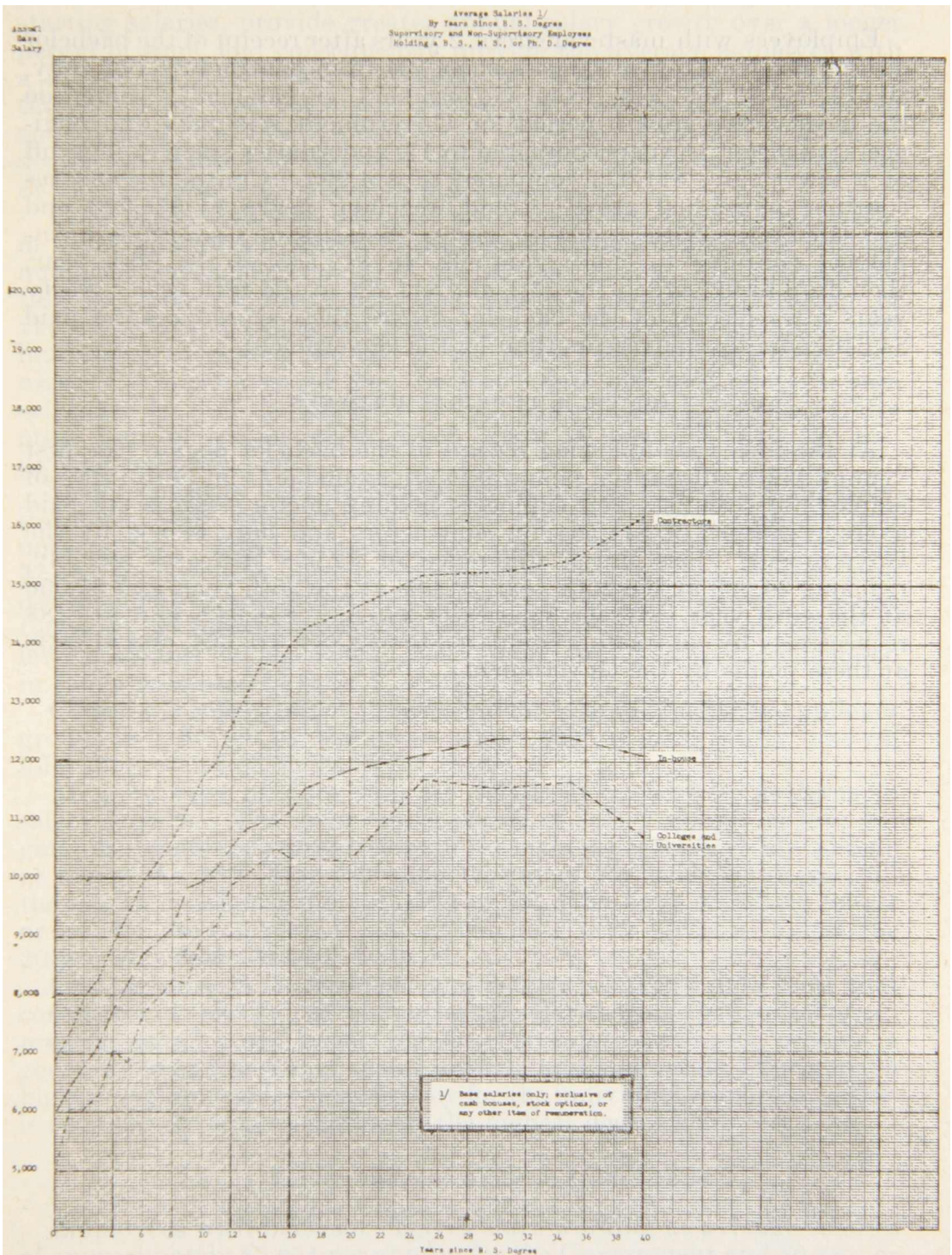
Employees with master degrees, 2 years after receipt of the bachelor degree; receive average salaries of \$8,534 from contractors but only, \$6,674, or \$1,860 less, from Government employment. Here too the most active growth period for Government scientists and engineers is shorter, 13 years compared to 17, and salaries start leveling off at a lower rate, \$11,033 compared to \$14,995. Contractor salaries continue a gradual growth trend, reaching peaks of \$15,733 and \$15,945 at the 25th and 40th years. Salaries of Government employees continue to climb gradually to \$12,545 at the 30th year, then drop to \$11,873 at the 35th and \$11,229 at the 40th year. Forty years after receipt of the bachelor degree these employees are paid \$4,646 more by contractors than by the Government.

**(C) PH. D. DEGREE EMPLOYEES**

At the fifth year following receipt of the bachelor degree (the first year at which substantial salary data are available from both types of employers) scientists and engineers holding doctor degrees are paid average salaries of \$11,564 by contractors and only \$8,606 by the Government. This initial difference of \$2,958 increases steadily, reaching \$4,003 at the 20th year, \$4,988 at the 25th year, and \$5,550 at the 40th year (average salaries of \$16,891, \$18,342, and \$19,188 respectively by contractors compared to \$12,888, \$13,354, and \$13,638 at these points by the Government).

CONTRACTING FOR RESEARCH AND DEVELOPMENT

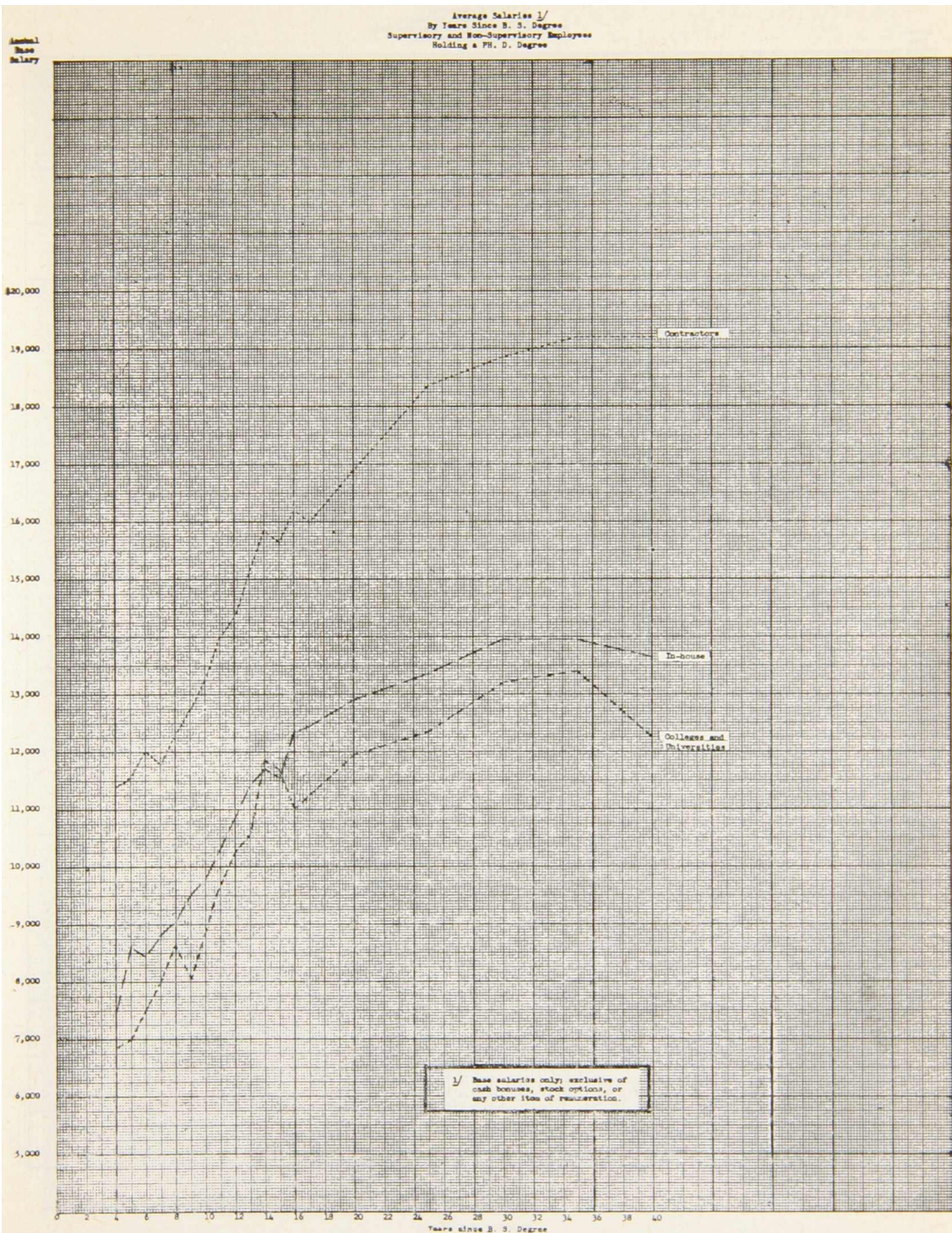
CHART 1





CONTRACTING FOR RESEARCH AND DEVELOPMENT

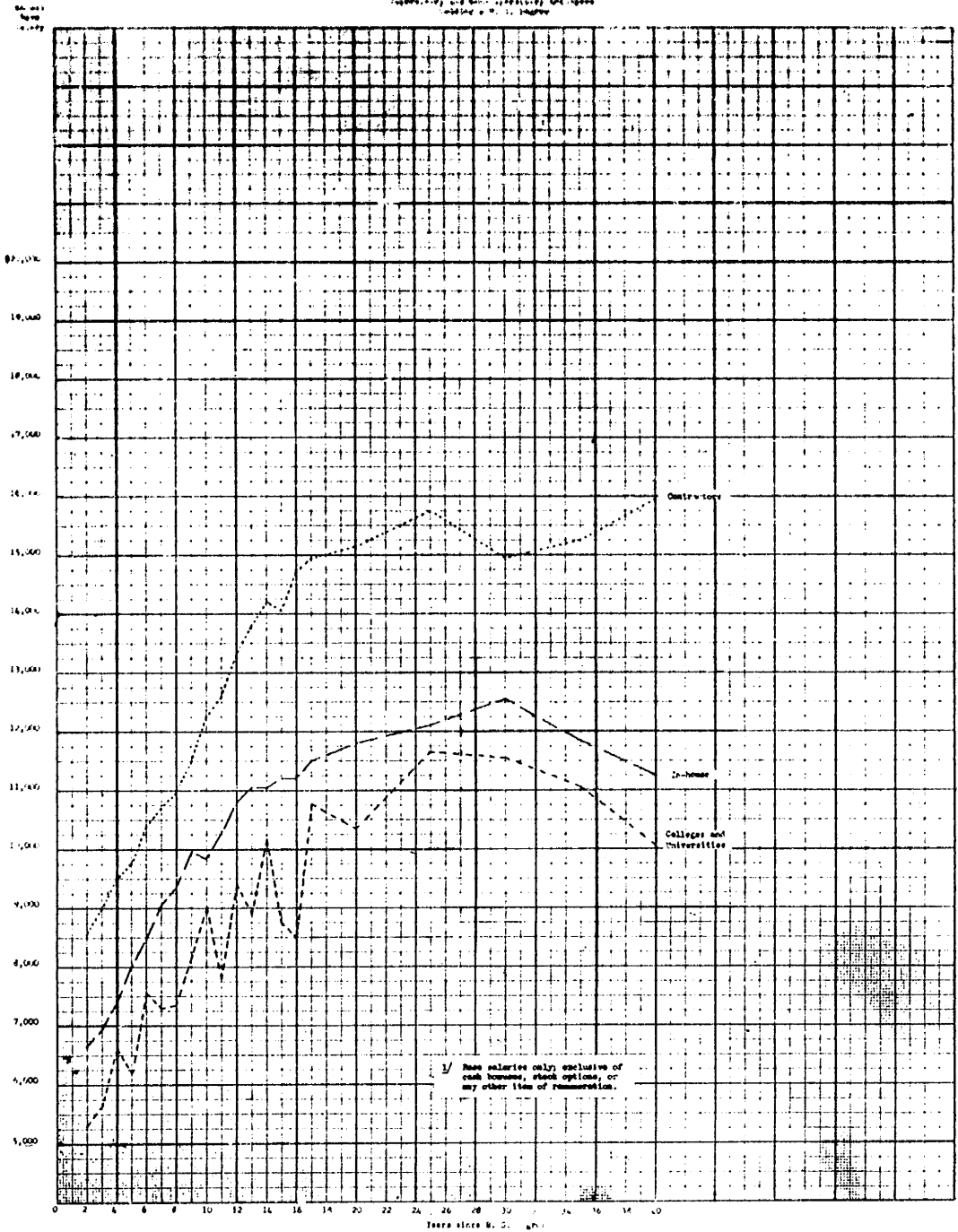
CHART 2



CONTRACTING FOR RESEARCH AND DEVELOPMENT

CHART 8

Source: Salaries  
by Frank James B. J. Rogers  
Representative and Semi-Representative Surveys  
Conducted at U.S. Offices



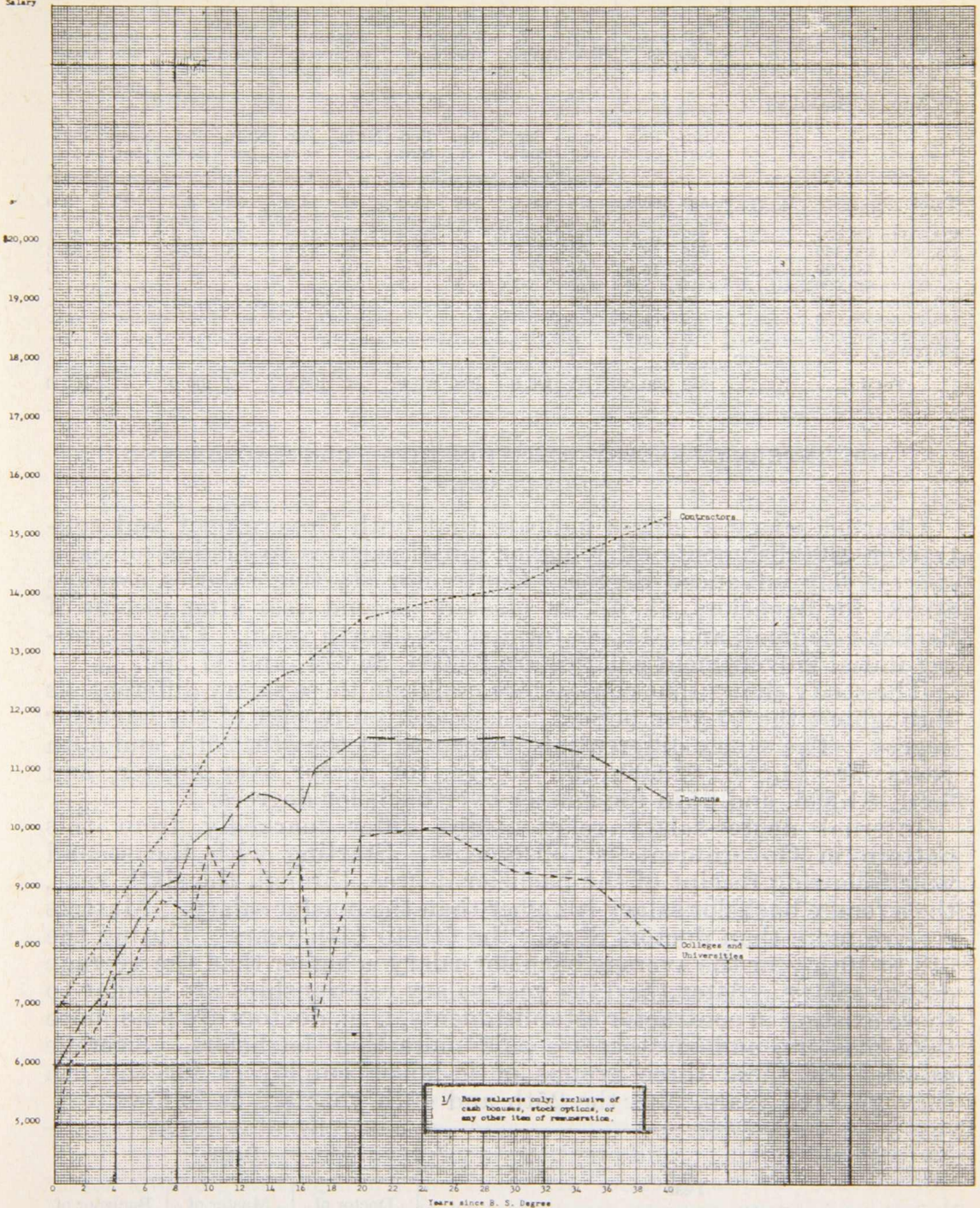


CONTRACTING FOR RESEARCH AND DEVELOPMENT

CHART 4

Average Salaries <sup>1/</sup>  
By Years Since B. S. Degree  
Supervisory and Non-Supervisory Employees  
Holding a B. S. Degree

Annual  
Base  
Salary



<sup>1/</sup> Base salaries only exclusive of cash bonuses, stock options, or any other item of remuneration.

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SCHEDULE A.—Distribution of selected contractor personnel (executives, technical directors, systems engineers, specialists, and other technical and management personnel)

Annual base salary	All categories		Executives		Technical directors		Systems engineers		Specialists		Other technical and management personnel	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total.....	582	100.0	178	30.6	268	46.0	87	14.9	32	5.5	17	2.9
\$22,900 to \$25,000.....	220	37.8	42	23.6	95	35.4	56	64.4	19	59.4	8	47.1
\$25,000 to \$30,000.....	226	38.8	68	35.4	124	46.3	28	32.2	6	18.6	6	35.3
\$30,000 to \$35,000.....	94	16.8	31	17.4	47	17.5	3	3.4	8	25.0	3	17.6
\$35,000 to \$40,000.....	14	2.4	12	6.7	2	.7						
\$40,000 to \$45,000.....	17	2.9	17	9.6								
\$45,000 to \$50,000.....	6	1.0	6	3.4								
\$50,000 to \$60,000.....	3	.5	3	1.7								
\$60,000 and over.....	4	.7	4	2.2								
Total.....	582	100.0	178	100.0	268	100.0	87	100.0	32	100.0	17	100.0

(D) INTERNAL SALARY RELATIONSHIPS—CONTRACTOR AND GOVERNMENT

Charted salary averages indicate that both Government and contractor establishments offer higher initial salaries to holders of each successively advanced degree. Contractor starting salaries average \$6,881 for bachelors, \$8,534 for masters (second year after receipt of bachelor degree), and \$11,382 for doctors (fourth year). Corresponding initial Government salaries are \$5,954, \$6,674, and \$7,500.

The study shows that contractors maintain these salary differentials throughout the 40-year period measured from receipt of the bachelor degree. The salary differentials, measured at the 5th, 25th, and 40th years, are \$1,800, \$2,609, and \$3,243, for doctor over master, and \$591, \$1,806, and \$578 for master over bachelor degrees.

Internal degree-salary relationships differ markedly from this pattern in Government establishments. Starting with the second year following receipt of the bachelor degree, through the sixth year, the average bachelor salary is higher than the master salary. Masters receive more than doctors during the 6th to 11th years. During the 6th to 10th year the average bachelor salary is higher than the average doctor salary. After the 11th year salary relationships are similar to those existing in contractor establishments, i. e., doctors are paid more than masters, and masters are paid more than bachelors. Average salaries for these three groups of in-house employees for the 5th through 11th years, plus the 25th and 40th year are as follows:

Year	Degree		
	Doctor of philosophy	Master of science	Bachelor of science
5.....	\$8,606	\$7,984	\$8,245
6.....	8,454	8,486	8,774
7.....	8,781	9,065	9,030
8.....	9,051	9,338	9,155
9.....	9,502	9,938	9,818
10.....	9,803	9,874	9,984
11.....	10,306	10,316	10,045
25.....	13,354	12,098	11,572
40.....	13,638	11,229	10,555

Not only do the trend lines indicate that degree for degree the contractor employee can expect significant salary advantage over his Federal counterpart during all periods of employment, they also show that at each measured time interval through the 40th year, the contractor employee with bachelor degree can expect to earn a significantly higher salary than the Federal employee holding a doctor degree. The difference in favor of the contractor bachelor degree holder over the Government doctor degree holder is more than \$500 in 17 of the 19 time periods measured and more than \$1,000 in 10 of those years. The actual difference amounts to \$1,478 at the 10th year, and to \$1,729 at the 40th year.

#### (E) COMPARISON WITH OTHER STUDY DATA

General comparisons were made between salary maturity data developed by this study and similar data published in the "1961 National Survey of Professional Scientific Salaries" by the Los Alamos Scientific Laboratory of the University of California. Similar methods were used to conduct both surveys, which were completed within 4 months of each other. Both studies cover scientific and engineering personnel in research and development activities, only. Precise comparisons of the two survey results are prevented, however, by the considerable differences in the size of the surveys, and the number and type of firms covered by each. For example, this survey covered 35 contractor firms doing primarily research and development work for the Government. The total sample was 32,482. The LASL study covered research and development operations in 334 companies in about a dozen different industries, with a total sample of 96,186. Obviously the average firm in this study is much larger than its counterpart in the LASL study. Also, the Government contractor establishments, having research and development as their principal salable product, probably are inclined to pay higher salaries to research and development personnel than are firms (as in the LASL study) in which research and development typically is only a small part of a large complex of industrial operations.

Even after making allowances for the influence of these differences, the very significant conclusion stands out, that both studies show that the Government pays significantly lower salaries to its scientific research and development personnel than do private employers.

#### (F) PAY AS AN ADMINISTRATIVE PROBLEM

In responding to the questionnaire, officials of Government establishments consistently point to the salary situation as one of the most important administrative problems they must face. They cite such things as actual differences in salary structures, limitations on Public Law 513 positions, the need for more flexibility in fixing starting salaries and in granting merit increases, the insignificant pay distinctions between the research workers and their supervisors, and the relatively low maximum salary potential which is possible within existing salary structures. The National Bureau of Standards indicates that low pay is the most inhibiting factor in developing its manpower resources. It also cites the lack of availability of Public Law 313 billets and the inflexibility of the Federal salary system. The National Institutes of Health refers to an average salary of \$22,600 disclosed by a salary



survey involving a selected group of leading medical schools and research institutions. Government laboratories cite case after case in which potentially qualified candidates, or those already employed, have been lost to industry at salary differentials of up to \$5,000 or more. They indicate they are especially handicapped in recruiting candidates with Ph. D. degrees.

(G) PRACTICES IN GRANTING SALARY INCREASES WITHIN A RATE RANGE OR GRADE

None of the contractor establishments reported that periodic salary increases are granted automatically. Increases are awarded on an individual basis, primarily on employee performance, qualifications, and other merit factors. Considerable flexibility exists in the frequency and the amount of merit increases which may be awarded. Generally, merit increases and other pay adjustments are made as a result of semiannual or annual reviews. Except in special cases, employees may not receive more than one merit increase each year. Most plans limit the amount of the increase which may be granted to an employee. This amount ranges from 6 to 20 percent per year, although exceptions in especially meritorious cases may be granted. Most contractor establishments provide an annual budget for merit increases which may not be exceeded. Further controls may be applied, such as high level approval of individual increases, maturity on curves, and salary surveys. The average of increases awarded in 1961 to scientific and professional personnel ranged from 4 to 9 percent.

(H) PROMOTIONS FROM ONE PAY GRADE OR RANGE TO A HIGHER GRADE OR RANGE

Very little information on promotion practices was provided. Twenty contractor establishments reported that promotions from one grade or salary range to a higher grade or salary range was made, as vacancies occur, on the basis of job performance.

(I) FLEXIBILITY IN SETTING INITIAL SALARIES

Of the 29 contractor establishments reporting on their inhirng salary practices, only 3 require that new employees in scientific and professional positions be hired at the minimum rate in the salary range for the grade or level of position. The other 26 have flexibility to set the initial salary at any rate within the range, subject only to certain administrative controls designed to preserve a reasonable consistency in the internal alinement of salaries. Some of the controls used are: (1) prior approval of individual salaries by top management officials or committees, (2) general comparability with prevailing rates as indicated by local and national salary surveys, and (3) maturity curves.

(J) WORKING HOURS

(1) *Government establishments*

Scientific and professional personnel are required to adhere strictly to the prescribed working hours in nine establishments. However, 22 establishments reported administrative flexibilities in working hours, particularly for higher grade professional personnel. Eight reported



specific provisions for the establishment of irregular tours of duty to permit personnel to attend daytime classes in pursuit of advanced college degrees. Fifteen establishments permit adjustments in working hours at the discretion of the individual or his supervisor, provided that this does not inconvenience the establishment or his project associates. Most establishments are open nights and weekends to accommodate scientists who wish to perform voluntary overtime.

### (2) *Contractor establishments*

One contractor establishment reported a 37½-hour workweek; all others reported a standard 40-hour workweek.

Fifteen contractor establishments reported that no flexibilities are permitted in the workweek except that scientists and engineers may voluntarily work overtime.

Seventeen contractor establishments reported considerable flexibility in permitting adjustments in the workweek to attend college classes, to meet transportation problems, and to otherwise accommodate the needs of the individual scientist or engineer.

### (3) *Overtime pay practices*

Of the 36 contractor establishments reporting on overtime pay practices, 15 pay no overtime to employees exempt from the Fair Labor Standards Act. The other 21 pay overtime compensation to exempt employees in one way or another. Some pay straight time; some pay straight time plus a flat dollar amount; some pay a sliding scale of lesser amounts as salary rates increase. Several mention ceilings above which no overtime compensation is paid, for example, \$7,500, \$10,167, \$14,400, and even \$16,800. Others limit the number of hours for which it may be paid. Ten of the contractor establishments appear to have practices more liberal, in some respects, than current Federal practice.

## 2. RELATED BENEFITS

The different contractor benefit plans vary considerably in detail. In view of this and also because of the limited information provided in the questionnaires, it is not possible to make exact comparisons between contractor and Federal benefits. However, several useful general comparisons may be made.

### (A) BONUS PLANS

Nine contractor establishments reported and described bonus plans, based on a variety of circumstances, such as extraordinary merit, length of service, comparative performance, contribution to success of organization, or profit distribution. Such payments are known by various titles, including bonus, incentive compensation, supplemental composition, and contingent compensation.

Distribution of such payments varies widely, from the broad base of one establishment which provides for all employees of record the week of December 15, to the narrow base in another establishment providing bonuses only to top executives exercising direct influence on the corporate business and profits.

The amount of bonus or similar payment to individual employees ranges from \$10 on service for less than 3 months to awards of over

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\$1,000 for which installment payments are arranged. The dollar amounts distributed in fiscal year 1961, or the latest year reported, ranged from \$18,250 to \$2,900,000. Establishments did not report average amounts paid to eligible employees and executives, although in some cases the total number or payroll percentage of recipients was indicated, as shown in the following résumé.

Establishment	Groups eligible	Basis for payment	Amount
A.....	Divisional employees.....	Merit; not a sharing of profit..	Calendar year 1961 \$90,565 (0.5 of total divisional payroll).
B.....	All employees of record during week of Dec. 15.	Employees in accordance with length of service—\$10 to 2 weeks' base pay. Management; 1 month's base salary. Department heads and key employees $\frac{3}{4}$ of 1 month's base salary.	Fiscal 1961, \$186,782.23.
C.....	Management employees (generally) but may include others who have made a substantial contribution to success of company.	Incentive compensation fund may not exceed 6 percent of gross profits. Relative participation rather than fixed amounts.  5 classes or grades in upper management. 3 classes or grades in lower management; based on performance in a forced distribution.	For entire company, established on basis of company earnings in 1960 and paid in 1961, \$2,900,000.
D.....	Employees in top 4 salary grades plus employees on the executive payroll as of Oct. 1, 1960.	Yearend incentive compensation payment based on anticipated profits for calendar year 1960. Based on individual performance—maximum—not to exceed $\frac{1}{2}$ annual base salary—minimum—not less than \$500 to any employee.	Approximately 30.4 percent of eligible employees received awards amounting \$537,150 in December 1960.
E.....	Top executives exercising direct bearing on the business and profits of the company. Selected by management incentive plan committee.	Rated on performance and contribution by committee to determine percent of annual salary for bonus. Corporate management determines percent requested amount to be funded, and recomputes individual payments accordingly.	Fiscal 1961 \$799,317.69 (0.6446 percent of the total salaried payroll).
F.....	Eligible employees determined by the corporation's audit and compensation committee upon recommendations by division general managers, vice presidents, and group executives.	Bonus payment or supplemental compensation plan approved some years ago by stockholders and the Bureau of Internal Revenue.	For last fiscal year reported, supplemental compensation of \$2,190,950 was awarded in varying amounts to 624 employees.
G.....	Executives, technical directors, and departmental managers whose annual salary is \$9,000 or more.	Contingent compensation controlled by bylaws of company; gross dollars not to exceed 10 percent of net profit.	Fiscal 1961, 13 employees dollar amount, \$18,250.
H.....	Higher level management executives and principal technical employees.	\$1,000 awards paid promptly; over \$1,000 beneficiary receives promptly \$1,000 or 20 percent (whichever is greater) remainder in installments in last month of each succeeding fiscal year.	Fiscal 1961 total dollar amount paid to staff was \$126,340.
I.....	Management personnel.....	Individual's performance—comparative performance among operating units of corporation.	Amount within laboratory fiscal year 1961, \$315,280.

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### (B) STOCK OPTION PLANS

Twelve contractor establishments reported stock option plans.

In the main, contractors operating stock option plans offer such options to executives, key personnel, and senior level employees, or to employees who are holders of options for stock in a parent corporation, sometimes restricting the offers to those designated by a stock option committee, by whatever name known.

Limitations as to maximum purchases of shares are geared to yearly compensation, to specific numbers of shares (2,000, 20,000, 30,600, 35,000, for example), or left to the discretion or designation of the stock option committee.

Where reported, prices at which the optioned stocks may be purchased ranged from 85 to 100 percent of the fair market value at the time of granting the option, with a 95-percent figure occurring in two-thirds of the offers (six of nine) mentioned.

In no case documented does the contractor make a contribution to such purchases.

### (C) DEFERRED PAYMENT PLANS

Deferred payment plans were reported by nine contractor establishments. Individuals eligible to participate in such plans are generally mentioned by rank or category. One plan applies only to the president, another only to the president and vice president, of the organizations. Inclusions of wider scope are mentioned as:

Participants in Teachers Insurance and Annuity Association and College Retirement Equities Fund retirement plan;

Senior executives and scientists;

Selected senior staff members;

Employees at the highest salary levels;

High level management executives and principal technical employees;

Key personnel.

Data about the sums involved in deferred payment plans are meager. The total amount devoted to this form of compensation in 1960 is mentioned by one establishment as \$50,000, characterized as "modest compensation for performance in a given year," for selected staff members. In another establishment, deferred compensation of \$5,000 per annum, for the president only, is paid into the corporate retirement plan administered by TIAA/CREF. In a third establishment, in case an award in a bonus plan is over \$1,000, the amount above that figure is paid in deferred installments. Other deferred payments, where the amounts available are not described, take the following forms:

Annuity option for participants in TIAA/CREF;

Annuities purchasable, or agreements for forfeitable deferred compensation;

Offer to purchase stock on a deferred payment plan when stock is available;

Deferment of full amount of incentive compensation award;

Deferment of that portion of executive compensation award which is payable in capital stock of the company;

Deferment of a portion of base salary;

(For the last three, the accrued amount is payable on termination of employment, normally by retirement, in 10 (or other agreed upon number) annual installments.)

#### (D) LIFE INSURANCE PLANS

All contractors reported life insurance plans for their employees.

The plans are generally similar to the Federal employees life insurance program. Double indemnity for accidental death and dismemberment is included. However, the amount of life insurance available to the employees in most contractor establishments exceeds the amount available to Federal employees. The amount available to contractor employees ranges from an amount about equal to the annual salary up to three times the annual salary, the maximum amount available ranging up to \$225,000.

Total cost of insurance ranges from 40 cents to 66 cents per month per \$1,000 of insurance. Employee contributions range from none to all (60 cents per month per \$1,000). Most employee contributions are one-half or less of the total cost. Most typically, the employee contributes 27½ cents per month per \$1,000 and the contractor contributes an equal amount. This compares to the 54 cents per month per \$1,000 employee contribution under the Federal employees life insurance program. (The Government's contribution is one-half the employee's contribution.)

Many of the plans are combined with other benefit plans such as health and medical plans weekly accident and sickness insurance, permanent and total disability benefits, etc.

Most of the contractors also provide, at no cost to the employee, from \$20,000 to \$100,000 in accident insurance when employees are traveling on official business.

#### (E) HEALTH AND MEDICAL PLANS

All contractors reported health and medical benefits plans for their employees. The plans include basic hospitalization and surgical benefits plans supplemented by major medical insurance. While the plans vary considerably in detail, they provide substantially the same protection available to Federal employees. In several cases, particularly in the plans offered by establishments connected with universities, benefits also include free examinations and diagnoses, and infirmary privileges. In a few cases, the health and medical plans are a part of a "package" program which includes life insurance, weekly accident and sickness insurance, etc.

In three plans, the contractor establishment does not contribute toward the cost of the health and medical plans. In four plans, the establishment pays all of the cost of the employee's own coverage, but none of the cost of coverage for the employee's family. In 32 plans, the establishment contributes toward the cost of coverage (from 50 percent to 85 percent of total cost) for both the employee and his family. In these 32 plans, the cost to the employee ranges from \$2.42 per month to \$10.85 per month. Under the Federal employees' health benefit program, employee contributions range from \$1.71 per month to \$21.60 per month, dependent upon the particular plan selected.

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### (F) RETIREMENT PLANS

A total of 44 retirement or pension plans are provided by the 39 establishments reporting on this item. (Five establishments offered two plans, i.e., one plan for academic staff and another plan for full-time research staff.)

Most of the plans are directly related to the old-age and survivors insurance program and are designed to supplement that program. Benefits from the combined programs appear to be generally comparable to those provided under the civil service retirement system.

Twelve of the 44 plans are financed completely by the contractor. In the other 32 plans, the contractor's contribution to the plan equals or exceeds the employee's contribution. Most frequently, the contractor pays two-thirds of the cost of the plan.

Employee contributions (including OASI contribution) range from 2 percent to 7½ percent of total basic compensation. Most frequently, the contribution is 3½ percent to 5 percent. At the present time, employees under the civil service retirement system contribute 6½ percent of their basic compensation.

### (G) PAID LEAVE FOR VACATION PURPOSES

Fifty different vacation plans were reported by 39 contractor establishments. (Vacations granted by some contractors vary according to the organization level of the personnel, i.e., a different and more liberal plan may be provided for top research staff personnel than for other personnel.)

The amount of vacation granted varies from 2 to 4 weeks. Thirty of the plans are on a graduated basis dependent upon length of service. In 22 of these plans, 2 weeks are granted during the first 2 to 11 years' service (most frequently 2 weeks during the first 10 years of service). In 20 plans, 3 weeks are granted after 2 to 11 years' service. In 15 plans, 4 weeks are granted after 4 to 25 years' service (in most cases after 20 years). The most typical plan would allow 2 weeks' vacation during the first 10 years of service, 3 weeks after 10 years' service, and 4 weeks after 20 years' service. (In the Federal service, employees are entitled to 13 days' annual leave during their first 3 years of service, 20 days with 3 to 15 years' service, and 26 days after 15 years' service.)

Any unused vacation is usually paid for at termination. Vacation leave may be accumulated for use in the following year, if employees were precluded from taking it because of the pressure of work. The maximum amount which can be accumulated ranges from 14 to 60 days (most frequently from 20 to 40 days). With some exceptions, Federal employees may not accumulate more than 30 days' annual leave.

A few contractors require employees to use vacation leave for absences for personal reasons. However, in most cases, such absences are not charged to vacation leave as they are in the Federal service.

### (H) LEAVE WITH PAY FOR PERSONAL BUSINESS

Leave with pay (and without charge to vacation leave) is authorized by 26 contractor establishments for absences from work to conduct

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urgent personal business which cannot be conducted outside regular working hours. Many contractors allow 3 to 15 days per year for such purposes as: funerals, births, family illness, moving, religious holidays, civil defense or civic activities, voting, blood donations, and so forth. Most such leave is approved informally, on a case-by-case basis. In the Federal service, annual leave must be used for absences for personal reasons other than illness.

### (I) SICK LEAVE WITH PAY

Sick leave ranging from 3 days per year to 30 days per year is granted by 20 contractor establishments. (The most frequent is 12 days per year.) Eleven of these establishments permit accumulations of sick leave ranging from 20 to 125 days. Nineteen of the establishments approve leave with pay for illness or accidental injury on an individual basis.

Extended leave with pay, beyond the sick leave to the employee's credit, may be approved on a case-by-case basis. A few establishments provide for extended sick leave at reduced pay ranging from 50 to 90 percent of full day.

In many cases, death in the immediate family may be charged to sick leave, differing from Federal Government practice.

In the Federal service, employees are granted 13 days' sick leave per year, with no limit on the accumulation of unused leave.

### (J) HOLIDAYS WITH PAY

The number of holidays with pay allowed by contractor establishments ranges from 7 to 10 days per year (most frequently 7 or 8 days per year). Federal employees are given eight holidays per year.

### (K) LEAVE WITH PAY FOR JURY DUTY OR REQUIRED ATTENDANCE AT COURT AS A WITNESS

Thirteen contractor establishments reported that leave with pay is specifically granted for jury duty or for other required court attendance. Other establishments grant such leave as "leave for personal business," approved on a case-by-case basis. Nine establishments reported that the employee's pay is reduced by the amount he receives in court fees. Federal employees are entitled to leave with pay for jury duty; any fees received are deducted from pay.

### (L) MILITARY LEAVE WITH PAY

Ten contractor establishments reported that leave with pay, ranging from 5 to 30 days per year, is granted for military training. However, in several cases pay amounts only to the difference between military and civilian pay. Other contractor establishments grant such leave as "leave for personal business," approved on a case-by-case basis. Federal employees are allowed 15 days leave with pay each year for military training, with no deduction for any military pay received.

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## (M) TEACHING

*(1) Government establishments*

Off-duty teaching for compensation is permitted by 31 establishments if it does not interfere with regular work, and does not violate security and conflict-of-interest restrictions.

Two of the 31 establishments discourage such activities but 10 of them encourage their employees to accept off-duty teaching assignments. In some cases, establishments will rearrange working hours to permit daytime teaching.

Approval of, or reporting, teaching activity is usually required.

*(2) Contractor establishments*

Off-duty teaching for compensation is permitted by 29 contractor establishments if it does not interfere with work or involve conflict of interest. Only two of these establishments indicated that they encourage employees to engage in outside teaching activities.

Four other establishments do not permit, or strongly discourage any teaching activity.

Five establishments reported that employees were permitted to teach not to exceed one daytime course. In such cases, any fees are turned over to the company for disposition.

Most establishments require that prior approval for teaching be obtained.

## (N) CONSULTING

*(1) Government establishments*

In 28 establishments off-duty consulting for compensation is permitted if it does not interfere with regular work and if it complies with security and conflict of interest requirements. Only two establishments reported that such activity is not permitted.

In most cases, employees must obtain approval to engage in consulting activities.

*(2) Contractor establishments*

Thirty establishments (including five universities) reported that off-duty consulting for compensation is permitted, when it does not interfere with regular work or involve conflict of interest. In most cases, specific approval is required.

Several reported that the amount of such consultation is limited. In the case of three universities, the limitation is the equivalent of 1 day per week.

Outside consultation was either prohibited or rarely permitted by nine of the establishments.

## (O) LECTURE FEES

*(1) Government establishments*

None of the establishments reported any restrictions on acceptance of fees for lectures given on employees' own time, provided any regulations regarding conflict-of-interest and use of Government information are complied with.

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### (2) *Contractor establishments*

Eight establishments do not permit employees to accept fees for lectures. Twenty-two others permit employees to accept lecture fees if there is no conflict of interest and lectures are given outside working hours.

### (P) BOOK ROYALTIES

#### (1) *Government establishments*

None of the establishments reported any restrictions on the acceptance of royalties for books produced on employee's own time provided there is no conflict of interest involved and material does not violate any regulations regarding the use of Government information.

#### (2) *Contractor establishments*

Twenty-one establishments reported no restrictions on receipt of royalties for books produced on employee's own time provided no conflict of interest is involved.

Nine establishments require that all rights to books produced by employees be assigned to the company. Royalties, in whole or in part, may be given to employee, in the discretion of the company.

### (Q) PATENTS

#### (1) *Government establishments*

Under pertinent laws and regulations, uniform practices with respect to patents are applicable to all Federal employees. Generally, the Government is entitled to all domestic patent rights to inventions and discoveries developed during working hours, or if the Government contributed facilities, equipment, materials, funds, information, or the time of other employees on official duty. Also, the Government has option to all foreign patent rights for 6 months after filing application for patent. If the Government determines that it has no interest in an invention or discovery, or if it decides not to exercise its options, it may give the employee authority to acquire patent rights and market the invention. Federal employees are generally entitled to patent rights for inventions developed on their own time which are not related to their work.

Most Federal agencies utilize the Incentive Award Program to reward employees for patentable inventions. The amount of the award is based on the utility to the Government of the invention. Several agencies grant small awards, \$25 to \$75 for each patent filed for or obtained, and additional awards based on the value of the patent to the Government.

#### (2) *Contractor establishments*

Thirty-four establishments reported that they have formal agreements with their employees requiring that all patentable discoveries and inventions developed are to be assigned to the contractor. In most cases, employees are permitted to market their inventions if they are unrelated to the work of the company and if they are developed outside working hours.

For inventions covered by the patent agreements, the companies determine the share, if any, of the royalties to which the inventor will be entitled. In many cases, awards (from \$50 to \$100) for each patent filed are made.



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One establishment offers patent award payments up to \$5,000 when the inventor makes a major contribution to the company's progress.

**(R) PUBLICATION IN THE OPEN LITERATURE**

*(1) Government establishments*

Scientists and engineers of 27 establishments reporting on this item are encouraged to submit articles for publication in the open literature.—Many of the establishments furnish editing, typing, and other assistance for this purpose. In several cases this is considered a normal part of the employee's work and is a factor in evaluating his performance. In a few cases, small cash awards are given to employees who have had significant articles published. In most cases, proposed articles must be submitted for prior agency approval.

*(2) Contractor establishments*

An identical number of contractor establishments, 27, reported that they encourage scientists and engineers to submit articles for publication in the open literature, provided no violations of security regulations are involved. In most cases prior approval of the articles is required. In many cases, editorial, typing, and other assistance is provided. One establishment reported that it gave an award of \$50 to \$100 for each article published.

Seven other establishments reported that they permit publication of articles by employees, but subject to a number of limitations.

**(S) ATTENDANCE AT PROFESSIONAL MEETINGS**

*(1) Government establishments*

Twenty-eight establishments pay travel expenses for attendance at meetings of professional and scientific societies. The criteria for payment of expenses vary by agency and establishment. Of these, 22 encourage attendance at such meetings and attempt to pay expenses for all trips to meetings directly related to the employee's work or to meetings in which the employee is a direct participant. In addition some of these establishments will pay (within the limits of funds available) the travel expenses of each professional and scientific employee to attend at least one national meeting of his choice each year. A more liberal policy is followed with respect to attendance at local meetings. The major limiting factor is the amount of travel funds available to the establishment for this purpose.

*(2) Contractor establishments*

Seventeen establishments authorize attendance, with travel expenses paid, at professional meetings usually only when the meeting is directly related to the work of the employee or when the employee is an active participant at the meeting. Four other establishments will pay expenses only when the employee is attending as the official representative of the establishment. Sixteen additional establishments encourage attendance at professional and scientific meetings and pay travel expenses for such meetings usually up to a limit of one meeting per year for each employee even though the employee is not an active participant and the meeting is not directly related to his work.

## (T) TRAVEL ALLOWANCES AND EXPENSE ACCOUNTS

While most contractor establishments reported the allowance of actual expenses while in a travel status, or in some cases specified the payment of per diem (chiefly between \$12 and \$16 a day) in lieu of actual expenses, a few indicated they considered such allowances in the nature of normal procedure rather than an employee benefit.

"Reasonable actual expenses" usually covered this item, three establishments mentioning \$15 and one \$18 as ceilings. Per diem rates in lieu of actual expenses were stated variously as "Government-approved rates," \$12, \$15, sometimes according to place of travel; scales of \$12, \$14, and \$15 according to salary status of employee traveling (e.g., under \$10,000 a year, \$10,000 a year and over, and officers, respectively); \$16 to members of laboratory staff; \$16 all employees, \$20, division and facilities chiefs; \$16 in the United States, and State Department or Bureau of the Budget scales outside; and various sums as per diem (\$8 to \$13) in addition to travel expenses in three instances. Mileage for automobiles where mentioned was most frequently stated as allowable at 8 cents a mile; one range 7 to 10 cents; one at 8.5 cents; and two at 10 cents. Car rental was mentioned in two cases. (Federal employees are allowed up to \$16 per diem and 10 cents a mile for use of automobiles.)

Four contractor establishments detailed provisions for allowing moving expenses on transfer or new hires. On transfer, one establishment assumes responsibility for all phases of relocation, including an additional month's pay to cover unforeseen contingencies. Others allow expenses and/or per diem for the employee and his dependents.

## (U) SAVINGS PLANS

Credit Union availability and payroll deductions for purchase of U.S. savings bonds were most often the only savings arrangements reported by contractor establishments. However, two establishments offer plans in which the organization participates. One such plan requires 1-year service; maximum contribution of 7½ percent of salary per month (maximum \$83). The company adds 10, 20, or 30 percent of amount contributed by the employee for 1, 2, or 3 and more years of service, respectively. Participant with 3 or more years of service may elect to have all moneys held as Government bonds, company stock, or cash, or a combination of these three. In the second plan, employees are eligible for participation in the company thrift plan, which permits a monthly contribution by the employee of up to 5 percent of his monthly salary plus an additional 1 percent for each 5 years of service by the employees. The company contributes 50 cents for each \$1 contributed by the employee. The proceeds are used to purchase U.S. Government bonds and/or company stock at the election of the employee.

## (V) MISCELLANEOUS BENEFITS

(1) Severance pay is provided by one contractor establishment. Staff personnel receive not to exceed 3 months pay, nonstaff receive not to exceed 8 weeks pay.

(2) A sabbatic pay plan is operated by one contractor establishment in which all persons exempt from the Fair Labor Standards

Act participate, after they have been with the establishment for 1 year. The plan provides that for each day of vacation accumulated after 1 year's service, the employee will accrue an amount equal to 3 percent of his monthly salary, payable at the time he takes his vacation. The sabbatic pay for vacation is in addition to regular salary paid during vacation. There are only two circumstances in which sabbatic pay may be received: If vacation is actually taken, or in case of termination.

(3) A hardship allowance of 10 percent of base salary is offered by one contractor establishment to employees permanently assigned at six designated work locations in the United States and Canada. This is to compensate for unfavorable circumstances such as weather, isolation lack of educational facilities, etc., and to reduce cost of staffing these locations by eliminating so far as possible, voluntary terminations and the ensuing cost of replacement. At some oversea locations, employees of this establishment receive hardship allowances based on U.S. State Department allowances for foreign service.

(4) A discount fare privilege of 90 percent is offered by one contractor establishment to employees and their dependents for vacation travel over the air routes of the system it operates.

(5) Sloan fellowships (1 year's study at MIT) are offered to two employees annually by one contractor establishment. These employees receive regular salary plus relocation and moving expense.

(6) Other: One contractor establishment provides top staff members \$400 per month in the event of total and permanent disability. There is an offset against this benefit received from either workmen's compensation or the disability portion of the social security law. The same establishment provides a grant of \$2,000 per year per child for those members of the president's staff who have sons or daughters enrolled in an accredited college or university (currently 12 students). Award of this grant is subject to the approval of the president of the organization.

### 3. TURNOVER

The universities covered in the survey provided only a limited amount of information on turnover of scientific and engineering personnel. Information on Government-military personnel was primarily concerned with intraservice movement below the \$12,000 salary level. Therefore, the principal comparisons made below, on hires and separations, are between Government-civilian personnel and nonuniversity contractor personnel. Data relate to fiscal year 1961.

Few respondents provided data about increases in salaries resulting from change of employers, most stating that they did not know. For this reason, such data are not presented or analyzed here.

#### (A) HIRES

It is apparent that the contractors fill a much larger percentage of their jobs at intermediate and higher salary levels than does the Government. The contractors furnishing data hired 75 percent of their new employees under \$12,000, as compared to 95 percent for the Government activities surveyed. The contractors hired 8 percent of their new employees above \$15,000, as compared to less than 1 percent for the Government.

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The contractor's competitive advantage over the Government in hiring and retaining people at upper salary levels is indicated by the following comparison:

	Government hires from industry	Contractor hires from Government
Under \$12,000.....	501	93
\$12,000 to \$15,000.....	30	32
\$15,000 to \$20,000.....	2	19

The absolute numbers are not, of course, significant in themselves, but the relationships seem to be. The contractors seem to be able to hire personnel away from the Government with equal success at all salary levels.

A comparison of separations by salary brackets also reveals certain significant differences:

Salary	Separations from Government to industry	
	Number of separations to industry	Percent of all separations at salary level
Under \$12,000.....	297	21.6
\$12,000 to \$15,000.....	46	31.7
\$15,001 to \$20,000.....	12	27.3
Over \$20,000.....	0	0

Salary	Separations from contractors to Government	
	Number of separations to Government	Percent of all separations at salary level
Under \$12,000.....	66	6.0
\$12,000 to \$15,000.....	7	2.4
\$15,000 to \$20,000.....	7	4.4
Over \$20,000.....	1	2.3

## ANNEX 6

## ANNOTATED BIBLIOGRAPHY ON FEDERAL CONTRACTING- OUT OF RESEARCH AND DEVELOPMENT

## INTRODUCTION

The purpose of this bibliography is to identify significant documents, studies, reports, and comments which deal with the contracting out of Federal research and development programs to private institutions and enterprises.

No attempt has been made to cover all aspects of the subject. The intention is rather to select from the voluminous literature, published primarily since 1957, those materials which describe and appraise Federal organization and procedures for the conduct of research and development, both in direct Federal operations and by contract, pointing up criticisms of Federal practice and the problems and questions growing out of Federal experience in this area.

Citations to relevant public laws, departmental regulations, and Government-wide directives have not been listed. Texts of the more important of these may be found in numerous congressional hearings cited in this bibliography.

## BOOKS, DOCUMENTS, AND MAGAZINES

Cherington, Paul W. and others. Organization and R. & D. decision-making within a Government department. (In Conference on the Economic and Social Factors Determining the Rate and Direction of Inventive Activity, 1960.) [Papers at a conference held under the auspices of the Universities-National Bureau Committee for Economic Research and the Committee on Economic Growth of the Social Science Research Council. New York, National Bureau of Economic Research, 1960] 29 pp.

Considers the relation between organization and R. & D. decision-making within a Government agency and draws some comparisons between the handling of R. & D. questions and problems in Government and in commercial organizations. Of particular interest are the sections dealing with the role of contractors and other forces influencing policy decisions (p. 16+), Noting that contractors "are perhaps the most important source of new weapons ideas" the writers point out that occasionally "advocacy becomes mixed with education in unwholesome proportions. Particularly troublesome are the unrealistic cost and time estimates submitted to 'sell' a company's proposals."

Corson, John J. Partners in the space age. (In Management Review, September 1959, v. 48, pp. 9-14+.)

Enumerates four developments in the space age that necessitate change in Government contracting policies and procedures and five requirements necessary to attain a balance between public and private business in the next decade.

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DuBridge, L. A. Science and government. (In Chemical and Engineering News, Apr. 6, 1953, v. 31, pp. 1384-1390.)

The President of the California Institute of Technology says that "the most successful laboratories for turning out new ideas, new equipment, and new techniques for the military services are those operated under 'management contracts'—Government-owned laboratories under private management \* \* \*. They have the advantage of private, civilian, non-civil-service management. And yet, being Government-owned, they can be kept in close touch with the practical problems of the sponsoring agency. \* \* \*"

Recommends that the Department of Defense "begin at once to find ways and means whereby any new research facility, and as many as possible of the existing ones, may be transferred from military direction to the private management contracts. \* \* \* I make this proposal because I think the Government is not getting its money's worth out of many existing military laboratories. Military organization, military customs, practices and rules, military traditions are all made for fighting and not for research. \* \* \* Let's face the fact: a civilian scientist, as a scientist, just doesn't care to take his orders from a colonel. \* \* \*"

Government Employees Council, AFL-CIO. Presentation of the Government Employees Council, AFL-CIO, to the executive branch of the U.S. Government in reference to the Council's opposition to Bureau of Budget Bulletin 60-2. Washington, D.C. 1961. 13 pp.

The Council is "gravely concerned over the growing practice in the Federal service, to contract to private interests, certain governmental services and functions that have historically been performed by civil service employees. This contract practice has increased over the past 8 years, and has been stepped up particularly as a result of the previous administration's policy required in Bureau of Budget Bulletin 60-2, dated September 21, 1959.

"This policy has led to, and caused, the discharge of thousands of career civil service employees before they have become eligible for retirement, and at an age where industry and other governmental agencies are unwilling to employ their services. The policy has caused the waste of valuable skills and the loss of the effective utilization of hundreds of millions of dollars invested in plant facilities and tools. It has caused thousands of families, and hundreds of local communities, to suffer adverse economic adjustment and hardships. It has also fostered and promoted higher defense costs to the taxpayer, and has been responsible for the adequacy, and quality, of our country's defense posture to be vested in the profit motivated segment of our economy, instead of under the control of the Congress and the administration, as required by our Constitution."

Harvard and the Federal Government; a report to the faculties and governing board of Harvard University [Cambridge, Harvard University, 1961]. 36 pp...

"Harvard is by no means unique in its new relationship with Government. At least 80 percent of the institutions of higher education in the United States now receive Federal funds, and Harvard is one of those heavily involved in Federal programs.

"Government funds tend to concentrate in the relatively few institutions with strong graduate and professional programs in the natural sciences because of the heavy national emphasis on research. A recent study of Federal expenditures for research in 287 institutions shows that 5 institutions received 57 percent of the total, while 20 institutions received 79 percent and 66 received 92 percent.

"By 1960 Harvard was participating in at least 34 categories of programs managed by two score Federal agencies, under the general oversight of a dozen congressional committees.

"The decentralized nature of Federal research programs may help the university protect itself against deliberate encroachment, but it makes it all the more difficult to preserve the proper balance \* \* \* among various schools and departments, or within each of them between research and teaching.

"Federal grants for research and for construction have brought great benefits to Harvard yet there is a danger that the total program of the university could be affected by the extent that the unreimbursed costs and matching funds involved in such grants use up the precious unrestricted funds that would be available for other purposes. The three greatest threats posed by Federal aid are likely to be in the balance among the several fields of learning; in the balancing between teaching and research; and in the balance within the faculty between those with and those without tenure appointments.

"University and Government people alike have been slow to realize the significance of their new relationship. The Government now calls on the universities for achievements that depend on the highest qualities of creativity, but sometimes through purchasing procedures that could destroy the environment in which such qualities flourish. \* \* \* Research can be carried on effectively in the long run only if a university maintains its overhead in an intellectual and academic, as well as an administrative, sense. \* \* \* It is not a question of asking the Government for more money, but, rather, of asking it to give its funds with a proper regard for the total function of the university."

Heyman, Victor K. Government by contract: boon or boner? (In *Public Administration Review*, spring 1961, v. 21, pp. 59-64.)

Concerned with the problems of control, economy, and benefits obtained by contracting with private institutions for services of an administrative, managerial, or scientific nature.

Enumerates the three major types of research and development contracts, giving examples of various types used by the military. States that "it is clear that the military has contracted for a wide range of functions which give the contractors tremendous power."

Defines contracting out as a "system that allows the Government to farm out a complete range of administrative and executive responsibilities accompanied by money, authority, and responsibility."

States that the problems arising from this system are as follows: (1) the Government will never be able to attain the knowledge and experience to perform its assigned functions with civil service and military personnel if it contracts for them every time they are needed; (2) the incentives to efficiency in most of these contracting operations are quite small, and in some cases negative; (3) the simple dependence of the Government, particularly the military, on contractors may be most undesirable; (4) the problem of salaries as function after function is contracted, the bidding price of good personnel goes up and the Government finds itself unable to hire and keep good men at civil service salaries.

Hitch, Charles and Roland N. McKean. Military research and development. (In their *The Economics of defense in the nuclear age*. Cambridge, Harvard University Press, 1960, pp. 243-265.)

Defines the varieties of military research and development, enumerates some of the problems and "common pitfalls" and discusses proposals for reorganizing research and development.

The demand for strong central direction and coordination, review of programs and projects, elimination of competition, and the weeding out of duplicating projects are, according to the authors, "based on a fundamental misunderstanding of the nature of research and development. They treat as certain what is highly uncertain. They try to strengthen control at the top when what is needed is initiative and spontaneity at the bottom. They try to suppress competition and diversification because particular duplications are obviously wasteful from the vantage point of hindsight, apparently unaware that duplication is a rational necessity when we are confronted with uncertainty and that competition is our best protection against bureaucratic inertia."

The real and challenging problems in research and development are listed as: (1) How can we effectively decentralize? (2) How can we make good use of interservice and interagency competition while curbing its undesirable features? (3) How can we judge and choose contractors and laboratories? and (4) How should research and development be planned?

Katzenbach, Edward L. Ideas: a new defense industry. (In Reporter, Mar. 2, 1961, v. 24, pp. 17-21.)

Explains that the Government has established its own corporations independent of the civil service and therefore "contracted advice has become a new instrument of Government in our time." Describes these corporations and their influence.

Kidd, Charles Vincent. American universities and Federal research. Foreword by Paul E. Klopsteg. Cambridge, Mass., Belknap Press, 1959. 272 pp.

"The central thesis of this book is that large-scale Federal financing of research has set in motion irreversible forces that are affecting the nature of universities, altering their capacity to teach, changing their financial status, modifying the character of parts of the Federal administrative structure, establishing new political relations, and changing the way research itself is organized. I believe that the wisdom with which these forces are guided and controlled by the universities and by the Federal Government will have a major influence not only on the capacity of this Nation to defend itself, but on the economic growth of the Nation and the preservation of the essential values that underlie our society."

Of particular note are the chapters on research goals of Federal agencies (p. 1), Federal research funds (p. 39), and university participation in Federal decision (p. 189).

Livingston, J. Sterling. Weapon system contracting. (In Harvard Business Review, July-August 1959, v. 37, pp. 83-92.)

Considers the problem confronting the military in deciding how much authority they can delegate to private contractors without losing control over the development of their weapon systems, and also without abdicating their responsibility for the proper expenditure of public funds.

Believes that three methods of weapon system contracting will be used for some time to come: (1) The systems engineer and associate prime contractors method; (2) the system prime and associate prime contractors method; (3) the team contractor method.

Concludes that "as weapon manufacturers develop stronger systems engineering and management staffs, the military services are likely to make greater use of system prime contractors for both systems integration and management. At the same time, the services can be expected to develop their own weapon systems engineering and management capabilities, to improve their decision-making processes, and to exercise more effective control over system prime and associate prime contractors."

Management of research, development, test and evaluation programs: U.S. Air Force. A study made by representatives of Bureau of the Budget, General Accounting Office, Department of the Air Force, Office of the Assistant Secretary of Defense (Comptroller). [Washington] 1960. 249 pp.

The study group summarizes its findings on organization for research and development management in these words: "The centralized organization for research and development (sec. III) represented by the Air Research and Development Command is unique in the Department of Defense. The organization structure lends itself to the development and application of uniform policies and procedures for program administration. The excellent system of program documentation and reporting, likewise, has been facilitated by the existence of a single centralized channel for management and administration." For a detailed analysis of the organization see pages 14-53.

Concerning contract versus in-house research the report states: "The Air Force accomplishes most of its research and development under contracts with universities, private scientific laboratories, and industry. Although a certain amount of research and development is performed in the ARDC centers and laboratories, the major in-house technical effort involves the testing and evaluation of contractor-developed military 'hardware.' From a financial management standpoint there is almost a complete sepa-



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ration of the contract program and the in-house program. Everything accomplished in the contract program is planned, programmed, budgeted, accounted and reported for in terms of individual research and development tasks, projects and systems, whereas the in-house R. & D. program, though planned and programmed on a similar basis, is budgeted and accounted for on the basis of specific functions and organizations."

Miller, Arthur S. Administration by contract: a new concern for the administrative lawyer. (In New York University law review, May 1961, v. 36, pp. 957-990.)

Considers in detail "the closer relationship between Government and business and other private enterprises, carried out through the means of contract, the net result of which is the accomplishment of a number of governmental activities by private endeavor." Discusses [the nature and extent of federalism by contract as well as its benefits and problems. Concludes that:

"1. The distinction between public and private law, already becoming an anachronism, will be further erased.

"2. Federal contracts are likely to become a part of public law, with all of the implications of such a development. For example, the illogical distinction between proprietary and governmental functions will be supplanted, should that occur. A new category of 'administrative contracts' may be recognized.

"3. Since the contractual system represents a partial joinder of political and economic power, the operation of Galbraith's 'concept of countervailing power' is being unbalanced or diminished. To some, this portends the likelihood of despotism.

"4. Recognition of the governmental character of contracting-out may speed the trend some perceive, and others argue for, toward the application of the constitutional concept of due process of law to the large business corporation.

"5. A further diminution in relative importance of both the Congress and the judiciary is likely to take place. The 'Administrative State' (Pound's 'executive hegemony') is already a reality, one in which executive decisions overshadow in importance the legislative and the judicial.

"6. A concept of cooperation will increasingly supplant the concept of competition which for so long dominated social and political thinking. Within the business community this development is already clearly evident; witness, for example, the demands for fair-trade laws, for the outlawing of 'unfair' competition, the administered-price system, and the growing recognition that a community of interest exists among the components of those huge private collectivities, the corporations \* \* \*."

National Research Council. Committee on Scope and Conduct of Materials Research. More effective organization and administration of materials research and development for national security; a report, Washington, National Academy of Sciences-National Research Council. 1960. 30 pp.

The Committee recommends the following Government incentives to stimulate research and development on new and improved materials for national security purposes:

"(a) *Contract Policy*.—Contracts with broadly defined objectives should be made, and detailed and time-consuming reporting and accounting procedures should be minimized. Adequate funding should be made available to sponsoring agencies in order to permit the placing of appropriate research and development contracts for periods of at least 3 and preferably 5 years.

"(b) *Patent Policy*.—In view of the differing policies of various agencies, a uniform patent policy should be developed for research and development work affecting materials following the present Department of Defense policy of allowing the contractor to retain commercial rights to any invention.

"(c) *'Know-How'*.—In order to make it practicable for industrial concerns with long experience to participate effectively in Government materials programs, provision should be made for limiting the extent to which 'know-how' acquired over a long period of time with private funds has to be released under a later Government contract."

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National Research Council. Special Advisory Committee on the Role of the Department of Commerce in Science and Technology. The role of the Department of Commerce in science and technology; a report to the Secretary of Commerce [Washington, National Academy of Sciences-National Research Council, 1960]. 158 pp.

In this evaluation of the scientific research functions and operations of the Department of Commerce seven areas have been studied. These are: the National Bureau of Standards, the Weather Bureau, Coast and Geodetic Survey, Bureau of Public Roads, Office of Technical Services, Patent Office and Maritime Administration. Concludes that enlarged programs in science and technology are needed, and notes that inadequacies of present space and facilities are effective barriers to attracting new staff of the quality required. Suggests organizational changes and higher rates of compensation.

Price, Don K. and others. Current trends in science policy in the United States. (In *Impact of science on society*, v. 10, 1960, No. 3, pp. 187-213.)

The section devoted to problems in national science policy (pp. 194-202) considers contracts and grants, Government-university relationships, and Government-business relationships. An excellent bibliography accompanies the article.

Price Don K. Government and science, their dynamic relation in American democracy. New York, New York University Press, 1954. 203 pp.

In the chapter, "Federalism by Contract," (pages 65-94, the author notes that "the United States has improvised a new kind of federalism for the conduct of research. This is based on at least five types of relationships with private institutions." These he describes in detail and considers the implications of these new relationships.

"The contractual system has certainly given the Government, and particularly the military departments, great advantages of flexibility, and it has enabled them to make use of managerial talent that under present conditions cannot be found in adequate quantity in Government agencies. But this very advantage suggests the major weakness of the system: A government that cannot provide adequate administrators for the comparatively minor operating subdivisions of its program is bound to have difficulty in tying those pieces together into a general program that makes sense. It is proper enough to insist that each private institution ought to be given latitude in a research or development contract and not be bound by unnecessary specifications or requirements. But in a broad sense the program must be based on a coherent system of governmental requirements and public policy, or there is no justification in supporting it with public funds. The basic question is whether the Government has an adequate system of top management and enough foresight and expertise in preparing its advance plans to unify the vast scientific program into a coherent whole" (p. 92).

Ravitz, Harry I. Research and development procurement by the armed services. (In *George Washington Law Review*, January 1957, v. 25, pp. 240-255.)

"Outlines generally some of the more significant aspects of the field of research and development procurement by the three military departments, particularly those aspects which set it somewhat apart from other types of procurement." Notes the growing tendency "in the armed services for negotiations, preparation and administration of research and development contracts to be handled by personnel and organizations devoted primarily to this type of activity."

Research: leave how much to Uncle Sam? (In *Business Week*, Dec. 23, 1961, pp. 52-57.)

"The Government needs basic research to support its many advanced projects. Universities can't be employed to do all the necessary basic

studies the Government needs. Therefore, it stands to reason that industry should be called to do more and more of this kind of work. From the look of things, it shouldn't be long before everyone has as much Government-sponsored work as he wants—or can absorb."

Research and development procurement. (In *Federal Bar Journal*, July–September 1957, v. 17, pp. 179–327; October–December 1957, v. 17, pp. 329–474.)

Of particular note in these two issues devoted to research and development procurement are the articles by James T. Ramcy and John A. Erlewine, "Introduction to the Concept of the Administrative Contract in Government Sponsored Research and Development," page 354, and John C. Honey on "Federal Government Organization and Programs for Research and Development—an Overview," page 215.

Rivlin, Alice M. Federal support of research in universities. (In her *Role of the Federal Government in financing higher education*. Washington, The Brookings Institution, 1961, pp. 24–56.)

Reviews briefly the broad range of subjects covered by federally sponsored university research and discusses the impact of these programs on the colleges and universities. Notes that, "One persistent criticism of the Federal research program \* \* \* is that it has been primarily project oriented. The Government has a long tradition of financing specific research projects, rather than giving block grants to be used at the discretion of the college or university doing the research. It has been alleged that the project system transfers control of the directions which inquiries should take from the institutions to the Government agency which approves and disapproves projects. Also, it is felt that the project system tends to favor areas in which the research to be done can easily be divided into neat packages—at the expense of newer areas in which specific projects may be hard to define." Other criticisms center around the computation of overhead costs and the use of funds for compensation of research work by faculty members.

Rovere, Richard H. Letter from Washington. (In *New Yorker*, Feb. 27, 1960, v. 36, p. 112+.)

Points out that "if restraints of the kind now imposed on the research organizations holding contracts with the Military Establishment are widely imposed and accepted, then the Government will lose the services of some gifted authorities and public opinion will be impoverished by the loss of many voices that might enrich it."

Emphasizes that the "principal value of independent organizations is, plainly, their independence." Points out the danger of their being "subjected to mounting political pressures."

Tybout, Richard A. *Government contracting in atomic energy*. Ann Arbor, University of Michigan Press [1956]. 226 pp.

An analytical study of the contractual arrangements between the Government and private contractors which have been adopted in the atomic energy industry. Examines the characteristics of fixed-price, variable-price, and cost-plus-fixed-fee contracts; discusses conditions under which each is used most effectively and their respective limitations.

"The full acceptance of uncertainty by the Government is found in cost-plus-fixed-fee contracts, which are the most important of the cost-reimbursement contracts. As their name implies [such contracts] provide that all expenses properly charged to the service of operation are to be paid by the Government, almost invariably in atomic energy contracting from working capital advanced by the Government (p. 51).

"Differences among cost-reimbursement contracts are due to differences in the fees which they provide. Academic and nonprofit institutions customarily receive no fees for cost-reimbursement work. \* \* \* In contrast, business firms operating under cost-reimbursement contracts generally receive a fee which is compensation over and above reimbursement for all costs incurred \* \* \*. Finally, there is the time-and-materials contract, which provides for reimbursement by adding to the direct labor and materials cost a factor which is intended to cover corresponding overhead cost plus a profit (p. 51).

"Cost-plus-fixed-fee contracts are the backbone of the atomic energy contractor system. They account for 80 percent by value of all atomic energy contracts \* \* \*" (p. 63).

Military necessity has led to the adoption of cost-plus-fixed-fee contracts for the following reasons: (1) Unfamiliar production problems "which introduce risks into plant operations to the extent that nothing short of Government ownership and cost reimbursement provide adequate protection for the contractor;" (2) changing "military demands created by the armaments race, advancing military techniques, and changing strategic and tactical considerations \* \* \*".

"From the [Atomic Energy] Commission's viewpoint, cost-plus-fixed-fee contracts possess other advantages. They bring into atomic energy operations persons from private employment who have technological abilities and talents not often found in the public service. They make available \* \* \* the flexibility of private salary scales and promotional policies. And they keep open the possibility of a return to commercial activities for executives who do not want to remain in low-salary jobs in public employment (p. 64).

"As instruments of Government-business relationships, cost-plus-fixed-fee contracts give rise to controls unknown in any other context. They far transcend the controls usually associated with Government regulation and are quite dissimilar to the Government-business relationships which follow from traditional fixed-price and variable-price contracts \* \* \* (p. 106).

"Additional support for the concept of the organizational unity of the Commission and its cost-plus-fixed-fee contractors is found in the integrated accounting system, the reporting system, and the use of liaison engineers, who are probably best regarded as the 'eyes and ears' of Commission officials. All these systems permit the review of cost-plus-fixed-fee contractors' activities, but go further in indicating tests and criteria for approval by public officials" (pp. 126-127).

In evaluating cost-plus-fixed-fee contracting the author points out that "when the unknowns in an entrepreneurial situation become very great, there is little social advantage in paying the profits that are expected to cover chance losses. The reason, we all know, is that the costs of procurement can be reduced if such losses are paid only as they are incurred (p. 158).

"Not only does the use of cost-plus-fixed-fee contracts create a predisposition in favor of large contractors, but it limits the possibilities of shifting from one contractor to another. \* \* \* From this last standpoint, the problem of creating a competitive structure for future commercial applications in atomic energy is made more difficult rather than easier by an increase in private interest.

"Competitive industries simply are not created in the environment which gives rise to the use of cost-plus-fixed-fee contracts for defense. Public policies such as are followed by the Atomic Energy Commission, keeping in the public sphere all technological knowledge acquired at public expense and reducible to writing, are minimal. They must be supplemented by information and training programs to create competitive technical abilities in the ranks of rival industrial organizations. \* \* \* Secrecy accentuates the concentration by introducing a waiting period before outsiders can even begin to think about the complex technological problems of atomic energy" (p. 171).

U.S. Atomic Energy Commission. The future role of the Atomic Energy Commission laboratories. [Report prepared for] Joint Committee on Atomic Energy, October 1960. Washington, U.S. Government Printing Office, 1960. 277 pp.

The Commission concludes that "The opportunities for mutual enrichment of the research and training activities of the laboratories and the universities will continue to be more fully utilized during the decade. All of the factors linking the laboratories and the universities—organization, personnel, related research projects, common use of Commission-owned facilities—will be encouraged and strengthened \* \* \*. Progress has been made in recent years in arrangements for the utilization of these facilities by universities, both in the conduct of research programs and in affording opportunities to graduate students to do advanced work at the laboratories. Such arrangements have required modification of the normal practices of both the laboratories and

the universities \* \* \*. By appropriate arrangements the laboratories can add strength to those universities which are not fully prepared to meet the demands for advanced training in specific fields \* \* \*". (pp. 33-34).

Future plans for each laboratory of the AEC are then outlined on pages 34-103.

U.S. Commission on the Organization of the Executive Branch of the Government (1953-55). Research and development in the Government. May 1955 [Washington, U.S. Government Printing Office, 1955]. 50 pp.

The Commission accepted the administrative management recommendations of its task force and offered four additional recommendations. Among the administrative recommendations it suggested, "That the Weapons Systems Evaluation Group be shifted to contract operation with university or nonprofit organizations \* \* \*". It also accepted the view of the task force that operations performed by Federal civilian agencies are "generally at a lower level of effectiveness than could be realized if suitably placed in the civilian economy." It recommended that "where choice is possible, operations of research and development should be performed at that place in the Nation where they can be done most effectively and with the greatest efficiency." In this connection it suggested that, "Even where operations must be done in military installations, frequently increased effectiveness and efficiency will be realized through operations by civilian economy organizations," and commended the trend in this direction by the Department of the Air Force.

U.S. Commission on Organization of the Executive Branch of the Government (1953-55) Committee on Business Organization of the Department of Defense. Subcommittee report on research activities in the Department of Defense and defense related agencies. April 1955 [Washington, U.S. Government Printing Office, 1955]. 91 pp.

"An appraisal and evaluation of the research and development activities in the Department of Defense, in defense related agencies, and other selected civilian Government agencies engaged in research projects affecting the Nation's military strength in an effort to determine the degree of overlapping and cost of such research and development \* \* \*".

"The study is limited to an analysis of the various organizational patterns for the establishment, control, and administration of these programs, the mechanisms for cooperation and mutual support among the organizations involved in the programs, the many aspects of the complex professional personnel problem for both the military and the civilian, the various methods of tying and bonding to the civilian science and technical community, and the relationships with the military field forces."

U.S. Congress. House. Committee on Appropriations. Department of Defense appropriations for 1962. Hearings, 87th Cong., 1st sess., Pt. 4: Research, development, test, and evaluation. Washington, U.S. Government Printing Office, 1961. 548 pp.

In regard to grants to and research contracts with colleges, Dr. York states, "I feel that if the DOD would not actively support basic research at our colleges and universities there is a danger of a complete vacuum in many of the fields in which we are vitally interested because of the expense involved \* \* \*" (p. 58).

In regard to contracts with nonprofit corporations, with especial reference to Aerospace Corp., Dr. York has this to say: "My comment is with the present rules and regulations, you could not set up an organization like the Aerospace Corp. within the Government in the time available to set it up. We needed it right away. It would be infeasible to have done it within the Government."

Mr. Mahon had previously stated that the "Committee on Appropriations is concerned over the lack of control over nonprofit organizations that do research jobs for the military" (p. 64).

See also Senate Committee on Appropriations hearings on Department of Defense Appropriations for 1962 [H.R. 7851] (pp. 1378-1379) for Mr. Gilpatric's defense of Aerospace Corp. salaries.

U.S. Congress. House. Committee on Appropriations. Department of Defense appropriation bill, 1962. Report. Washington, U.S. Government Printing Office, 1961. 73 pp. (87th Cong., 1st sess. H. Rept. 574).

"In the judgment of the committee, the Government is moving toward a chaotic condition in its personnel management because of [the practice of contracting with various corporations and organizations for technical management, scientific evaluations, etc.] \* \* \*. The committee believes the procedures now followed are creating considerable additional costs for the taxpayers.

"To a considerable extent the use of contracts with nonprofit organizations is merely a subterfuge to avoid the restrictions of civil service salary scales.

"It is noted that the buildup of these organizations has not been accompanied by corresponding reductions in the number of military and civilian personnel on the Government rolls. \* \* \* Military and civilian personnel on the payroll should be competent to do the jobs assigned to them or they should be removed from the payroll."

In recommending a reduction of \$5 million in the budget request for Aerospace Corp. the committee states that it "feels that the salaries paid by the Aerospace Corp. are excessive, that its overhead costs are too high, and that it plans to employ too large a staff" (pp. 53-54).

U.S. Congress. House. Committee on Appropriations. Air Force intercontinental ballistic missile base construction program. Hearings, 87th Cong., 1st sess. Washington, U.S. Government Printing Office, 1961. 310 pp.

Contractors and responsible Government officials present their views on various problem areas in the ballistic missile construction program. Findings and recommendations of the committee are contained in House Report No. 51, 87th Congress, 1st session, dated March 3, 1961.

U.S. Congress. House. Committee on Armed Services. Contracting-out procedures. Hearings, 87th Cong., 1st sess., Aug. 8-16, 1961. Washington, U.S. Government Printing Office, 1961. 427 pp.

Testimony covers a wide variety of contractual services, but devotes considerable attention to what is termed "think" or "effort" contracts. The problem of cost comparisons between inhouse and contractual services are enumerated by Assistant Secretary of the Air Force (Materiel) Imirie (pp. 233-234).

Views of the American Federation of Government Employees are submitted in a statement concerning adverse effects of contracting Government work to private business (pp. 347-351).

U.S. Congress. House. Committee on Armed Services. Employment of retired military and civilian personnel by defense industries, Hearings, 86th Cong., 1st sess., July 7-Sept. 1, 1959. Washington, U.S. Printing Office, 1959. 1061 pp.

Witnesses include officials of the military services, contractors, and military and industrial associations. A detailed statement by the National Association of Manufacturers covers such matters as advertising, contributions and donations, compensation for personal services (pp. 299-334).

U.S. Congress. House. Committee on Armed Services. [Employment of retired military and civilian personnel by defense industries.] Hearings released from executive session relating to entertainment furnished by the Martin Co. of Baltimore, Md., of U.S. Government officers, 86th Cong., 1st sess., Sept. 10, 1959. Washington, U.S. Government Printing Office, 1959. 204 pp.

U.S. Congress. House. Committee on Armed Services. Employment of retired commissioned officers by Defense Department contractors. Report of the Subcommittee for Special Investigations, 86th Cong., 1st sess., Washington, U.S. Government Printing Office, 1960. 170 pp. (86th Cong., 1st sess., committee print.)

Data presented in this report is based on committee hearings and responses to a questionnaire sent to industry. The committee notes that "The 'coincidence' of contracts and personal contacts with firms represented by retired officers and retired civilian officials sometimes raise serious doubts as to the complete objectivity of some of these decisions" (p. 11). Referring to contractor practices of advertising of competitive weapons, the committee expresses its opinion "that such advertising is detrimental to the defense effort. It provokes controversy and promotes dissention, and introduces biased, narrow, and prejudicial considerations in purely military decisions" (p. 15). Appendixes include a compilation of laws and regulations relating to conflicts of interest in the military department, Department of Defense directives relating to conduct of procurement personnel, and statistical data on salaries and employment of retired officers by defense contractors.

The subcommittee report is incorporated in the committee report on H.R. 10959, dated March 21, 1961 (86th Cong., 2d sess. H. Rept. 1408).

U.S. Congress. House. Committee on Armed Services. Full committee consideration of H.R. 9682 and H.R. 10959, relating to the employment of retired commissioned officers by contractors of the Department of Defense and the Armed Forces [Washington, U.S. Government Printing Office, 1960], p. 3491-3616 (86th Cong., 2d sess. [committee document], No. 44).

Proposed legislation provides for forfeiture of retirement pay by retired officers accepting employment involving selling to the Department of Defense or a military department within 2 years after retirement. Legislation would also provide for registration of retired officers who accepted such positions and reporting by contractors of all retired personnel in their employment. The proposal (H.R. 10959) was reported favorably (H. Rept. No. 1408) and passed with an amendment on April 8, 1960.

For Senate Committee on Armed Services hearings see "Conflict of Interest of Retired Officers"; hearings, 86th Congress, 2d session, on H.R. 10959. No further action was taken by the Senate.

U.S. Congress. House. Committee on Armed Services. Hearings pursuant to section 4, Public law 86-89, Special Subcommittee on Procurement Practices of the Department of Defense, 86th Cong., 2d sess., Washington, U.S. Government Printing office, 1960. 752 pp.

Testimony deals with procurement policies, organization, and practices of the Department of Defense and the three military services with particular reference to their effectiveness in achieving reasonable costs, prices, and profits.

The views of the committee growing out of these hearings appear in House Report No. 1959, 86th Congress, 2d session. The committee notes that, "The fundamental weakness in the regulations and instructions of the service departments is the emphasis upon the authority to negotiate rather than on the requirement [of] a justification for negotiations" (p. 16). It suggests "wider use of the firm-fixed-price contract and competition both as to source and price \* \* \*" (pp. 36-38).

U.S. Congress. House. Committee on Armed Services. Overpricing of Government contracts. Hearings before the Subcommittee for Special Investigations, 87th Cong., 1st sess. Apr. 27-28, 1961. Washington, U.S. Government Printing Office, 1961. 64 pp.

Comptroller General presents up-to-date information on recoveries relating to overpriced Air Force and Navy contracts previously discussed at the

July 1959 hearings on weapons systems management (UC263.A25 1959a). Witnesses from the Air Force and the Navy present statements on their respective efforts to improve contract negotiations.

- U.S. Congress. House. Committee on Armed Services. Weapons system management and team system concept in Government contracting. Hearings before the Subcommittee for Special Investigations, 86th Cong., 1st sess. Washington, U.S. Government Printing Office, 1959. 775 pp.

Witnesses include representatives of Boeing Airplane Co., North American Aviation, Inc., Martin Co., Lockheed Aircraft Corp., Convair Division of General Dynamics Corp., as well as Government representatives. Testimony deals with the nature of weapons systems management, its operation, pricing practices, and contractual arrangements.

- U.S. Congress. House. Committee on Government Operations. Air Force ballistic missile management (formation of Aerospace Corp.), Report, May 1, 1961. Washington, U.S. Government Printing Office, 1961. 57 pp. (87th Cong., 1st sess. H. Rept. 324).

A review of ballistic missile management in the Air Force and a detailed account of efforts to meet criticisms of the missile management role of Space Technology Laboratories and Thompson-Ramo-Wooldridge. Describes the circumstances under which Aerospace Corp. was organized; its management structure, mission, and its relations to STL. Discusses such matters as salary scales (pp. 29-33), conflict-of-interest (pp. 33-35), facilities acquisition and future facilities plans (pp. 35-38), fees for contract work and contract patent rights (pp. 41-43).

Industry regards such management systems agencies as "meddlers in the weapon-building process and as piratic employers of scarce or highly prized scientific personnel. And more important, industry looks askance at the 'arsenal' potential of these agencies for 'sole source' fabrication of advanced weapon and space machinery \* \* \*". Government critics view such agencies as taking on functions which should be performed by Government itself. Representative Martha W. Griffiths raises questions as to "whether the Government or the contractor will take title to facilities bought or built for use on a Government contract, where the Government is the sole, or almost the sole purchaser of items in or by such a facility."

- U.S. Congress. House. Committee on Government Operations. Availability of information from Federal departments and agencies (Air Force refusal to the General Accounting Office). Washington, U.S. Government Printing Office, 1959. 121 pp. (86th Cong., 1st sess. H. Rept. 234).

Concerned with the refusal of the Air Force to make available to the General Accounting Office its "Survey of Management of the Ballistic Missile Program." In section III, beginning on page 21, testimony of General Rogers, Air Force Inspector General, is quoted. He explains that the objective of the inspection system is to provide the Air Force with a management tool to help assure maximum effectiveness \* \* \*. He explains further that "the ballistic missile management survey was intended to be a top management inspection \* \* \* to analyze and evaluate the management concept of the Air Force ballistic missile program \* \* \*."

The Comptroller General enumerates the reasons why the "statement of facts" made available from the survey by the Air Force was unsatisfactory, pages 27-34. For instance, "the statement points out that due to manpower ceiling freezes BMD had an urgent requirement for secretarial services filled by Ramo-Wooldridge personnel. The statement further points out that no follow-on action was taken to replace Ramo-Wooldridge positions with civil service employees \* \* \*."

- U.S. Congress. House. Committee on Government Operations. Health research and training; the administration of grants and



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awards by the National Institutes of Health, report. Washington, U.S. Government Printing Office, 1961. 110 pp. (87th Cong., 1st sess. H. Rept. 321).

Provides a broad view of organizational structure, program, policies and procedures for administering medical research and training grants. Recommendations include improvement in the present project review system, a cost-sharing basis for research grants initiated by commercial firms, the development of a uniform salary policy applicable to all agencies making grants to educational and other research institutions, better coordination of research activities with other Government and private agencies, initiation for a limited time of special developmental-type grants to stimulate research, optional use of either of two methods for computing overhead allowance on supported research, and reexamination of the policy of making indirect cost payments on renovation and major equipment expenditures from grants for the establishment of clinical research facilities (pp. 73-75).

U.S. Congress. House. Committee on Government Operations. Organization and management of missile programs. Hearings before a subcommittee, 86th Cong., 1st sess. Washington, U.S. Government Printing Office, 1959. 803 pp.

Testimony deals with organizational arrangements in the Department of Defense for the direction and coordination of the missile programs of the three military services; describes organizations and procedures devised to streamline operations; examines procurement and management agencies, and related aspects of the missile program. Devotes considerable attention to the corporate background and operations of Ramo-Wooldridge Corp. and its successor, Space Technology Laboratories, Inc. Includes text of the Gillette report: "Air Force Plan for Simplifying Administrative Procedures on Missile Programs," pages 639-653.

Finding and conclusions are reported in the committee's 11th report (H. Rept. 1121, 86th Cong., 1st sess.). In summary the committee notes that, "Neither the timing, nor the technology, nor the threefold separation of the services is conducive to decisions that given weapons systems can be withdrawn or abandoned in the interest of economy or efficiency."

U.S. Congress. House. Committee on Government Operations. Organization and management of missile programs. Hearings before a subcommittee, 86th Cong., 2d sess. May 3-6, 1960. Washington, U.S. Government Printing Office, 1960. 228 pp.

Testimony deals with reorganization of space and missile functions, transfer of space projects to NASA, assignment of military space functions, current status of ARPA, new missile and space projects, NATO and British missile developments. Includes text of Millikan Committee report, pages 86-91.

U.S. Congress. House. Committee on Government Operations. Research and development. Hearings before a subcommittee, 85th Cong., 2d sess. Washington, U.S. Government Printing Office, 1958. 481 pp.

Testimony deals with organizational structure and procedures as they relate to advancing scientific research. Of particular interest are the views of Dr. Alan T. Waterman and Dr. C. C. Furnas on the relative efficiency and economy in the conduct of R. & D. through Government facilities, universities, other nonprofit organizations, and private contractors (pp. 49-62, 170-173). Dr. Rowland Egger's paper on problems of governmental organization in scientific research (pp. 463-467) suggests that the entire area of Government contracts for research needs to be restudied. "While the evidence is not entirely clear, it does seem to be true that contracting methods and specifications appropriate to the administration of traditional functions of the Government have been carried over by brute force and sheer awkwardness into the area of scientific research contracting, in which they protect adequately the interests neither of the Government nor the contractor."

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U.S. Congress. House. Committee on Government Operations. Research and development (Office of the Secretary of Defense). Report. Washington, U.S. Government Printing Office, 1958. 218 pp. (85th Cong., 2d sess. H. Rept. 2552).

A basic background study on the organizational structure for research and development in the Office of the Secretary of Defense, the financing of R. & D. programs, planning for the future, duplication and interservice rivalry, and the need for improved management and control. The impact of retrenchment policies on industrial and academic contractors performing research and development for the Government is reviewed briefly on pages 35-41.

U.S. Congress. House. Committee on Interior and Insular Affairs. Policies, programs, and activities of the Department of the Interior. Hearings, 87th Cong., 1st sess., Jan. 16-Feb. 28, 1961. Washington, U.S. Government Printing Office, 1961. 292 pp.

Dr. A. L. Miller, Director of Office of Saline Water, testifies on the nature of research conducted by the Office (pp. 244-253), procedures for negotiating research and development contracts (pp. 281-282), and problems of patent rights (pp. 285-292).

U.S. Congress. House. Committee on Post Office and Civil Service. Manpower utilization in the Federal Government. Hearings, 85th Cong., 2d sess., Dec. 1-5, 1958. Washington, U.S. Government Printing Office, 1959. 401 pp.

Testimony submitted by officials of the Department of Defense, the three military service departments, Agriculture, Commerce, Health, Education, and Welfare Departments, National Aeronautics and Space Administration, Civil Service Commission, and the Bureau of the Budget. In introducing Assistant Director Staats of the Bureau of the Budget the chairman states, "We hope \* \* \* that during your testimony \* \* \* you may be able to tell this subcommittee that action, vigorous action, is being taken and going to be taken to provide standards to guide our Government officials toward more effective manpower utilization, and especially contracting practices involving delegation of personal and official responsibility."

U.S. Congress. House. Committee on Post Office and Civil Service. Manpower utilization in the Federal Government. Hearings, 87th Cong., 1st sess., Apr. 11-12, June 5, 12, 1961. Washington, U.S. Government Printing Office, 1961. 138 pp.

Salary levels at Aerospace Corp. are the subject of many questions in connection with Under Secretary of the Air Force Charyk's testimony, pages 121-138. Questions were also raised by Representative Gross concerning a \$1,500,000 fee to Aerospace Corp., page 133.

U. S. Congress. House. Committee on Post Office and Civil Service. Personnel procurement costs of selected defense contractors for recruitment of engineers and scientists, fiscal year 1959. Washington, U.S. Government Printing Office, 1960. 9 pp. (86th Cong., 2d sess., committee print).

Significant aspects of the data are: (1) In general the contractors with predominant Government business spent more to recruit engineers and scientists than did those firms working predominantly on commercial business; (2) separation rates of engineers and scientists from the sample of 102 firms was pretty much in line with current separation rates, both in private industry and in the Federal Government; (3) annual recruiting by firms with Government business was higher than recruiting by predominantly commercial firms; (4) of four firms spending in excess of \$2,000 per individual newly hired, three were Government contractors.

U.S. Congress. House. Committee on Post Office and Civil Service. Preliminary report on the aspects of the missile program in the

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Departments of the Navy and the Air Force. Subcommittee on Manpower Utilization, 86th Cong., 1st sess., April 1959. Washington, U.S. Government Printing Office, 1959. 47 pp. (committee print).

The committee concludes that: (1) Procurement policies have permitted considerable contracting out of technical, project, and management responsibilities; (2) scientific and engineering manpower in the missile program is not being fully utilized and accomplishments to date could have been achieved "with less manpower under a more coordinated and practical policy;" (3) Government is competing with itself and with defense contractors for qualified employees.

In a letter requesting a survey by the General Accounting Office the chairman asks for the following information: "What standards have been and/or should be established by the Federal Government to determine the reasonableness and uniformity of fees in cost-plus contracts? Why was Ramo-Wooldridge placed in such an indispensable position in Air Force's long-range ballistic missile operation? What have been the financial relationships between Ramo-Wooldridge, Thompson Products, Inc., and the Space Technology Laboratories? What personal gains have been made by key employees and former Government employees \* \* \*" and other data pertinent to a full examination of the program.

U.S. Congress. House. Committee on Post Office and Civil Service. Survey of certain aspects of the ballistic missile program of the Department of the Air Force, as developed by the Subcommittee on Manpower Utilization, and by the Comptroller General of the United States. December 30, 1960. Washington, U.S. Government Printing Office, 1960. 60 pp.

U.S. Congress. House. Committee on Science and Astronautics. Basic research in agriculture. Hearing, 86th Cong., 1st sess. Washington, U.S. Government Printing Office, 1959. 74 pp.

Reprints text of Comptroller General reports of October 21, 1959, and May 19, 1960, on various aspects of the ballistic missile program together with letters from the chairman of the subcommittee to the Secretary of Defense dated June 7 and July 15, 1960, and a letter from the Secretary of the Air Force dated August 18, 1960, commenting on the Comptroller General's reports.

U.S. Congress. House. Committee on Science and Astronautics. Basic research in agriculture. Hearing, 86th Cong., 1st sess. Washington, U.S. Government Printing Office, 1959. 74 pp.

Testimony of officials of the Agricultural Research Service deals with types of research being undertaken, the character of the organization and the methods employed. Includes a list of contracts and contractors for fiscal year 1958 (pp. 39-42) and a set of organization charts (pp. 55-63).

U.S. Congress. House. Committee on Science and Astronautics. Basic scientific and astronautic research in the Department of Defense. Hearings, 86th Cong., 1st sess. June 4-30, 1959. Washington, U.S. Government Printing Office, 1959. 536 pp.

Testimony covers programs, personnel, funding and management of research and development in the Department of Defense and the three military services. Findings are summarized in House Report No. 1182, 86th Congress, 1st session.

U.S. Congress. House. Committee on Science and Astronautics. Defense space interests. Hearings, 87th Cong., 1st sess. March 17-23, 1961. Washington, U.S. Government Printing Office, 1961. 220 pp.

Testimony deals with the implications of the Department of Defense directive of March 6, 1961, dealing with "Development of Space Systems."

Views of witnesses are summarized in House Report No. 360, 87th Congress, 1st session, "Military Astronautics (Preliminary Report)," May 4, 1961.

The committee concludes that:

"(a) The Air Force is fully responsive to the needs of the other two services.

"(b) Army and Navy ideas useful to advancing the national program for space development are not ignored.

"(c) Army, Navy and Air Force personnel and facilities \* \* \* are fully used in the interest of efficiency, economy, and the morale of the fine teams which serve them.

"(d) There is continuing close cooperation with NASA, so that both the Department of Defense and the civilian agency can find full expression without waste in their respective spheres."

U.S. Congress. House. Committee on Science and Astronautics. Management and operation of the Atlantic Missile Range. Report [prepared by Spencer M. Beresford], 86th Cong., 2d sess., July 5, 1960. Washington, U.S. Government Printing Office, 1960. 11 pp. (86th Cong., committee print).

Commenting on Pan Am as contract manager, the committee concludes that past shortcomings have been largely corrected or are in the process of correction and that the contract is "probably as satisfactory today as any alternative." Points out that this is not to imply that, "Pan Am or any other private corporation should have been given the job \* \* \* in the first instance."

U.S. Congress. House. Committee on Science and Astronautics. Missile development and space sciences. Hearings, 86th Cong., 1st sess. Washington, U.S. Government Printing Office, 1959. 492 pp.

The first public activity of the newly constituted Committee on Science and Astronautics. The purpose of the hearings was to present a picture of the situation in the fields of science and astronautics. Reviews the entire missile and space program. Testimony of witnesses is summarized in House Report 562, 86th Congress, 1st session, entitled, "Status of Missile and Space Programs."

U.S. Congress. House. Committee on Science and Astronautics. The National Bureau of Standards and the space program. Hearings, 87th Cong., 1st sess., May 11-12, 1961. Washington, U.S. Government Printing Office, 1961. 68 pp.

Dr. A. V. Astin and other Bureau representatives testify on the mission of the National Bureau of Standards and some of the problems confronting it. Inadequate facilities and funding are indicated as major obstacles and the need of the Bureau "to be placed in a better position with respect to recruiting and retention of senior scientists." Testimony is summarized in House Report No. 711, 87th Congress, 1st session, dated July 12, 1961.

U.S. Congress. House. Committee on Science and Astronautics. Patent policies relating to aeronautical and space research. Hearings before the Special Subcommittee on Patents and Scientific Inventions, 87th Cong., 1st sess., on H.R. 1934 and H.R. 6030. Washington, U.S. Government Printing Office, 1961. 400 pp. ([Document] No. 20).

The purpose of the hearing is "to learn not only what patent practices industry follows in conducting space research and development, but why it follows them and what the practical effects are. We will try to learn how much concentration of space contracting may result from the Government's space patent policy, what rights the Government demands of industry and what concomitant rights industry seeks from its subcontractors and employees \* \* \*." Text of the Archie Palmer study, "Administration and Utilization of Government-Owned Patent Property," dated December 23, 1960, is included in the hearings, pp. 65-138.

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U.S. Congress. House. Committee on Science and Astronautics. Property rights in inventions made under Federal space research contracts. Hearings before the Subcommittee on Patents and Scientific Inventions, 86th Cong., 1st sess., on Public Law 85-568. Washington, U.S. Government Printing Office, 1959. 981 pp. ([Document] No. 47).

Testimony of witnesses representing Government, industry, the bar and the academic world favors changes in existing provisions of section 305 of the National Aeronautics and Space Act of 1958. "The preponderance of testimony \* \* \* favored deletion of the present section 305 and substitution, in lieu thereof, of a provision by which the Government would receive a nonexclusive, royalty-free, nontransferable, nonrevocable license for governmental use. Summary of testimony and recommendations of the subcommittee are contained in "Proposed Revisions to the Patent Section, National Aeronautics and Space Act of 1958 Report," dated March 8, 1960 (TL521.A53 1960b). Subcommittee recommendations were incorporated into H.R. 12049, amending the National Aeronautics and Space Act of 1958, which passed the House on June 9, 1960. The Senate took no action on the measure and it died with the 86th Congress.

U.S. Congress. House. Committee on Science and Astronautics. Research and development for defense. Hearings, 87th Cong., 1st sess. Washington, U.S. Government Printing Office, 1961. 178 pp.

A general review of the status of scientific and astronomical research and development in the defense agencies. Committee questions center around progress to date, possible areas of duplication, and levels of cost.

U.S. Congress. Senate. Committee on Aeronautical and Space Sciences. Investigation of governmental organization for space activities. Hearings, 86th Cong., 1st sess., Mar. 24-May 7, 1959. Washington, U.S. Government Printing Office, 1959. 762 pp.

Officials of the Department of Defense, the three military services, and the National Aeronautics and Space Administration present testimony on the organization and conduct of their respective programs. For specifics consult index, pages 749-762. Summary of testimony and committee findings are presented in Senate Report 806, 86th Congress, 1st session, entitled, "Governmental Organization for Space Activities."

U.S. Congress. Senate. Committee on Appropriations. Federal support of medical research; report of the Committee on Consultants on Medical Research to the Subcommittee on Departments of Labor and Health, Education and Welfare, 86th Cong., 2d sess., May 1960. Washington, U.S. Government Printing Office, 1960. 133 pp.

Conclusions and recommendations of the committee are on page 107. They deal with adequacy of Federal support of medical research; effectiveness of utilization of Federal funds appropriated for medical research; impact of the expanding Federal program in support of medical research; and status of medical manpower.

U.S. Congress. Senate. Committee on Armed Services. Military procurement. Hearings before a subcommittee, 86th Cong., 1st sess., on S. 500 [etc.] Washington, U.S. Government Printing Office, 1959. 671 pp.

Representatives of Government and industry submit views on proposed legislation to increase flexibility in military procurement. Weapon-systems management and procurement policy is discussed throughout the hearing. See particularly appendixes (pp. 495-671) for special analyses and studies.

U.S. Congress. Senate. Committee on Armed Services. Procurement study. Hearings before the Procurement Subcommittee, 86th Cong., 2d sess. Washington, U.S. Government Printing Office, 1960. 273 pp.

John J. Phelan, Assistant Director for Procurement Policy, discusses research and development contract practices of the Department of Defense, pages 93-97; G. C. Bannerman, Director of Procurement Policy, testifies on the weapon systems concept, how it is used, and why it is needed, pages 99-105; Comptroller General presents his views, pages 146-147. Findings and recommendations growing out of the hearings are reported in Senate Report No. 1900, 86th Congress, 2d session.

U.S. Congress. Senate. Committee on Government Operations. Federal budgeting for research and development. Hearings before the Subcommittee on Reorganization and International Organization, 87th Cong., 1st sess. Agency coordination study, July 26-27, 1961. Washington, U.S. Government Printing Office, 1961-62. 2 pts.

The principal problem under review in these hearings is: "How can the Federal budget be improved with respect to control of research and development expenditures."

Part I, the hearing volume, deals with long-range planning, programing and budgeting in the Department of Defense (pp. 7-150) and in the National Aeronautics and Space Administration (pp. 154-205). Dr. Harold Brown, Director of Defense Research and Engineering, OSD, testifies on progress in long-range planning in the Department of Defense (pp. 7-49). The importance of in-house research is mentioned briefly (p. 15) and discussed more fully in an address and memorandum included as exhibit 29 (pp. 222-226). Other exhibits include a statement and charts of organization for research and development (pp. 59-64), a statement defining and describing research activities (p. 74), and submissions dealing with payment of costs for independent research and development work (pp. 92-100). Mr. James E. Webb, Administrator, National Aeronautics and Space Administration, testifies on relationships with other agencies, planning and programing, and NASA contributions to basic research. Mr. Webb notes that, "80 to 85 percent of all our dollars go out under contract either with industry or universities, most of it with industry, for technology. We nevertheless, have to manage support for basic research. And in order to this well, we have in each of our centers, a certain fund, not large, but enough to keep the people there in funds to do basic research in order to keep them right up to date and abreast of the program as a leader in the field" (p. 193).

Part II provides background data on the total Federal commitment for research and development. It includes correspondence with the Bureau of the Budget on Government-wide policies affecting this phase of budgeting (pp. 243-251), information from the National Science Foundation on its central role in budgeting for basic research (pp. 253-270), detailed reports from the Department of Commerce on problems of budgeting for research and development (pp. 272-341), and expositions from other selected agencies.

U.S. Congress. Senate. Committee on Government Operations. Organizing for national security. Science, technology, and the policy process. Hearings before the Subcommittee on National Policy Machinery, 86th Cong., 2d sess., Apr. 25-27, 1960. Washington, U.S. Government Printing Office, 1960, pp. 237-411.

Dr. James A. Perkins, vice president of the Carnegie Corp., comments on the role of the scientists, pointing out that "he is in danger of being both underused and overused. He will be underused when he is placed in a Government laboratory and given detailed instructions and blinders and told to 'solve the specific problem, please.' Experience has long since demonstrated the value of an arm's length arrangement that makes it possible for a scientist to bring to bear his creative imagination on a widely and loosely defined problem. Scientific laboratories under military direc-

tion have frequently not prospered. \* \* \* On the whole, the more creative the approach required, the more substantial the case for putting the scientist in a university environment on a contract arrangement" (p. 242).

Dr. Edward M. Purcell, professor of physics, Harvard University, points out the need for the Government to enter into contracts with universities, nonprofit and profitmaking corporations for the use of key personnel for longer periods of time in order to promote research essential to the Government (pp. 389-390).

Dr. Herbert F. York, Director of Defense Research and Engineering, also presents his views on this matter as well as on the difficulties relating to conflict of interest laws (pp. 400-402).

Prof. Bayless Manning, Association of the Bar of the City of New York, indicates that contracting out does not solve the personnel question since Government must have in-house competence to review, screen, and appraise the technical aspects of contracting-out arrangements (pp. 460-461).

U.S. Congress. Senate. Committee on the Judiciary. Government patent policy. Hearings before the Subcommittee on Patents, Trademarks, and Copyrights, 87th Cong., 1st sess., on S. 1084 and S. 1176. Apr. 18-21, May 31-June 2, 1961. Washington. U.S. Government Printing Office, 1961. 2 pts.

In his opening statement Senator McClellan notes:

"We know that our Government is presently acting in the disposition of patent rights in these inventions as if it were several different governments with different objectives. For instance, we find the Defense Department making contracts with a patent clause that gives the contractor title to any resulting inventions while other Government agencies dealing with the same contractors for research in the same fields are using patent clauses that give the Government title to these inventions.

"Who gets the title frequently decides who gets the main benefits from the invention."

Senator Russell B. Long observes (p. 13) that "if you compare the contracts in the Atomic Energy Commission and other Government agencies with the contracts where the contractor keeps the patent rights, there is no convincing evidence that it costs any more.

"But if it did cost a little more, the fantastic values involved here and the tremendous cost to the consumer to buy back something that he has paid for already \* \* \* to buy it back at a monopoly price, are so enormous that it would seem to me that we are failing to protect the public interest if for a small cash saving we make it possible for persons to have these enormous patent monopolies that we are creating with \$9 billion a year of Government-financed research."

Testimony covers practices in the Department of Defense, the three military services, National Aeronautics and Space Administration, and the Federal Aviation Agency and gives views of representatives from trade associations and private industry.

U.S. Congress. Senate. Committee on the Judiciary. National patent policy. Hearings before the Subcommittee on Patents, Trademarks, and Copyrights, 87th Cong., 1st sess., on S. 1084 and S. 1176. Washington, U.S. Government Printing Office, 1961. 63 pp.

Admiral Rickover testifies on the present patent situation which he considers unsatisfactory. "Agencies of the same U.S. Government," he points out, "pursue diametrically opposed policies on patent rights to inventions financed by the Government even when it may concern the same area of technology, such as medical research where the Defense Department and the Department of Health, Education, and Welfare follow different policies. This naturally makes for inequities. It leaves the power of decision on an important public matter that should be regulated by Congress to contracting officers of different agencies \* \* \*" (p. 4).

In response to Senator Wiley's observations that the Government had the right to take the patent and pay for it, Admiral Rickover asks, "but why pay again for something you have already paid for?"

U.S. Congress. Senate. Committee on the Judiciary. Patent practices of the Department of Defense, 87th Cong., 1st sess. Washington, U.S. Government Printing Office, 1961. 129 pp. (committee print).

In judging the present patent policy, the Department of Defense expresses the view that "in the areas of its responsibility its policy of generally acquiring for the Government a royalty-free license, instead of title, to an invention conceived or first actually reduced to practice under its research and development contracts, is in the best interest of the United States \* \* \*.

"The Department of Defense does not recommend any legislation or change in policy with respect to patent rights in inventions resulting from research and development contracts. It is recommended that Executive Order 10096 be rescinded and superseded by the enactment of legislation which would enact into law the judicial standards which have been followed for the past century in determining Federal-employee invention rights" (pp. 39-40).

U.S. Congress. Senate. Select Committee on Small Business. Patent policies of departments and agencies of the Federal Government—1959. Hearings before a subcommittee, 86th Cong., 1st sess. Washington, U.S. Government Printing Office, 1960. 454 pp.

"There is no one Government patent policy. Various Federal agencies and departments have sharply varying policies with regard to taking title to patentable inventions made under research and development contracts with private organizations.

"The magnitude of this effort makes it apparent that the distribution and Federal policies in the handling of the resulting inventions of these contracts have a significant effect upon the organization of the American economy.

"First, there is the problem of increasing economic concentration brought about by the granting of patent rights to individual firms for discoveries which result from Government-financed research and development contracts.

"Second, there is the problem of assuring that newly acquired technological information developed at Government expense and not of a classified nature is diffused throughout our society. The American people foot the bill. Do they receive commensurate benefits from their work?

"The third problem is whether the U.S. Government is getting all that it pays for from its research and development dollar" (pp. 1-2).

The withdrawal of patent privileges from firms performing R. & D. for the Government at the latter's expense does not remove all competitive advantage accruing to such firms. Dr. Daniel Lambert, University of Maryland, points out that:

"Where there is fortuitously direct and immediate commercial applications, or where the contracting firms will take contracts, as they often do, only when the R. & D. is relevant to technical and hence commercial problems already confronting the firm, the result is in either case that although the firm may provide the Government with a sought-for 'product,' the firm in the process gets its R. & D. costs financed by the Government.

"A second important advantage is that [it] enables the firm to acquire scientific personnel that it ordinarily might be unable to do.

"This is certainly one of the paradoxes \* \* \* of the present system \* \* \* because, unquestionably, the contracting firms \* \* \* bid up the prices, the wages, and salaries of scientific and technical personnel.

"In the process they compete away such personnel from the Government sector, from Government research and development laboratories. The Government is, thereby, deprived of its own highly qualified personnel, and in the end winds up paying more for R. & D. than it otherwise would \* \* \*.

"Thirdly, we should note that the performing firm, ipso facto, acquires a considerable body of information relating to the invention, information that is unpatentable, but possession of which is often indispensable to the proper use of the invention. \* \* \* The withdrawal of patent rights from performing firms would not and could not deprive them of this often priceless know-how.

"Whether by design, or chance, or more likely, administrative expediency, Government R. & D. contracts have been let primarily to the giant corpora-



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tions \* \* \* this practice automatically confers great competitive advantages on the giant firms vis-a-vis their smaller competitors, thereby promoting already extant monopolistic tendencies" (pp. 5-21).

- U.S. Department of Health, Education, and Welfare.** The advancement of medical research and education through the Department of Health, Education, and Welfare. Final report of the Secretary's Consultants on Medical Research and Education. Washington, U.S. Government Printing Office, 1958. 82 pp.

The consultants find that the most important problems of public policy arise in connection with Federal support of research in non-Federal laboratories and that this support inevitably raises questions bearing upon the relationships between Government and universities (p. 15).

They recommend that "A number of Federal agencies continue to finance a substantial medical research effort both to make their operations more effective, and to sustain a productive medical research program in non-Federal non-profit research institutions" (p. 27).

They also recommend that, "In the Federal Government's efforts to foster research and training in the fields of health and medicine the principle of payment of full costs be adopted" (p. 71).

- U.S. Department of Justice.** Government-sponsored industry research. (In its Report of the Attorney General pursuant to sec. 708(e) of the Defense Production Act of 1950, as amended. Nov. 9, 1956, pp. 2-53.)

An examination of the nature of the problem, the relative importance of Federal research expenditures, benefits to industry from performance of Government research, and the impact of federally financed research and development on competitive position of contractors.

Concludes that "The imprecise factual indicators discussed in this report may point a warning that the total effect of the research and development effort may well tend to increase concentration of economic power. Moreover, that evidence indicates that this tendency toward concentration may be accentuated, and not retarded, by the administration of Government financing of research and development \* \* \*.

"Some action can be suggested to alleviate some of the features of present operations which seem to tend toward concentration. It is accordingly recommended that consideration be given to: first, the possibility of removing certain practical obstacles to the participation of smaller businesses in the research and development effort; and second \* \* \* a reevaluation of the basic patent policy of the Department of Defense, in the light of current defense problems and the increased participation of Government in research activity, to determine whether Government acquisition of resulting inventions and patents would be more in the public interest."

Text of report reprinted in: U.S. Congress. House. Committee on Science and Astronautics. Property rights in inventions made under Federal space research contracts, hearings, 86th Cong., 1st sess., on Public Law 85-568. 1959, pp. 888-904.

- U.S. General Accounting Office.** Initial report on review of administrative management of the ballistic missile program of the Department of the Air Force. Washington, 1960. 124 pp.

"The ballistic missile program is the largest single military program undertaken by the United States involving the expenditure of about \$2 billion a year. The need to accelerate this program and the lack of in-house capability within the Air Force prompted [the decision] in 1954 to contract with a private corporation for the systems engineering and technical direction of the program. However, although more than 5 years has elapsed, the Air Force has not developed an in-house capability to carry out the functions assigned to the contractor.

"By delegating the technical aspects of this management to a contractor, the Air Force has, to a significant degree, removed itself from the direct management of the program and, as a practical matter, has shifted a portion of its responsibility for the success of this crucial program to a contractor.

"We believe that a program of this importance should be conducted under the direct leadership and responsibility of the Government agency to which it is entrusted.

"\* \* \* We believe that it would be advisable for the Air Force to develop in-house capability to provide systems engineering and technical direction for its ballistic missile program \* \* \*."

**U.S. General Accounting Office.** Report on survey of certain aspects of the ballistic missile program of the Department of the Air Force. May 19, 1960. (In U.S. Congress. House. Committee on Post Office and Civil Service. Survey of certain aspects of the ballistic missile program of the Department of the Air Force, Dec. 30, 1960. Washington, U.S. Government Printing Office, 1960, pp. 8-50.)

Findings cover such matters as standards for determination of reasonableness of fees and for reimbursable costs, rates of fixed fee for R-W/STL and Applied Physics Laboratory, salary rates and personal gains made by key employees of R-W/STL. Stresses the need for developing in-house capability to provide systems engineering and technical direction for ballistic missile programs.

**U.S. General Accounting Office.** Report on survey of supplemental payments to contractor employees at Department of Defense test facilities. Oct. 21, 1959. (In U.S. Congress. House. Committee on Post Office and Civil Service. Survey of certain aspects of the ballistic missile program of the Department of the Air Force, Dec. 30, 1960. Washington, U.S. Government Printing Office, 1960, pp. 1-7.)

The review discloses that contractor employees receive travel allowances although located at Edwards Air Force Base for extensive periods; that a DOD study showed the need for control of supplemental payments made by defense contractors at DOD test facilities. The report concludes that "in many cases, supplemental pay is justified but the cost principles presently contained in the Armed Services Procurement Regulations are not adequate to achieve an improvement in the present situation; that greater uniformity is warranted \* \* \* and that the practice, in many cases, resulted in unnecessary and unreasonable costs to the Government \* \* \*."

**U.S. Library of Congress.** Legislative Reference Service. The U.S. guided missile program. Prepared for the Preparedness Investigating Subcommittee of the [Senate] Committee on Armed Services, by Charles H. Donnelly. Washington, U.S. Government Printing Office, 1959. 129 pp.

"This report is a study of U.S. policies and accomplishments in the development of its missile program. It is not intended to be historical, though enough background will be laid to put the program into perspective. It is intended to aid in arriving at a better understanding of the size and complexity of our program \* \* \*."

Chapter V, "Organization and Control of U.S. Guided Missile Program," pages 38-59, considers Government agencies outside the Department of Defense as well as those in the Department. Among those within the Department of Defense are ARPA, Ballistic Missiles Committee, Scientific Advisory Committee, Weapons Systems Evaluation Group and the Army, Navy, and Air Force missile organizations.

**U.S. National Science Foundation.** Funds for research and development in industry, 1958: performance and financing. Washington, U.S. Government Printing Office, 1961. 119 pp. (NSF-61-32).

Federal funds for industrial R. & D. by industry and size of company for 1958, pages 5-8. Data for 1959 and 1960 are reported in Reviews of Data on Research and Development, No. 30, September 1961.

**CONTRACTING FOR RESEARCH AND DEVELOPMENT 91**

**U.S. National Science Foundation.** Scientific research and development of nonprofit organizations; expenditures and manpower, 1957. Washington, U.S. Government Printing Office, 1961. 58 pp. (NSF-61-37).

Data on expenditures for basic, applied and development research and manpower employed in Federal contract research centers are presented on pages 33-35. Data for 1958 are reported in Reviews of Data on Research and Development, No. 24, October 1960.

**CONGRESSIONAL RECORD AND NEWSPAPER ARTICLES**

**Congressional Record, Aug. 5, 1957, v. 103, p. 13687.** Review of atomic energy program, and latest authorization bill (H.R. 8996).

Representative Hollifield is critical of the Atomic Energy Commission. Mentions that the contract negotiation program is carried on in three different ways: by privately financed projects; by Government-owned and sponsored reactors for experimental or demonstration purposes; and by privately sponsored projects with some research and development assistance.

**Congressional Record, May 5, 1960, v. 106, pp. 9600-9613.** Department of Defense appropriation bill, 1961.

Remarks of Representative Gross, critical of defense contracts, cites specific firms, such as Booz, Allen & Hamilton, Institute for Defense Analyses, Rand Corp. and others, on pages 9612-9613.

**Congressional Record, June 2, 1960, v. 106, p. A4719.** Competitive private enterprise in space, by Ralph J. Cordiner.

Text of Mr. Cordiner's address at the University of California at Los Angeles on May 4, 1960, in which he states: "In the case of atomic energy it has been possible to erect certain reasonable boundaries around the Government's research and development activities, while in the area of the so-called space sciences, this is totally impossible. It is the confusion of these two types of technologies which has led to the National Aeronautics and Space Administration patent clause, which is so unworkable and poses such a threat to the independence of private enterprise. An even more disturbing effect of the growth of Government-sponsored research and development is the temptation for the Federal Government to build its own facilities and personnel in the technical fields, or to establish so-called nonprofit organizations which are totally dependent on Government contracts. However generous their motives, these nonprofit organizations are usurping a field traditionally served by private consulting firms and producer companies, and hence are little more than a blind for nationalized industry competing directly with private enterprise—on a subsidized, nontaxpaying basis."

**Congressional Record, June 28, 1961, v. 107 (temporary file), pp. 10672-10698.** Department of Defense appropriation bill, 1962.

Representatives McCormack, Hollifield, Gross, Mahon, Kilday debate the complexities of modern weapons systems and current Defense Department trends in the use of nonprofit organizations. Aerospace Corp., Space Technology Laboratories, Inc., Ramo-Wooldridge Corp. are discussed. Mr. Mahon states that "we are moving toward a state of chaos and irresponsibility in this field, and somebody with a firm hand is going to have to watch the situation very carefully" (p. 10670). Representative Gross is critical of the salaries of the executives of Aerospace (p. 10682).

**Congressional Record, Aug. 8, 1961, v. 107 (temporary file), pp. 13979-13980.** Refund of \$559,000 by Thompson-Ramo-Wooldridge.

Senator Case brings up the matter of a refund by Thompson-Ramo-Wooldridge, Inc., a contractor, with respect to the pricing of some screws. He inserts in the Record a letter from Secretary of the Air Force Zuckert, an Associated Press dispatch, a Department of Defense statement for the Bureau of the Budget, and a review of the matter by the General Accounting Office.

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**New York Times, May 22, 1960, sec. 3, p. 1.** Rand Corp. furnishes brain power for the Air Force, by Bill Becker.

A description of the organization and functions of the Rand Corp.

**New York Times, June 26, 1960, p. 1+.** Air Force forms new missile unit, by Gladwin Hill.

Describes the establishment of the Aerospace Corp. and its responsibilities.

**New York Times, Nov. 8, 1961, p. 37+.** AEC liberalizes university fees, by John W. Finney.

New policy is adopted which will let institutions make profit on management of atom laboratories. Contracts will follow pattern of cost-plus-fixed-fee utilized for industry.

**New York Times, Nov. 19, 1961, p. 1+.** Scientists face income inquiry, by John W. Finney.

A subcommittee of the House Armed Services Committee will check the charge that some are profiting from Federal research.

**New York Times, Dec. 4, 1961, p. 1+.** White House acts to keep top scientists in U.S. jobs, by John W. Finney.

Widespread exodus and a decline in quality predicted. Low pay held a major factor in resignations.

**Wall Street Journal, Feb. 19, 1960, p. 1+.** Guiding the ivy—MIT points up rush of schools into Federal and business research, by Paul Lancaster.

Discusses the magnitude, problems, and implications of Federal support of research at the universities and colleges.

**Wall Street Journal, Dec. 4, 1961, p. 1+.** Missile managers. Aerospace Corp. stirs criticism of Pentagon's use of nonprofit firms, by Richard F. Roper.

Some industrialists complain of the competitive threat and criticize salary and benefit policies of these companies. Tighter controls may be ahead.

**Wall Street Journal, Dec. 6, 1961, p. 1+.** Cash for colleges—educators say grants from United States often warp academic program, by Edmund K. Faltermayer.

Charges that there is undue emphasis on sciences and graduate work.

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# APPENDICES

## APPENDIX 1

### POLICY FOR ACQUIRING PRODUCTS AND SERVICES FOR GOVERNMENT USE

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D.C., March 3, 1966.

#### CIRCULAR No. A-76

**To:** The heads of executive departments and establishments.  
**Subject:** Policies for acquiring commercial or industrial products and services for Government use.

#### 1. PURPOSE

This circular replaces the statement of policy which was set forth in Bureau of the Budget Bulletin No. 60-2 dated September 21, 1959. It restates the guidelines and procedures to be applied by executive agencies in determining whether commercial and industrial products and services used by the Government are to be provided by private suppliers or by the Government itself. It is issued pursuant to the President's memorandum of March 3, 1966, to the heads of departments and agencies. (See p. 208.)

#### 2. POLICY

The guidelines in this circular are in furtherance of the Government's general policy of relying on the private enterprise system to supply its needs.

In some instances, however, it is in the national interest for the Government to provide directly the products and services it uses. These circumstances are set forth in paragraph 5 of this circular.

No executive agency will initiate a "new start" or continue the operation of an existing "Government commercial or industrial activity" except as specifically required by law or as provided in this circular.

#### 3. DEFINITIONS

For purposes of this circular:

(a) A "new start" is a newly established Government commercial or industrial activity or a reactivation, expansion, modernization, or replacement of such an activity involving additional capital investment of \$25,000 or more or additional annual costs of production of \$50,000 or more. Consolidation of two or more activities without increasing the overall total amount of products or services provided is not a "new start."

(b) A Government commercial or industrial activity is one which is operated and managed by an executive agency and which provides for the Government's own use a product or service that is obtainable from a private source.

(c) A private commercial source is a private business concern which provides a commercial or industrial product or service required by agencies and which is located in the United States, its territories, and possessions, the District of Columbia, or the Commonwealth of Puerto Rico.

#### 4. SCOPE

This circular is applicable to commercial and industrial products and services used by executive agencies, except that it—

(a) Will not be used as authority to enter into contracts if such authority does not otherwise exist nor will it be used to justify departure from any law or regu-

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lation, including regulations of the Civil Service Commission or other appropriate authority, nor will it be used for the purpose of avoiding established salary or personnel limitations.

(b) Does not alter the existing requirement that executive agencies will perform for themselves those basic functions of management which they must perform in order to retain essential control over the conduct of their programs. These functions include selection and direction of Government employees, assignment of organizational responsibilities, planning of programs, establishment of performance goals and priorities, and evaluation of performance.

(c) Does not apply to professional staff and managerial advisory services such as those normally provided by an office of general counsel, a management and organization staff, or a systems analysis unit. Advisory assistance in areas such as these may be provided either by Government staff organizations or from private sources as deemed appropriate by executive agencies.

(d) Does not apply to products or services which are provided to the public (But an executive agency which provides a product or service to the public should apply the provisions of this circular with respect to any commercial or industrial products or services which it uses.)

(e) Does not apply to products or services obtained from other Federal agencies which are authorized or required by law to furnish them.

(f) Should not be applied when its application would be inconsistent with the terms of any treaty or international agreement.

##### 5. CIRCUMSTANCES UNDER WHICH THE GOVERNMENT MAY PROVIDE A COMMERCIAL OR INDUSTRIAL PRODUCT OR SERVICE FOR ITS OWN USE

A Government commercial or industrial activity may be authorized only under one or more of the following conditions:

(a) Procurement of a product or service from a commercial source would disrupt or materially delay an agency's program. The fact that a commercial or industrial activity is classified or is related to an agency's basic program is not an adequate reason for starting or continuing a Government activity, but a Government agency may provide a product or service for its own use if a review conducted and documented as provided in paragraph 7 establishes that reliance upon a commercial source will disrupt or materially delay the successful accomplishment of its program.

(b) It is necessary for the Government to conduct a commercial or industrial activity for purposes of combat support or for individual and unit retraining of military personnel or to maintain or strengthen mobilization readiness.

(c) A satisfactory commercial source is not available and cannot be developed in time to provide a product or service when it is needed. Agencies' efforts to find satisfactory commercial sources should be supplemented as appropriate by obtaining assistance from the General Services and Small Business Administrations or the Business and Defense Services Administration. Urgency of a requirement is not an adequate reason for starting or continuing a Government commercial or industrial activity unless there is evidence that commercial sources are not able and the Government is able to provide a product or service when needed.

(d) The product or service is available from another Federal agency. Excess property available from other Federal agencies should be used in preference to new procurement as provided by the Federal Property and Administrative Services Act of 1949, and related regulations.

Property which has not been reported excess also may be provided by other Federal agencies and unused plant and production capacity of other agencies may be utilized. In such instances, the agency supplying a product or service to another agency is responsible for compliance with this circular. The fact that a product or service is being provided to another agency does not by itself justify a Government commercial or industrial activity.

(e) Procurement of the product or service from a commercial source will result in higher cost to the Government. A Government commercial activity may be authorized if a comparative cost analysis prepared as provided in this circular indicates that the Government can provide or is providing a product or service at a cost lower than if the product or service were obtained from commercial sources.

However, disadvantages of starting or continuing Government activities must be carefully weighed. Government ownership and operation of facilities usually involve removal or withholding of property from tax rolls, reduction of revenues from income and other taxes, and diversion of management attention from the Government's primary program objectives. Losses also may occur due to such factors as obsolescence of plant and equipment and unanticipated reductions in the Government's requirements for a product or service. Government commercial activities should not be started or continued for reasons involving comparative costs unless savings are sufficient to justify the assumption of these and similar risks and uncertainties.

#### 6. COST COMPARISONS

A decision to rely upon a Government activity for reasons involving relative costs must be supported by a comparative cost analysis which will disclose as accurately as possible the difference between the costs which the Government is incurring or will incur under each alternative.

Commercial sources should be relied upon without incurring the delay and expense of conducting cost comparison studies for products or services estimated to cost the Government less than \$50,000 per year. However, if there is reason to believe that inadequate competition or other factors are causing commercial prices to be unreasonable, a cost comparison study will be directed by the agency head or by his designee even if it is estimated that the Government will spend less than \$50,000 per year for the product or service. A Government activity should not be authorized on the basis of such a comparison study, however, unless reasonable efforts to obtain satisfactory prices from existing commercial sources or to develop other commercial sources are unsuccessful.

Cost comparison studies also should be made before deciding to rely upon a commercial source when terms of contracts will cause the Government to finance directly or indirectly more than \$50,000 for costs of facilities and equipment to be constructed to Government specifications.

(a) Costs of obtaining products or services from commercial sources should include amounts paid directly to suppliers, transportation charges, and expenses of preparing bid invitations, evaluating bids, and negotiating, awarding, and managing contracts. Costs of materials furnished by the Government to contractors, appropriate charges for Government-owned equipment and facilities used by contractors, and costs due to incentive or premium provisions in contracts also should be included. If discontinuance of a Government commercial or industrial activity will cause a facility being retained by the Government for mobilization or other reasons to be placed in a standby status, the costs of preparing and maintaining the facility as standby also should be included. Costs of obtaining products or services from commercial sources should be documented and organized for comparison with costs of obtaining the product or service from a Government activity.

(b) Costs of obtaining products or services from Government activities should include all costs which would be incurred if a product or service were provided by the Government and which would not be incurred if the product or service were obtained from a commercial source. Under this general principle, the following costs should be included, considering the circumstances of each case:

(1) Personal services and benefits: Include costs of all elements of compensation and allowances for both military and civilian personnel, including costs of retirement for uniformed personnel, contributions to civilian retirement funds (or for social security taxes where applicable), employees' insurance, health, and medical plans (including services available from Government military or civilian medical facilities), living allowances, uniforms, leave, termination and separation allowances, travel and moving expenses, and claims paid through the Bureau of Employees' Compensation.

(2) Materials, supplies, and utilities services: Include costs of supplies and materials used in providing a product or service and costs of transportation, storage, handling, custody, and protection of property, and costs of electric power, gas, water, and communications services.

(3) Maintenance and repair: Include costs of maintaining and repairing structures and equipment which are used in providing a product or service.

(4) Damage or loss of property: Include costs of uninsured losses due to fire or other hazard, costs of insurance premiums, and costs of settling loss and damage claims.



(5) **Federal taxes:** Include income and other Federal tax revenues (except social security taxes) received from corporations or other business entities (but not from individual stockholders) if a product or service is obtained through commercial channels. Estimates of corporate incomes for these purposes should be based upon the earnings experience of the industry, if available, but if such data are not available, "The Quarterly Financial Report of Manufacturing Corporations," published by the Federal Trade Commission and the Securities and Exchange Commission may be consulted. Assistance of the appropriate Government regulatory agencies may be obtained in estimating taxes for regulated industries.

(6) **Depreciation:** Compute depreciation as a cost for any new or additional facilities or equipment which will be required if a Government activity is started or continued. Depreciation will not be allocated for facilities and equipment acquired by the Government before the cost comparison study is started. However, if reliance upon a commercial source will cause Government-owned equipment or facilities to become available for other Federal use or for disposal as surplus, the cost comparison analysis should include as a cost of the Government activity, an appropriate amount based upon the estimated current market value of such equipment or facilities. The Internal Revenue Service publication, "Depreciation; Guidelines and Rules" may be used in computing depreciation. However, rates contained in this publication are maximums to be used only for reference purposes and only when more specific depreciation data are not available. Accelerated depreciation rates permitted in some instances by the Internal Revenue Service will not be used.

(7) **Interest:** Compute interest for any new or additional capital to be invested based upon the current rate for long-term Treasury obligations for capital items having a useful life of 15 years or more and upon the average rate of return on Treasury obligations for items having a useful life of less than 15 years. Yield rates reported in the current issue of the "Treasury Bulletin" will be used in these computations regardless of any rates of interest which may be used by the agency for other purposes.

(8) **Indirect costs:** Include any additional indirect costs incurred by the agency resulting from a Government activity for such activities as management and supervision, budgeting, accounting, personnel, legal, and other applicable services.

#### 7. ADMINISTERING THE POLICY

##### (a) *Inventory*

Each agency will compile and maintain an inventory of its commercial or industrial activities having an annual output of products or services costing \$50,000 or more or a capital investment of \$25,000 or more. In addition to such general descriptive information as may be appropriate, the inventory should include for each activity the amount of the Government's capital investment, the amount paid annually for the products or services involved, and the basis upon which the activity is being continued under the provisions of this circular. The general descriptive information needed for identifying each activity should be included in the inventory by June 30, 1966. Other information needed to complete the inventory should be added as reviews required in paragraphs 7b and c are completed.

##### (b) *"New starts"*

(1) A "new start" should not be initiated until possibilities of obtaining the product or service from commercial sources have been explored and not until it is approved by the agency head or by an assistant secretary or official of equivalent rank on the basis of factual justification for establishing the activity under the provisions of this circular.

(2) If statutory authority and funds for construction are required before a "new start" can be initiated, the actions to be taken under this circular should be completed before the agency's budget request is submitted to the Bureau of the Budget. Instructions concerning data to be submitted in support of such budget requests will be included in annual revisions of Bureau of the Budget Circular No. A-11.

(3) A "new start" should not be proposed for reasons involving comparative costs unless savings are sufficient to outweigh uncertainties and risks of unanticipated losses involved in Government activities.

The amount of savings required as justification for a "new start" will vary depending on individual circumstances. Substantial savings should be required as justification if a large new or additional capital investment is involved or if there are possibilities of early obsolescence or uncertainties regarding maintenance and production costs, prices and future Government requirements. Justification may be based on smaller anticipated savings if little or no capital investment is involved, if chances for obsolescence are minimal, and if reliable information is available concerning production costs, commercial prices and Government requirements. While no precise standard is prescribed in view of these varying circumstances a "new start" ordinarily should not be approved unless costs of a Government activity will be at least 10 percent less than costs of obtaining the product or service from commercial sources.

A decision to reject a proposed "new start" for comparative cost reasons should be reconsidered if actual bids or proposals indicate that commercial prices will be higher than were estimated in the cost comparison study.

(4) When a "new start" begins to operate it should be included in an agency's inventory of commercial and industrial activities.

(c) *Existing Government activities*

(1) A systematic review of existing commercial or industrial activities (including previously approved "new starts" which have been in operation for at least 18 months) should be maintained in each agency under the direction of the agency head or the person designated by him as provided in paragraph 8. The agency head or his designee may exempt designated activities if he decides that such reviews are not warranted in specific instances. Activities not so exempted should be reviewed at least once before June 30, 1968. More frequent reviews of selected activities should be scheduled as deemed advisable. Activities remaining in the inventory after June 30, 1968, should be scheduled for at least one additional followup review during each 3-year period but this requirement may be waived by the agency head or his designee if he concludes that such further review is not warranted.

(2) Reviews should be organized in such a manner as to ascertain whether continued operation of Government commercial activities is in accordance with the provisions of this circular. Reviews should include information concerning availability from commercial sources of products or services involved and feasibility of using commercial sources in lieu of existing Government activities.

(3) An activity should be continued for reasons of comparative costs only if a comparative cost analysis indicates that savings resulting from continuation of the activity are at least sufficient to outweigh the disadvantages of Government commercial and industrial activities. No specific standard or guideline is prescribed for deciding whether savings are sufficient to justify continuation of an existing Government commercial activity and each activity should be evaluated on the basis of the applicable circumstances.

(4) A report of each review should be prepared. A decision to continue an activity should be approved by an assistant secretary or official of equivalent rank and the basis for the decision should appear in the inventory record for the activity. Activities not so approved should be discontinued. Reasonable adjustments in the timing of such actions may be made, however, in order to alleviate economic dislocations and personal hardships to affected career personnel.

#### 8. IMPLEMENTATION

Each agency is responsible for making the provisions of this circular effective by issuing appropriation implementing instructions and by providing adequate management support and procedures for review and follow-up to assure that the instructions are placed in effect.

If overall responsibility for these actions is delegated by the agency head, it should be assigned to a senior official reporting directly to the agency head.

If legislation is needed in order to carry out the purposes of this circular, agencies should prepare necessary legislative proposals for review in accordance with Bureau of the Budget Circular No. A-19.

#### 9. EFFECTIVE DATE

This circular is effective on March 31, 1966.

CHARLES L. SCHULTZE, *Director.*

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prise are appropriate; and the use of contracts involving support services that require minimal capital investment.

We welcome your suggestions.

PHILLIP S. HUGHES,  
*Acting Director.*

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
*Washington, D.C., August 30, 1967.*

[Circular No. A-76 (Revised)]

To: The heads of executive departments and establishments.

Subject: Policies for acquiring commercial or industrial products and services for Government use.

1. *Purpose.*—This circular replaces Bureau of the Budget Circular A-76 issued March 3, 1966. It is issued to clarify some provisions of the earlier circular and to lessen the burden of work by the agencies in implementing its provisions. The basic policies to be applied by executive agencies in determining whether commercial and industrial products and services used by the Government are to be provided by private suppliers or by the Government itself are the same as those contained in Circular A-76 dated March 3, 1966.

2. *Policy.*—The guidelines in this circular are in furtherance of the Government's general policy of relying on the private enterprise system to supply its needs.

In some instances, however, it is in the national interest for the Government to provide directly the products and services it uses. These circumstances are set forth in paragraph 5 of this circular.

No executive agency will initiate a "new start" or continue the operation of an existing "Government commercial or industrial activity" except as specifically required by law or as provided in this circular.

3. *Definitions.*—For purposes of this circular:

a. A "new start" is a newly established Government commercial or industrial activity involving additional capital investment of \$25,000 or more or additional annual costs of production of \$50,000 or more. A reactivation, expansion, modernization or replacement of an activity involving additional capital investment of \$50,000 or more or additional annual costs of production of \$100,000 or more are, for purposes of this circular, also regarded as "new starts." Consolidation of two or more activities without increasing the overall total amount of products or services provided is not a "new start."

b. A *Government commercial or industrial activity* is one which is operated and managed by an executive agency and which provides for the Government's own use a product or service that is obtainable from a private source. The term does not include a Government-owned, contractor-operated activity.

c. A *private commercial source* is a private business concern which provides a commercial or industrial product or service required by agencies and which is located in the United States, its territories and possessions, the District of Columbia, or the Commonwealth of Puerto Rico.

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4. *Scope.*—This circular is applicable to commercial and industrial products and services used by executive agencies, except that it :

a. Will not be used as authority to enter into contracts if such authority does not otherwise exist nor will it be used to justify departure from any law or regulation, including regulations of the Civil Service Commission or other appropriate authority, nor will it be used for the purpose of avoiding established salary or personnel limitations.

b. Does not alter the existing requirement that executive agencies will perform for themselves those basic functions of management which they must perform in order to retain essential control over the conduct of their programs. These functions include selection and direction of Government employees, assignment of organizational responsibilities, planning of programs, establishment of performance goals and priorities, and evaluation of performance.

c. Does not apply to managerial advisory services such as those normally provided by an office of general counsel, a management and organization staff, or a systems analysis unit. Advisory assistance in areas such as these may be provided either by Government staff organizations or from private sources as deemed appropriate by executive agencies.

d. Does not apply to products or services which are provided to the public. (But an executive agency which provides a product or service to the public should apply the provisions of this circular with respect to any commercial or industrial products or services which it uses.)

e. Does not apply to products or services obtained from other Federal agencies which are authorized or required by law to furnish them.

f. Should not be applied when its application would be inconsistent with the terms of any treaty or international agreement.

5. *Circumstances under which the Government may provide a commercial or industrial product or service for its own use.*—A Government commercial or industrial activity may be authorized only under one or more of the following conditions :

a. *Procurement of a product or service from a commercial source would disrupt or materially delay an agency's program.* The fact that a commercial or industrial activity is classified or is related to an agency's basic program is not an adequate reason for starting or continuing a Government activity, but a Government agency may provide a product or service for its own use if a review conducted and documented as provided in paragraph 7 establishes that reliance upon a commercial source will disrupt or materially delay the successful accomplishment of its program.

b. *It is necessary for the Government to conduct a commercial or industrial activity for purposes of combat support or for individual and unit retraining of military personnel or to maintain or strengthen mobilization readiness.*

c. *A satisfactory commercial source is not available and cannot be developed in time to provide a product or service when it is needed.* Agencies' efforts to find satisfactory commercial sources should be supplemented as appropriate by obtaining assistance from the General Services and Small Business Administrations or the Business and Defense Services Administration. Urgency of a requirement is not an adequate reason for starting or continuing a Government commercial

or industrial activity unless there is evidence that commercial sources are not able and the Government is able to provide a product or service when needed.

d. *The product or service is available from another Federal agency.* Excess property available from other Federal agencies should be used in preference to new procurement as provided by the Federal Property and Administrative Services Act of 1949, and related regulations.

Property which has not been reported excess also may be provided by other Federal agencies and unused plant and production capacity of other agencies may be utilized. In such instances, the agency supplying a product or service to another agency is responsible for compliance with this circular. The fact that a product or service is being provided to another agency does not by itself justify a Government commercial or industrial activity.

e. *Procurement of the product or service from a commercial source will result in higher cost to the Government.* A Government commercial activity may be authorized if a comparative cost analysis prepared as provided in this circular indicates that the Government can provide or is providing a product or service at a cost lower than if the product or service were obtained from commercial sources.

However, disadvantages of starting or continuing Government activities must be carefully weighed. Government ownership and operation of facilities usually involve removal or withholding of property from tax rolls, reduction of revenues from income and other taxes, and diversion of management attention from the Government's primary program objectives. Losses also may occur due to such factors as obsolescence of plant and equipment and unanticipated reductions in the Government's requirements for a product or service. Government commercial activities should not be started or continued for reasons involving comparative costs unless savings are sufficient to justify the assumption of these and similar risks and uncertainties.

6. *Cost comparisons.*—A decision to rely upon a Government activity for reasons involving relative costs must be supported by a comparative cost analysis which will disclose as accurately as possible the difference between the cost which the Government is incurring or will incur under each alternative.

Commercial sources should be relied upon without incurring the delay and expense of conducting cost comparison studies for products or services estimated to cost the Government less than \$50,000 per year. However, if there is reason to believe that inadequate competition or other factors are causing commercial prices to be unreasonable, a cost comparison study will be directed by the agency head or by his designee even if it is estimated that the Government will spend less than \$50,000 per year for the product or service. A Government activity should not be authorized on the basis of such a comparison study, however, unless reasonable efforts to obtain satisfactory prices from existing commercial sources or to develop other commercial sources are unsuccessful.

Cost comparison studies also should be made before deciding to rely upon a commercial source when terms of contracts will cause the Government to finance directly or indirectly more than \$50,000 for cost of facilities and equipment to be constructed to Government specifications. Cost comparison studies should also be made in other cases if there is reason to believe that savings can be realized by the Govern-

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ment providing for its own needs. Such studies will not be made, however, if in-house provision of the product or service, or commercial procurement thereof, is clearly justified in accordance with other provisions of this circular.

The determination as to whether to purchase or to lease equipment or to construct buildings or acquire their use under lease-construction arrangements, involves a determination of the difference in costs under the alternatives, and the principles set forth in this circular should be applied to the extent relevant in making such determinations.

a. *Costs of obtaining products or services from commercial sources* should include amounts paid directly to suppliers, transportation charges, and expenses of preparing bid invitations, evaluating bids, and negotiating, awarding, and managing contracts. Costs of materials furnished by the Government to contractors, appropriate charges for Government-owned equipment facilities used by contractors and costs due to incentive or premium provisions in contracts also should be included. If discontinuance of a Government commercial or industrial activity will cause a facility being retained by the Government for mobilization or other reasons to be placed in a standby status, the costs of preparing and maintaining the facility as standby also should be included. Similarly, if such a discontinuance is expected to result in premature retirement of Government employees which will cause a significant increase in retirement costs to the Government, such increased cost should be added to the cost of procurement from commercial sources. Costs of obtaining products or services from commercial sources should be documented and organized for comparison with costs of obtaining the product or service from a Government activity.

b. For purposes of economy and simplicity in making cost comparison studies, generally agreed costs that would tend to be the same under either alternative need not be measured and included (for example, bid and award costs and operating costs under lease-purchase alternatives).

c. *Costs of obtaining products or services from Government activities* should include all costs which would be incurred if a product or service were provided by the Government and which would not be incurred if the product or service were obtained from a commercial source. The objectives should be to compute, as realistically as possible, the incremental or additional cost that would be incurred by the Government under the alternatives under consideration. In making such determinations it is important that recognition be given to the full amount of additional or incremental direct and indirect cost to be incurred in providing the products or services required. Under this general principle, the following costs should be included, considering the circumstances of each case:

(1) *Personal services and benefits.*—Include costs of all elements of compensation and allowances for both military and civilian personnel, including the full cost to the Government of retirement systems, calculated on a normal cost basis, Social Security taxes where applicable, employees' insurance, health, and medical plans, (including services available from Government military or civilian medical facilities), living allowances, uniforms, leave, termination and separation allowances, travel and moving expenses, and claims paid through the Bureau of Employees' Compensation.

(2) *Materials, supplies, and utilities services.*—Include costs of supplies and materials used in providing a product or service and costs of transportation, storage, handling, custody, and protection of property, and costs of electric power, gas, water, and communications services.

(3) *Maintenance and repair.*—Include costs of maintaining and repairing structures and equipment which are used in providing a product or service.

(4) *Damage or loss of property.*—Include costs of uninsured losses due to fire or other hazard, costs of insurance premiums and costs of settling loss and damage claims.

(5) *Federal taxes.*—Include income and other Federal tax revenues (except Social Security taxes) received from corporations or other business entities (but not from individual stockholders) if a product or service is obtained through commercial channels. Estimates of corporate incomes for these purposes should be based upon the earnings experience of the industry, if available, but if such data are not available, *The Quarterly Financial Report of Manufacturing Corporations*, published by the Federal Trade Commission and the Securities and Exchange Commission may be consulted. Assistance of the appropriate Government regulatory agencies may be obtained in estimating taxes for regulated industries.

(6) *Depreciation.*—Compute depreciation as a cost for any new or additional facilities or equipment which will be required if a Government activity is started or continued. Depreciation will not be allocated for facilities and equipment acquired by the Government before the cost comparison study is started. However, if reliance upon a commercial source will cause Government-owned equipment or facilities to become available for other Federal use or for disposal as surplus, the cost comparison analysis should include as a cost of the Government activity, an appropriate amount based upon the estimated current market value of such equipment or facilities. The Internal Revenue Service publication, *Depreciation Guidelines and Rules* may be used in computing depreciation. However, rates contained in this publication are maximums to be used only for reference purposes and only when more specific depreciation data are not available. Accelerated depreciation rates permitted in some instances by the Internal Revenue Service will not be used. In computing the depreciation cost of new or additional facilities or equipment to be acquired if a Government activity is started or continued and in determining comparative costs under lease-purchase alternatives, appropriate recognition should be given to estimated residual or salvage values of the facilities or equipment.

(7) *Interest.*—Compute interest for any new or additional capital to be invested based upon the average rate of yield for long-term Treasury bonds as shown in the current monthly Treasury Bulletin. The method of computation should provide for reduction in the capital investment to which interest is applied over the useful life of the asset on a straight-line basis.

(8) *Indirect costs.*—Include any additional indirect costs incurred resulting from a Government activity for such activities as management and supervision, budgeting, accounting, personnel, legal and other applicable services.



## 50 GOVERNMENT CONTRACTS FOR TECHNICAL SERVICES

7. *Administering the policy.*

a. *Inventory.*—Each agency will compile and maintain an inventory of its commercial or industrial activities having an annual output of products or services costing \$50,000 or more or a capital investment of \$25,000 or more. In addition to such general descriptive information as may be appropriate, the inventory should include for each activity the amount of the Government's capital investment, the amount paid annually for the products or services involved, and the basis upon which the activity is being continued under the provisions of this circular. The general descriptive information needed for identifying each activity should have been included in the inventory by June 30, 1966. Other information needed to complete the inventory should be added as reviews required in paragraphs 7.b. and c. are completed.

b. *"New starts."*

(1) A "new start" should not be initiated until possibilities of obtaining the product or service from commercial sources have been explored and not until it is approved by the agency head or by an assistant secretary or official of equivalent rank on the basis of factual justification for establishing the activity under the provisions of this circular.

(2) If statutory authority and funds for construction are required before a "new start" can be initiated, the actions to be taken under this circular should be completed before the agency's budget request is submitted to the Bureau of the Budget. Instructions concerning data to be submitted in support of such budget requests will be included in annual revisions of Bureau of the Budget Circular No. A-11.

(3) A "new start" should not be proposed for reasons involving comparative costs unless savings are sufficient to outweigh uncertainties and risks of unanticipated losses involved in Government activities.

The amount of savings required as justification for a "new start" will vary depending on individual circumstances. Substantial savings should be required as justification if a large new or additional capital investment is involved or if there are possibilities of early obsolescence or uncertainties regarding maintenance and production costs, prices and future Government requirements. Justification may be based on smaller anticipated savings if little or no capital investment is involved, if chances for obsolescence are minimal, and if reliable information is available concerning production costs, commercial prices and Government requirements. While no precise standard is prescribed in view of these varying circumstances a "new start" ordinarily should not be approved unless costs of a Government activity will be at least 10 percent less than costs of obtaining the product or service from commercial sources. It is emphasized that 10 percent is not intended to be a fixed figure.

A decision to reject a proposed "new start" for comparative cost reasons should be reconsidered if actual bids or proposals indicate that commercial prices will be higher than were estimated in the cost comparison study.

(4) When a "new start" begins to operate it should be included in an agency's inventory of commercial and industrial activities.

*c. Existing Government activities.*

(1) A systematic review of existing commercial or industrial activities (including previously approved "new starts" which have been in operation for at least 18 months) should be maintained in each agency under the direction of the agency head or the person designated by him as provided in paragraph 8. The agency head or his designee may exempt designated activities if he decides that such reviews are not warranted in specific instances. Activities not so exempted should be reviewed at least once before June 30, 1968. More frequent reviews of selected activities should be scheduled as deemed advisable. Activities remaining in the inventory after June 30, 1968, should be scheduled for at least one additional followup review during each three-year period but this requirement may be waived by the agency head or his designee if he concludes that such further review is not warranted.

(2) Reviews should be organized in such a manner as to ascertain whether continued operation of Government commercial activities is in accordance with the provisions of this circular. Reviews should include information concerning availability from commercial sources of products or services involved and feasibility of using commercial sources in lieu of existing Government activities.

(3) An activity should be continued for reasons of comparative costs only if a comparative cost analysis indicates that savings resulting from continuation of the activity are at least sufficient to outweigh the disadvantages of Government commercial and industrial activities. No specific standard or guideline is prescribed for deciding whether savings are sufficient to justify continuation of an existing Government commercial activity and each activity should be evaluated on the basis of the applicable circumstances.

(4) A report of each review should be prepared. A decision to continue an activity should be approved by an assistant secretary or official of equivalent rank and the basis for the decision should appear in the inventory record for the activity. Activities not so approved should be discontinued. Reasonable adjustments in the timing of such actions may be made, however, in order to alleviate economic dislocations and personal hardships to affected career personnel.

8. *Implementation.*—Each agency is responsible for making the provisions of this Circular effective by issuing appropriate implementing instructions and by providing adequate management support and procedures for review and followup to assure that the instructions are placed in effect. A copy of the implementing instructions issued by each agency will be furnished to the Bureau of the Budget.

If overall responsibility for these actions is delegated by the agency head, it should be assigned to a senior official reporting directly to the agency head.

If legislation is needed in order to carry out the purposes of this Circular, agencies should prepare necessary legislative proposals for review in accordance with Bureau of the Budget Circular No. A-19.

9. *Effective date.*—This circular is effective on October 2, 1967.

**PHILLIP S. HUGHES,**  
*Acting Director.*

## 1979 OMB Circular A-79

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

#### Acquiring of Commercial of Industrial Products and Services Needed by the Government; Policy Revision

**AGENCY:** Office of Federal Procurement Policy, Office of Management and Budget.

**SUMMARY:** This revision replaces OMB Circular A-76 "Policies for Acquiring Commercial or Industrial Products and Services for Government Use," dated August 30, 1967, and supplements dated October 18, 1976 and June 13, 1977. It reaffirms the Government's general policy of reliance on the private sector for goods and services, while recognizing that governmental functions must be performed by Government personnel and that proper attention must be given to relative cost. More definitive guidelines are provided to ensure greater consistency and equity to all parties in the implementation of this Circular.

A comprehensive Cost Comparison Handbook is provided with the new Circular to ensure that comparative cost analyses, when prepared, reflect all significant costs to the Government for both in-house and contract performance and provide a valid basis for agency decisions. Such analyses are made to justify a Government activity providing commercially available goods or services on the basis of cost, to justify conversion of a Government activity to contract performance, to determine whether new requirements will be met by in-house or contract performance, and to determine whether contract performance will be continued when there is a probability that a Government activity would be more economical.

**FOR FURTHER INFORMATION CONTACT:** Mr. William D. Russell, Deputy Assistant Administrator for Logistics, Telephone 202-395-7207.

**SUPPLEMENTARY INFORMATION:** Under Public Law 93-400, the Administrator for Federal Procurement Policy is responsible for monitoring and revising policies, regulations, procedures and forms relating to reliance by the Federal Government on the private sector to provide needed properly and services. On June 13, 1977, the Administrator and the Director of OMB announced a comprehensive review of OMB Circular A-76 and its implementation, and solicited input and suggestions from interested parties. On November 21, 1977, a number of proposed changes to

the Circular were published for comment. A draft revision of the Circular was published for comment on August 22, 1978, and this final version reflects consideration of all responses received.

#### Discussion of Proposed Policy Policy

The current Circular A-76 states the Government's general policy of relying on the private sector to supply its needs. This revision expands that policy statement to recognize that "governmental functions" must be performed by Government personnel, and that the American people are entitled to economy in Government, which requires appropriate emphasis on comparative cost.

The new policies and procedures are designed to establish a balanced and disciplined management system that will produce consistency, predictability, and equity for affected workers, agencies, and contractors. These Government make-or-buy decisions will continue to be difficult but the new procedures should make them far more equitable and consistent.

#### Definitions

Circular A-76 currently defines a "new start" as any new Government commercial or industrial activity, or any significant expansion or additional capital investment in an existing activity. The revision defines "new start" and "expansion" separately, permitting appropriately different treatment in reviews and cost studies.

"Government commercial or industrial activity" is defined in more detail, and a representative listing of commercial and industrial activities is provided as Attachment A.

"Governmental function" is defined to clearly embrace the activities that should always be performed by Government personnel because they involve exercising governmental authority, controlling monetary transactions and entitlements, and maintaining needed core capabilities. The definition is primarily limited to those functions which inherently involve value judgments, and does not include ancillary and support activities.

#### Scope

The scope of the Circular has been simplified and clarified to exclude "governmental functions" from inventory and review requirements, and also to clearly prohibit contracts which establish an employer-employee relationship between the Government and contract personnel. It also

reemphasizes that agencies should not contract out for the purpose of avoiding personnel ceilings or salary limitations, and clarifies the relationship with OMB Circular A-109 and guidance on consulting services. New language more clearly states the applicability of the Circular to R&D activities, although a follow-on study will develop more precise guidelines for later application of the Circular to R&D activity. These changes should eliminate some misunderstandings and improper interpretations that have caused problems in the past.

#### Interagency Provision of Goods and Services

The previous Circular listed services obtained from another agency as one of the exceptions to reliance on the private sector. Agency guidance was not adequate and resulted in inconsistent treatment of such arrangements; in some cases, an activity was listed by both agencies, in other cases, it was not listed or reviewed by either. In the revision, this coverage is placed in a separate paragraph and provides new guidance to assure proper reviews.

#### Circumstances Under Which the Government May Operate a Commercial or Industrial Activity

Previous language has permitted this section to be very loosely interpreted and applied. Under the revised Circular, coverage is simplified to provide more consistent implementation. One exception was moved to a separate paragraph and two were consolidated, leaving three circumstances to justify in-house performance: lack of a satisfactory private source, military necessity, and relative cost.

More specific guidelines are provided for determining when there is no satisfactory commercial source, including any case where use of a contract would delay or disrupt a program. More detailed criteria for identifying those activities that must be performed by Government personnel to maintain military readiness is included.

Cost comparison guidelines were rather general in the previous Circular, permitting a wide divergence in practice between agencies. The revision establishes basic principles to be followed, which are supplemented by detailed guidance in the Cost Comparison Handbook. Significant changes in the cost comparison principles, which are designed to produce greater accuracy and consistency in cost analyses, include: use of firm bids or proposals to establish commercial costs; recognition of

overhead and indirect costs for Government operations; standard cost factors for Government employee fringe benefits and administration of contracts; and cost differentials which must be met before converting in-house activity to contractor or contracts to in-house new starts.

#### Implementation

Implementation has been the most criticized aspect of Circular A-76 since its issuance. This responsibility is assigned to the executive agencies where it has not received a high level of management attention. Several specific changes in the revised Circular are intended to promote more effective and consistent implementation. These are:

- (1) Publication of an advance schedule for review of all commercial and industrial activities and service contracts suitable for Government performance;
- (2) Public access to all reviews and decisions; and
- (3) A procedure for appeal and administrative review of decisions disputed by affected parties.

These actions will provide a level of visibility and discipline that should significantly enhance implementation.

#### Federal Employee Protections

Past application of contracting out policies has worked to abruptly and inconsistently threaten the jobs and financial security of the workers affected. This has been among the most serious defects under past practice. Several key provisions have been added to protect these workers, including the advance notice of review, "sunshine" access to reviews, appeals procedures, and cost differential favoring continued in-house performance as mentioned above. In addition, the new Circular requires that any Federal workers displaced by a conversion to contract will have rights of first refusal to new contract job openings. The agencies are also required to find other suitable Governmental positions, pay training costs, and phase transitions to ease employee dislocations. Finally, OMB will consider granting relief to agency personnel ceiling if, under the terms of the Circular, new work should be performed in-house.

Lester A. Fetting,  
Administrator.

Executive Office of the President,  
Office of Management and Budget,  
Washington, D.C. 20503, March 29, 1979.

Circular No. A-76, Revised,  
Transmittal Memorandum No. 4.

To: The heads of executive departments and establishments.

Subject: Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government.

Transmitted herewith is a revision of Office of Management and Budget Circular A-76, which replaces Transmittal Memorandum No. 1, dated August 30, 1967, Transmittal Memorandum No. 2, dated October 18, 1976, and Transmittal Memorandum No. 3, dated June 13, 1977.

The revised Circular (1) reaffirms the Government's general policy of reliance on the private sector for goods and services, while recognizing that (2) certain functions are inherently governmental in nature and must be performed by Government personnel, and (3) relative cost must be given appropriate consideration in decisions between in-house performance and reliance on private commercial sources. The balanced approach in this revised Circular is designed to achieve consistent policy implementation in all agencies, equitable treatment of all parties, and improved economy and efficiency in providing goods and performing services needed by the Government.

To support the increased emphasis on relative economy of Government and contract performance, a comprehensive Cost Comparison Handbook is provided as a supplement to the Circular. This Handbook is to be used by all agencies in conducting comparative cost analyses. The Handbook provides instructions for determining the total cost of Government for each alternative and will provide a more accurate basis for cost-based decisions.

This revision of Circular A-76 is the result of an extensive review of the Circular and its implementation by executive agencies, and careful consideration of all comments submitted on the draft revision that was published in August 1978. Many of those comments were accommodated through clarification and refinement of the draft. Supplementary guidance on special subjects will be developed as needed.

#### Application to R&D Activities

Some concern was expressed over the potential impact of the application of this Circular of Government R&D activities. While agencies with a need for in-house R&D capability can consider a "core capability" in this area as a "governmental function," additional guidance is needed to ensure some consistency in determining and justifying the size of that core capability and applying the Circular to R&D requirements, in excess of that level of capacity.

An interagency committee jointly sponsored by the Office of Federal Procurement Policy and the Office of Science and Technology Policy, has been established under the Federal Coordinating Council for Science, Engineering, and Technology, to study these issues and recommend guidelines for appropriate and uniform agency implementation. Supplemental guidance addressing R&D activities will then be developed and, after public review and comment, be issued as an amendment to the Circular. In the interim, compliance with this Circular and the periodic review of inventoried R&D activities are to be deferred

for one year pending completion of the study, except for new starts and expansions, as defined in the Circular. Additional guidance will be provided on determining justified "core capability" and applying the policy to other R&D requirements to assure that essential in-house capability is maintained, and that the Government and taxpayers' interests are properly considered in contract versus in-house decisions.

#### Government-Owned Contractor-Operated Activities

Government-owned, contractor-operated (GOCO) activities were excluded from the prior issuances of the Circular. A comprehensive review of all GOCO activities is necessary to determine whether they can be completely treated under the terms of this Circular. In the interim, this Circular is to be applied only to new starts and expansions of Government-owned equipment and facilities.

#### Personnel Ceilings

The relationship between Circular A-76 and agency personnel ceilings was reviewed in some detail and clarified in the Circular. While it is clearly specified that agencies will not use the Circular to contract out solely to meet personnel ceilings, it is equally clear that agencies will contract out when justified under the Circular regardless of the relationship between personnel levels and authorized ceilings. Conversely, contracts for activities that are shown to be justified for in-house performance will be terminated as quickly as in-house capability can be established; when the additional spaces required cannot be accommodated within the agency's personnel ceiling, a request for adjustment will be submitted to OMB in conjunction with the annual budget review process.

The Office of Management and Budget will monitor agency implementation of this revised Circular, providing guidance and interpretations as required. Further revisions and supplements will be issued as necessary in the future to achieve the policy objectives.

James T. McIntyre, Jr.,

Director.

Lester A. Fetting,

Administrator for Federal Procurement Policy.

Executive Office of the President,  
Office of Management and Budget,  
Washington, D.C. 20503, March 29, 1979.

Circular No. A-76, Revised.

To: The heads of executive departments and establishments.

Subject: Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government.

1. *Purpose.* This Circular establishes the policies and procedures used to determine whether needed commercial or industrial type work should be done by contract with private sources or in-house using Government facilities and personnel. This Circular replaces OMB Circular No. A-76, dated August 30, 1967, and all subsequent amendments.

2. *Background.* In a democratic free enterprise economic system, the Government should not compete with its citizens. The private enterprise system, characterized by

individual freedom and initiative, is the primary source of national economic strength. In recognition of this principle, it has been and continues to be the general policy of the Government to rely on competitive private enterprise to supply the products and services it needs.

This policy has been expressed in Bureau of the Budget Bulletins issued in 1955, 1957, and 1960. In 1968, Circular No. A-76 was issued and, for the first time, prescribed the policy and implementing guidelines in a permanent directive. The Circular was revised in 1967, by Transmittal Memorandum No. 1, to clarify some provisions and to lessen the burden of work by the agencies in implementation. Transmittal Memorandum No. 2 was issued in 1976, providing additional guidance on cost comparisons and prescribing standard cost factors for Federal employee retirement and insurance benefits.

In 1977, a comprehensive review of the Circular and its implementation was initiated. Transmittal Memorandum No. 3 was issued on June 13, 1977, announcing the review and temporarily reducing the Government retirement cost factor. This revision is the result of that review and careful consideration of comments from all interested parties.

**3. Responsibility.** Each agency head has the responsibility to ensure that the provisions of this Circular are followed. This Circular provides administrative direction to heads of agencies and does not establish, and shall not be construed to create, any substantive or procedural basis for any person to challenge any agency action or inaction on the basis that such action was not in accordance with this Circular, except as specifically set forth in Section 11 below.

**4. Policy.** This policy builds on three equally valid policy precepts:

**a. Rely on the Private Sector.** The Government's business is not to be in business. Where private sources are available, they should be looked to first to provide the commercial or industrial goods and services needed by the Government to act on the public's behalf.

**b. Retain Certain Governmental Functions In-House.** Certain functions are inherently governmental in nature, being so intimately related to the public interest as to mandate performance by Federal employees.

**c. Aim for Economy; Cost Comparisons.** When private performance is feasible and no overriding factors require in-house performance, the American people deserve and expect the most economical performance and, therefore, rigorous comparison of contract costs versus in-house costs should be used, when appropriate, to decide how the work will be done.

**5. Definitions.** For the purposes of this Circular:

**a. A "Government commercial or industrial activity"** is one which is operated and managed by a Federal executive agency and which provides a product or service that could be obtained from a private source. A representative, but not comprehensive, listing of such activities is provided in Attachment A. An activity can be identified with an organization or a type of work, but must be

(1) separable from other functions so as to be suitable for performance either in-house or by contract; and (2) a regularly needed activity of an operational nature, not a one-time activity of short duration associated with support of a particular project.

**b. An "expansion"** is the modernization, replacement, upgrade, or enlargement of a Government commercial or industrial activity involving additional capital investment of \$100,000 or more, or increasing annual operating costs by \$200,000 or more; provided, the increase exceeds 20% of the total investment or annual operating cost. A consolidation of two or more activities is not an "expansion" unless the proposed total capital investment or operating cost exceeds the total from the individual activities by the amount of the threshold. An expansion which increases either capital investment or annual operating cost by 100% or more is a "new start."

**c. A "conversion"** is the transfer of work from a Government commercial or industrial activity to performance by a private commercial source under contract.

**d. A "new start"** is a newly-established Government commercial or industrial activity, including a transfer of work from contract to in-house performance. Also included is any expansion which would increase capital investment or annual operating cost by 100% or more.

**e. A "private commercial source"** is a private business, university, or other non-Federal activity, located in the United States, its territories and possessions, the District of Columbia, or the Commonwealth of Puerto Rico, which provides a commercial or industrial product or service required by Government agencies.

**f. A "Governmental function"** is a function which must be performed in-house due to a special relationship in executing governmental responsibilities. Such governmental functions can fall into several categories:

(1) **Discretionary application of Government authority**, as in investigations, prosecutions and other judicial functions; in management of Government programs requiring value judgments, as in directing the national defense; management and direction of the Armed Services; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

(2) **Monetary transactions and entitlements**, as in Government benefit programs; tax collection and revenue disbursements by the Government; control of the public treasury, accounts, and money supply; and the administration of public trusts.

(3) **In-house core capabilities** in the area of research, development, and testing, needed for technical analysis and evaluation and technology base management and maintenance. However, requirements for such services beyond the core capability which has been established and justified by

the agency are not considered governmental functions.

#### 6. Scope.

**a.** No executive agency will engage in or contract for commercial or industrial activities except in accordance with the provisions of this Circular, or as otherwise provided by law, including, for example, Title 44 of the U.S. Code.

**b.** The implementation provisions of this Circular do not apply to governmental functions as defined in paragraph 5(f). These functions must be performed in-house by Government personnel.

**c.** This Circular applies to the need for Government ownership in any "new start" or "expansion" of a Government-owned, contractor-operated (GOCO) facility.

Additional provisions are as follows:

(1) This Circular does not provide authority to enter into contracts. Guidelines governing contracts for goods and services are set forth in applicable acquisition regulations.

(2) This Circular will not be used as authority to enter into contracts which establish a situation tantamount to an employer-employee relationship between the Government and individual contract personnel. Additional guidance on this subject is provided in the Federal Personnel Manual issued by the Office of Personnel Management.

(3) This Circular will not be used to justify a conversion to contract solely to meet personal ceilings or to avoid salary limitations. When in-house performance of a "new start" is justified under this Circular but cannot be accommodated within agency personnel ceilings, an appeal for necessary adjustment to implement this Circular agency-wide should be made to OMB in connection with the annual budget review process.

(4) Major system acquisitions are governed by the provisions of OMB Circular No. A-109, "Major System Acquisitions." Reliance on the private sector is one of the general policies contained in Circular A-109 to ensure competitive consideration of all alternatives before making a decision as to the best method of satisfying an agency mission need.

(5) This Circular does not apply to consulting services of a purely advisory nature relating to the governmental functions of agency administration and management and program management. Assistance in the management area may be provided either by Government staff organizations or from private sources, as deemed appropriate by executive agencies, in accordance with executive branch guidance on the use of consulting services.

(6) This Circular applies to printing and binding only in those agencies or departments which are exempted by law from the provisions of Title 44 of the U.S. Code.

(7) This Circular should not be applied when it would be contrary to law or inconsistent with the terms of any treaty or international agreement.

#### 7. Use of Products and Services from Other Federal Agencies.

**a.** Excess property and services available from other Federal agencies should be used

in preference to new starts or contracts, unless the needed product or service can be obtained more economically in the private sector. This is consistent with the Federal Property and Administrative Services Act of 1949 and related regulations.

b. When a commercial or industrial activity operated by an agency primarily to meet its own needs has excess capacity, that capacity can be used to provide products or services to other agencies.

(1) If a formal program is established for managing excess capacity, such as the ADP sharing program operated by GSA, capacity that has been reported as excess can be used by other agencies with no further justification. In the absence of a formal program and report of excess capacity, another agency's use of a Government activity must be justified in accordance with paragraph 8 of this Circular. When the cost justification is used, the agency requiring the product or service will solicit competitive bids or proposals to establish commercial costs, and award a contract when more economical. The prospective providing agency will prepare the Government cost estimate, in accordance with this Circular, for comparison with the commercial cost.

(2) It is not intended that agencies create or expand capacity for the purpose of providing commercially available products or services to other agencies. When the performing agency's own requirements increase, capacity used to support other agencies is no longer excess and should be used in preference to acquisition of additional capability. Consequently, agencies should not expand a commercial or industrial activity which is providing products or services to other agencies. The user agency (or agencies) should be informed, with sufficient notice to arrange alternative sources, that the support will be terminated unless exceptional circumstances prevent that agency from finding a new source.

c. In some cases, a commercial or industrial activity is operated for the primary purpose of providing a product or service to other agencies, such as the Federal Data Processing Centers or the Office of Personnel Management training centers. All such activities must be reviewed under this Circular to determine whether continued Government operation is justified. The review should be made at the earliest possible date, but under no circumstances later than October 1, 1981. Prior to that review, agencies may use the products and services available without further justification. When continued Government operation of the activity is approved, agencies may use the products or services provided, up to the level of capability approved, with no further justification. When expansion of such an activity is proposed, the justification for approval under this Circular can be based on the entire workload, including work for other agencies.

8. *Government Operation of a Commercial or Industrial Activity.* Government operation of a commercial or industrial activity may be authorized under one of the following conditions.

a. *No Satisfactory Commercial Source Available.*

(1) A Government commercial or industrial activity can be authorized without a comparative cost analysis when it is demonstrated that:

(a) There is no private commercial source capable of providing the product or service that is needed; or

(b) Use of a private commercial source would cause an unacceptable delay or disruption of an essential agency program.

(2) Before concluding that there is no private commercial source capable of providing the needed product or service, the agency must make all reasonable efforts to identify available sources.

(a) As a minimum, the agency must place at least three notices of the requirement in the *Commerce Business Daily* over a 90-day period. In the case of urgent requirements, publication in the *Commerce Business Daily* can be reduced to two notices over a 30-day period.

(b) Agencies' efforts to find satisfactory commercial sources, especially small and minority-owned businesses, should include obtaining assistance from the General Services Administration, Small Business Administration, and the Domestic and International Business Administration in the Department of Commerce.

(3) A conclusion that use of a commercial source would not be satisfactory because it would cause an unacceptable delay or disrupt an agency program requires a specific documented explanation.

(a) Delay or disruption must be spelled out specifically in terms of cost, time and performance measures.

(b) Disruption must be shown to be of a lasting or unacceptable nature. Transitory disruption caused by conversions are not sufficient grounds.

(c) In all cases, specific explanations must be documented. If it is known that the function has been performed by contract elsewhere or at another time, the justification must specify why circumstances are substantially different.

(d) The fact that an activity involves a classified program, or is part of an agency's basic mission, or that there is a possibility of a strike by contract employees is not an adequate justification for in-house performance of that activity. Urgency by itself is not an adequate reason for starting or continuing a Government commercial or industrial activity. It must be shown that commercial sources are not able and the Government is able to provide the product or service when needed.

b. *National Defense.*

(1) A Government commercial or industrial activity, operated by military personnel, may be justified when:

(a) The activity or military personnel assigned are utilized in or subject to deployment in a direct combat support role;

(b) The activity is essential for training in those skills which are exclusively military in nature; or

(c) The activity is needed to provide appropriate work assignments for career

progression or a rotation base for overseas assignments.

(2) A Government commercial or industrial activity providing depot or intermediate level maintenance may be justified in accordance with criteria approved by the Secretary of Defense to ensure a ready and controlled source of technical competence and resources necessary to meet military contingencies. These criteria will limit the extent of in-house capability and capacity within the military departments for depot and intermediate maintenance support of mission-essential equipment to the minimum necessary to accomplish that objective. Justification under these criteria will require a detailed explanation, on a case-by-case basis, why the needed capability cannot be supplied by:

(a) A private commercial source; or

(b) Contract operation of Government-owned facilities.

Such justification must be approved at the military department assistant secretary level or equivalent in the defense agencies.

c. *Higher Cost.* A Government commercial or industrial activity may be authorized if a comparative cost analysis, prepared in accordance with paragraph 9 of this Circular, indicates that the Government can provide or is providing a product or service at a lower total cost than if it were obtained from a private commercial source.

9. *Cost Comparisons.* A decision for in-house performance based on economy must be supported by a comparative cost analysis prepared in accordance with this Circular and the supplementing Cost Comparison Handbook.

a. *Common Ground Rules.*

(1) Both Government and commercial cost figures must be based on the same scope of work and the same level of performance. This requires the preparation of a sufficiently precise work statement with performance standards that can be monitored for either mode of performance.

(2) Standard cost factors will be used as prescribed by the Cost Comparison Handbook and as supplemented by agencies for particular operations. It will be incumbent on each agency to defend any variations in costing from one case to another.

(3) Cost comparisons are to be aimed at full cost, to the maximum extent practical in all cases. All significant Government costs (including allocation of overhead and indirect costs) must be considered, both for direct Government performance and for administration of a contract.

(4) In the solicitation of bids or offers from contractors for workloads that are of a continuing nature, unless otherwise inappropriate, solicitations should provide for prepriced options or renewal options for the out-years. These measures will guard against "buy-in" pricing on the part of contractors. While recompensation also guards against "buy-ins," the use of prepriced or renewal options provides certain advantages such as continuity of operation, the possibility of lower contract prices when the contractor is required to provide equipment or facilities, and reduced turbulence and disruption.



(5) Ordinarily, agencies should not incur the delay and expense of conducting cost comparison studies to justify a Government commercial or industrial activity for products or services estimated to be less than \$100,000 in annual operating costs. Activities below this threshold should be performed by contract unless in-house performance is justified in accordance with paragraph 8. a. or b. However, if there is reason to believe that inadequate competition or other factors are causing commercial prices to be unreasonable, a cost comparison study may be conducted. Reasonable efforts should first be made to obtain satisfactory prices from existing commercial sources and to develop other competitive commercial sources.

(6) The cost comparison will use a rate of 10% per annum as the opportunity cost of capital investments and of the net proceeds from the potential sale of capital assets, as prescribed in the Cost Comparison Handbook.

**b. Calculating Contract Costs.**

(1) The contract cost figure must be based on a binding firm bid or proposal, solicited in accordance with pertinent acquisition regulations. Bidders or offers must be told that an in-house cost estimate is being developed and that a contract may or may not result, depending on the comparative cost of the alternatives.

(2) The factor to be used for the Government's cost of administering contracts, in addition to other costs of using contract performance as specified in the Handbook, is 4% of the contract price or expected cost.

**c. Calculating Costs of Government Operation.**

(1) Each agency should assure that Government operations are organized and staffed for the most efficient performance. To the extent practicable and in accordance with agency manpower and personnel regulations, agencies should precede reviews under this Circular with internal management reviews and reorganizations for accomplishing the work more efficiently, when feasible.

(2) The Government cost factor to be used for Federal employee retirement benefits, based on a dynamic normal cost projection for the Civil Service Retirement Fund, is 30.4%.

(3) The Government cost factor to be used for Federal employee insurance (life and health) benefits, based on actual cost, is 3.7%.

(4) The Government cost factor to be used for Federal employee workmen's compensation, bonuses and awards, and unemployment programs is 1.9%.

d. An existing in-house activity will not be converted to contract performance on the basis of economy unless it will result in savings of at least 10% of the estimated Government personnel costs for the period of the comparative analysis.

e. A "new start" will not be approved on the basis of economy unless it will result in savings compared to contract performance at least equal to 10% of Government personnel costs, plus 25% of the cost of ownership of equipment and facilities, for the period of the comparative analysis.

f. All cost comparisons must be reviewed by an activity independent of the cost analysis preparation to ensure conformance to the instructions in the Cost Comparison Handbook.

**10. Administering the Policy.**

**a. Implementation.**

(1) Each agency will designate an official at the assistant secretary or equivalent level, and officials at subordinate contact points for major components, to have overall responsibility for implementation of this Circular within the agency.

(2) Each agency will establish one or more offices as central points of contact to maintain cognizance of specific implementation actions. These offices will have access to all decision documents and data pertinent to actions taken under the Circular and will respond, in a timely manner, to all requests concerning inventories, schedules, reviews, and results of reviews. In considering requests which include information supplied by contractors or prospective contractors, agencies will be guided by OFPP Policy Letter No. 78-3, "Requests for Disclosure of Contractor-Supplied Information Obtained in the course of a Procurement."

(3) Within 90 days after the date of issuance, each agency will promulgate this Circular, with the minimum necessary internal instructions, identifying the designated official and the central and subordinate contact points. When issued, copies of the internal instructions will be forwarded to OMB's Office of Federal Procurement Policy for review. Copies of subsequent changes will also be forwarded for review.

(4) Each agency will recognize that work for the Federal Government may be performed by use of military personnel, civilian employees, and contract services and that past experience demonstrates that all three methods have been responsive and dependable in performing sensitive and important work.

(5) Each agency will ensure that contracts awarded as a result of reviews under Circular A-78:

(a) Contain all applicable clauses and provisions related to equal employment opportunities, veterans, preference, and minimum wages and fringe benefits, including implementation of OFPP Policy Letter No. 78-2, dated March 29, 1978, relating to "wage busting;"

(b) Include a provision, consistent with Government post employment conflict of interest standards, that the contractor will give Federal employees, displaced as a result of the conversion to contract performance, the right of first refusal for employment openings on the contract in positions for which they are qualified;

(c) Are awarded to a responsible and responsive bidder or offeror, as required by applicable acquisition regulations; and

(d) Are administered and monitored to achieve proper performance, using appropriate contractual remedies any time performance is less than satisfactory.

(6) Each agency will exert maximum effort to find suitable employment for any displaced Federal employees, including:

(a) Giving them priority consideration for suitable positions with the Government;

(b) Paying reasonable costs for training and relocation when these will contribute directly to placement;

(c) Arranging for gradual transition when conversions are made to provide greater opportunity for attrition and placement; and

(d) Coordinating with the Department of Labor and other agencies to obtain private sector employment for separated workers.

(7) Each agency will provide for alternations to the mode of performance to be timed in consonance with, and adjusted for, the budget process to the extent required and consistent with the firm bid cost study approach.

**b. Inventories.** Each agency will immediately compile a complete inventory of all commercial and industrial activities subject to this Circular.

(1) Agencies will prepare and maintain a complete inventory of all individual commercial or industrial activities (as defined in paragraph 5.a.), which they operate. In addition to general descriptive information, the inventory should include for each activity: the amount of the Government's capital investment, the annual cost of operation, the date the activity was last reviewed, and the basis on which the activity is being continued under this Circular. The inventory will be updated at least annually to reflect the results of reviews as conducted.

(2) Agencies will also prepare and maintain an inventory of all contracts in excess of \$100,000 annually, except those awarded under a duly authorized set aside program, for services which the agency determines could reasonably be performed in-house, including any activities that have been converted from in-house to contract performance. In addition to general descriptive information, the inventory will include: the contract number, name of the contractor, contract period of any options, and the total contract price or estimated cost. Inventory updated will reflect exercise of options and the termination and award of contracts.

**c. Reviews.** Agencies will prepare a detailed schedule for the review of each commercial or industrial activity and contract in the inventory to determine if the existing performance, in-house or contract continues to be in accordance with the policy and guidelines of this Circular. The flow chart provided as Attachment B demonstrates the sequence of actions required for proper implementation of the Circular.

(1) The schedule for review of in-house commercial and industrial activities will provide for review of all activities during the three-year period following issuance of this revised Circular. Consideration should be given first to criteria that do not concern cost. Unless continuation is justified under paragraphs 8.a. or b., a cost comparison must be conducted to determine the relative cost of Government and private performance.



(2) The schedule for review of contracts will show the date that each contract (including options) will expire, and the date that the requirement will be reviewed to determine if contract performance is to be continued. The agency will review the contract cost and determine whether it is likely that the work can be performed in-house at a cost that is less than contract performance by 10% of Government personnel costs plus 25% of the cost of ownership of equipment and facilities. When this is determined to be likely, a cost comparison will be conducted.

(3) Both schedules will be completed and provided to the Office of Federal Procurement Policy, OMB, within 120 days of the date of issuance of this Circular. These schedules will be made available by the agency to all potentially affected employees and their representatives, and published for the information of contractors.

(4) Reviews will be conducted in accordance with the schedules, unless it is determined that a change in the schedule will be in the best interest of the Government. In such cases, after approval by the agency head or his designee, the schedule can be revised with 60 days notice to all affected parties.

(5) After the initial review, activities approved for continuation will be reviewed again at least once every five years. When it is determined by the agency head or his designee that the circumstances which supported the initial approval are not subject to change, subsequent reviews may be waived. These activities will be retained in the inventory, however, and so identified. A copy of the justification and the waiver will be made available to all interested parties upon request to the agency contact point.

(7) When the number of commercial and industrial activities and the number of covered contracts is so great that reviews cannot be completed in the prescribed time period, the agency may request approval from the Office of Federal Procurement Policy, OMB, to schedule the reviews over a longer period.

#### d. *New Starts.*

(1) A new start should not be initiated by an executive agency unless the justification for establishing the activity under the provisions of this Circular has been reviewed and approved by a senior official of the agency. A new start which involves a capital investment or annual costs of \$500,000 or more must be approved by the agency head or by an official at the assistant secretary or equivalent level.

(2) The actions to be taken under this Circular should normally be completed before the agency's budget request is submitted to OMB. Data in support of such budget requests will be submitted in accordance with OMB Circular No. A-11. In the case of a proposed new start involving a major capital investment where the item to be acquired requires a long lead time (e.g., ADP system, building), approval of budget resources will not constitute OMB approval of that method of meeting the agency need. A final determination to initiate the new start or to rely on a private commercial source, within

the resources approved, will be made in accordance with this Circular and other applicable policies, prior to any commitment to a particular acquisition strategy.

(3) When Government ownership of facilities is necessary, the possibility of contract operation must be considered before in-house performance is approved as a new start. If justification for Government operation is dependent on relative cost, a comparative cost analysis may be delayed to accommodate the lead time necessary for acquiring the facilities.

(4) When in-house performance to meet a new requirement is not feasible, or when contract performance would be under an authorized set-aside program, a contract can be awarded without conducting a comparative cost analysis.

#### e. *Set-Aside Programs*

(1) It is the general policy of the Government, as expressed in the Small Business Act, to ensure that small businesses, including those owned and managed by disadvantaged persons, receive a fair share of Government contract awards.

(2) Consequently, contracts awarded under authorized set-aside programs will not be reviewed for possible in-house performance. Additionally, new requirements which would be suitable for award under a set-aside program should be satisfied by such a contract without a comparative cost analysis.

(3) On the other hand, in-house activities (in excess of \$100,000 annually) will not be considered for performance under a set-aside contract except when the conversion is justified by a comparative cost analysis.

#### 11. *Appeals.*

a. Each agency will establish a procedure for an informal administrative review of determinations made under this Circular. This procedure will only be used to resolve questions of the determination between contract and in-house performance, and will not apply to questions concerning award to one contractor in preference to another contractor. Upon written request from a directly affected party raising a specific objection, the appeals procedure will provide for:

(1) An independent, objective review of the initial determination and the rationale upon which the decision was based.

(2) An expeditious determination, within 30 days, made by an official at the same or higher level than the official who approved the original decision.

b. The appeals procedure is to provide an administrative safeguard to assure that agency decisions are fair, equitable, and in accordance with established policy. This procedure does not authorize an appeal outside the agency or a judicial review.

c. Since the appeal procedure is intended to protect the rights of all affected parties—Federal employees and their representative organizations, contractors and potential contractors, and contract employees and their representatives—the procedure and agency determinations may not be subject to negotiation, arbitration, or agreements with any one of those parties. Agency decisions are final.

d. Agency appeal procedures, when issued, will be submitted to OFPP for review pursuant to paragraph 10.a.(3).

#### 12. *Effective Date.*

This Circular is effective May 1, 1979, but need not be applied to studies in process where a solicitation for contract bids or proposals was issued prior to the effective date.

Questions or inquiries about this Circular or its implementation should be addressed to the Office of Federal Procurement Policy, OMB, telephone number (202) 395-7207.

James T. McIntyre, Jr.,

Director.

Lester A. Feltig,

Administrator for Federal Procurement Policy.

### Attachment A—Examples of Commercial and Industrial Activities

#### *Audiovisual Products and Services*

- Photography (still, movie, aerial, etc.).
- Photographic processing (developing, printing, enlarging, etc.).
- Film and videotape production (script writing, direction, animation, editing, acting, etc.).
- Microfilming and other microforms.
- Art and graphics services.
- Distribution of audiovisual materials.
- Reproduction and duplication of audiovisual products.

#### *Automatic Data Processing*

- ADP services—batch processing, time-sharing, etc.
- Programming and systems analysis, design, development, and simulation.
- Key punching and data entry services.
- Systems engineering and installation.
- Equipment installation, operation, and maintenance.

#### *Maintenance, Overhaul, and Repair*

- Aircraft and aircraft components.
- Ships, boats, and components.
- Motor vehicles.
- Combat vehicles.
- Railway systems.
- Electronic equipment and systems.
- Weapons and weapon systems.
- Medical and dental equipment.
- Office furniture and equipment.
- Industrial plant equipment.
- Photographic equipment.
- Space systems.

#### *Systems Engineering, Installation, Operation, and Maintenance*

- Communications systems—voice, message, data; radio, wire, microwave, and satellite.
- Missile ranges.
- Satellite tracking and data acquisition.
- Radar detection and tracking.
- Television systems—studio and transmission equipment, distribution systems, receivers, antennas, etc.
- Recreational areas.
- Bulk storage facilities.

#### *Manufacturing, Fabrication, Processing, and Packaging*

- Ordnance equipment.
- Clothing and fabric products.
- Liquid, gaseous, and chemical products.

Logging and lumber products.  
 Communications and electronics equipment.  
 Rubber and plastic products.  
 Optical and related products.  
 Sheet metal and foundry products.  
 Machined products.  
 Construction materials.  
 Test and instrumentation equipment.

#### *Real Property*

Design, engineering, construction, modification, repair, and maintenance of buildings and structures.  
 Construction, alteration, repair, and maintenance of roads and other surfaced areas.  
 Landscaping, drainage, mowing and care of grounds.

#### *Industrial Shops and Services*

Machine, carpentry, electrical and other shops.  
 Industrial gas production and recharging.  
 Equipment and instrument fabrication, repair and calibration.  
 Plumbing, heating, electrical, and air conditioning services, including repair.  
 Fire protection and prevention services.  
 Custodial and janitorial services.  
 Refuse collection and processing.

#### *Health Services*

Surgical, medical, dental, and psychiatric care.  
 Hospitalization, outpatient, and nursing care.  
 Physical examinations.  
 Eye and hearing examinations—manufacturing and fitting glasses and hearing aids.  
 Medical and dental laboratories.  
 Dispensaries.  
 Preventive medicine.  
 Dietary services.  
 Veterinary services.

#### *Transportation*

Operation of motor pools.  
 Bus service.  
 Vehicle operation.  
 Air transportation.  
 Water transportation.  
 Trucking and hauling.

#### *Printing and Reproduction*

Printing and binding—where the agency or department is exempted from the provisions of Title 44 of the U.S. Code.  
 Reproduction, copying, and duplication.  
 Blue-printing.

#### *Research and Development*

Basic research.  
 Applied research.  
 Development.  
 Concept formulation and demonstration.  
 R&D studies.  
 R&D testing.  
 R&D support services.

#### *Office Services*

Stenographic recording and transcribing.  
 Word processing/data entry.  
 Mail/messenger.  
 Translation.

Information systems and distribution.  
 Financial auditing and services.  
 Management auditing.

#### *Security*

Guard and protective services.  
 Systems engineering, installation, and maintenance of security systems and individual privacy systems.  
 Forensic laboratories.

#### *Food Services*

Operation of cafeterias, mess halls, kitchens, bakeries, dairies, and commissaries.  
 Vending machines.  
 Ice and water.

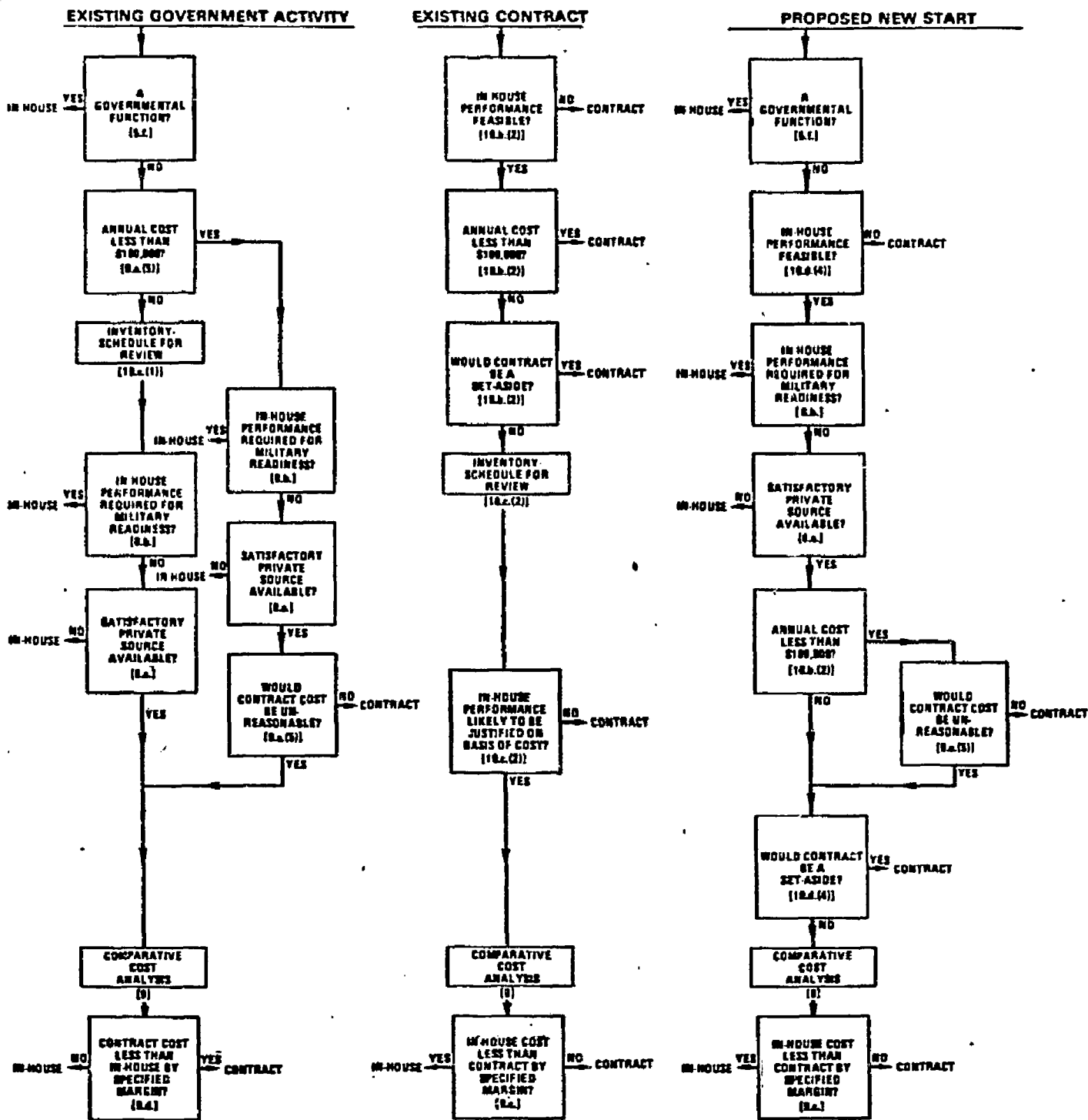
#### *Other Services*

Laundry and dry cleaning.  
 Library operation.  
 Mapping and charting.  
 Architect and engineer services.  
 Geographical surveys.  
 Cataloging.  
 Training—academic, technical, vocational, and specialized (within the limitation of P.L. 85-507, unless waived by the Office of Personnel Management).  
 Operation of utility systems (power, gas, water, steam, and sewage).

BILLING CODE 3110-01-0

Attachment B

**IMPLEMENTATION OF OMB CIRCULAR A-76**



Reference to brackets is to appropriate paragraph in Circular A-76

BILLING CODE 3110-01-C

**COST COMPARISON HANDBOOK****Supplement No. 1 to OMB Circular No. A-76: Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government**

Executive Office of the President, Office of Management and Budget, March 1979

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**CHAPTER I—GENERAL****A. Introduction**

This Cost Comparison Handbook implements the cost comparison principles contained in OMB Circular A-76, "Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government." Official use of this Handbook is prescribed in OMB Circular A-76, which directs Federal agencies to ensure that their comparative cost analyses conform with these instructions.

**B. Purpose**

The purpose of this Handbook is to provide detailed instructions for developing a comprehensive and valid comparison of the estimated cost to the Government of acquiring a product or service by contract and of providing it with in-house, Government resources. This Handbook is intended to establish consistency, assurance that all substantive factors are considered when making cost comparisons, and a desirable level of uniformity among agencies in comparative cost analyses.

**C. Background**

The American people have a right to expect economical performance of Federal activities. Some activities are inherently governmental functions or, for other reasons, must be performed by Federal employees. Many activities, however, may be performed either by contract or by Federal employees. The choice between these alternatives must be based on a finding as to which method of performance would be more economical.

Government reliance on the private sector was first formally expressed by the executive branch as a general policy in 1955. Since then, Federal agencies have struggled to make rational judgments as to the cost considerations that should be included in a comparative analysis to establish whether the Government's interest would be served best by contract or in-house performance. Assistance was provided by OMB Circular A-76, initially issued on March 3, 1969 and revised August 30, 1967, which contained guidelines for agencies in making those analyses.

As Government cost accounting techniques progressed, it became obvious that Circular A-76 guidelines were too general to achieve desirable uniformity, and were insufficient as a basis for comprehensive cost studies. Providing more precise guidance in developing cost estimates and analyzing comparative costs was the most prevalent suggestion made when, in 1977, agency and public comments were invited for consideration in the review and subsequent revision of Circular A-76. The proposed solution, a detailed cost comparison handbook, was widely and strongly supported by the numerous respondents to OMB's November 1977 request for comments on proposed changes to Circular A-76.

**D. Policy**

Under certain circumstances, a Government agency is authorized by OMB Circular A-76 to establish in-house capability or to continue an existing activity to provide a product or service that is obtainable from a private source. One justifying circumstance is when a comparative cost analysis, prepared as provided in this Handbook, indicates that the cost of in-house performance would be lower than the cost of obtaining the product or service from a commercial or other non-Federal source. Detailed instructions for making a cost comparison are set forth in this Handbook for use by all Federal agencies. The guidelines are based on the following policy principles, quoted from the revised Circular A-76.

**"B.a. Common Ground Rules**

(1) Both Government and commercial cost figures must be based on the same scope of work and the same level of performance. This requires the preparation of a sufficiently precise work statement with performance standards that can be monitored for either mode of performance.

(2) Standard cost factors will be used as prescribed by the Cost Comparison Handbook and as supplemented by agencies for particular operations. It will be incumbent on each agency to defend any variations in costing from one case to another.

(3) Cost comparisons are to be aimed at full cost, to the maximum extent practical in all cases. All significant Government costs (including allocation of overhead and indirect costs) must be considered, both for direct Government performance and for administration of a contract.

(4) In the solicitation of bids or offers from contractors for workloads that are of a continuing nature, unless otherwise inappropriate, solicitations should provide for

prepriced options or renewal options for the out-years. These measures will guard against "buy-in" pricing on the part of contractors. While recompetition also guards against "buy-ins," the use of prepriced or renewal options provides certain advantages such as continuity of operation, the possibility of lower contract prices when the contractor is required to provide equipment or facilities, and reduced turbulence and disruption.

(5) Ordinarily, agencies should not incur the delay and expense of conducting cost comparison studies to justify a Government commercial or industrial activity for products or services estimated to cost the Government less than \$100,000 in annual operating costs. Activities below this threshold should be performed by contract unless in-house performance is justified in accordance with paragraph 8.a. or b. However, if there is reason to believe that inadequate competition or other factors are causing commercial prices to be unreasonable, a cost comparison study may be conducted. Reasonable efforts should first be made to obtain satisfactory prices from existing commercial sources and to develop other competitive commercial sources.

(6) The cost comparison will use a rate of 10% per annum as the opportunity cost of capital investments and of the net proceeds from the potential sale of capital assets, as prescribed in the Cost Comparison Handbook.

#### b. Calculating Contract Costs.

(1) The contract cost figure must be based on a binding firm bid or proposal, solicited in accordance with pertinent acquisition regulations. Bidders or offerors must be told that an in-house cost estimate is being developed and that a contract may or may not result, depending on the comparative cost of the alternatives.

(2) The factor to be used for the Government's cost of administering contracts, in addition to other costs of using contract performance as specified in the Handbook, is 4% of the contract price or expected cost.

#### c. Calculating Costs of Government Operation.

(1) Each agency should assure that Government operations are organized and staffed for the most efficient performance. To the extent practicable and in accordance with agency manpower and personnel regulations, agencies should precede reviews under this Circular with internal management reviews and reorganizations for accomplishing the work more efficiently, when feasible.

(2) The Government cost factor to be used for Federal employee retirement benefits, based on a dynamic normal cost projection for the Civil Service Retirement Fund, is 20.4%.

(3) The Government cost factor to be used for Federal employee insurance (life and health) benefits, based on actual cost, is 3.7%.

(4) The Government cost factor to be used for Federal employee workmen's compensation, bonuses and awards, and unemployment programs is 1.9%.

d. An existing in-house activity will not be converted to contract performance on the basis of economy unless it will result in savings of at least 10% of the estimated Government personnel costs for the period of the comparative analysis.

e. A "new start" will not be approved on the basis of economy unless it will result in savings compared to contract performance at least equal to 10% of Government personnel costs, plus 25% of the cost of ownership of equipment and facilities for the period of the comparative analysis.

f. All cost comparisons must be reviewed by an activity independent of the cost analysis preparation to ensure conformance to the instructions in the Cost Comparison Handbook."

## CHAPTER II—OVERVIEW OF THE COST COMPARISON PROCESS

### A. General

A valid comparative cost analysis under Circular A-76 requires an accurate determination of the costs of acquiring the needed products or services from the private sector and from the existing or proposed Government commercial or industrial activity. To ensure an equitable comparison, both cost figures must be based on the same scope of work, and include all significant identifiable costs that would be incurred by the Government under either alternative.

### B. Initial Planning

1. The comparative cost analysis and implementation of the conclusions reached involve the responsibilities of many functional and staff offices of the agency. For best coordination of these responsibilities, a task group should be formed by representatives of the various organizations and offices concerned, such as: the functional or operational organization, the manpower and/or personnel office, the finance and accounting office, the management analysis group (if available), the budget office, the procurement office, the legal office, and other staff functions as appropriate. The task group chairman should be thoroughly familiar with this Handbook.

2. This group should establish a plan and time schedule for orderly completion of the necessary steps to conduct the study and reach a timely conclusion to either award a contract or to continue or initiate the Government commercial or industrial activity. The schedule must allow adequate time for preparation of a comprehensive work statement, solicitation of bids or proposals, determination of in-house costs, evaluation of bids and the Government estimate, independent audit of the Government cost estimate, and review and approval of the conclusions. Close coordination with the procurement office and the personnel office is required to ensure compliance with procurement regulations and to provide maximum consideration for Government personnel who would be displaced in the event of a conversion from in-house to contract performance.

### C. Statement of Work

1. The preparation of the work statement is a critical step. It must be comprehensive enough to ensure that performance in-house or by contract will satisfy the Government requirement. It must also serve as the basis for determining both the contract and Government cost, to ensure comparability and equity in the cost analysis. The work statement should clearly state *what* is to be done without prescribing *how* it is to be done. It should also provide performance standards to ensure a comparable level of performance with either alternative and to provide a basis for evaluation. Maximum flexibility should be permitted in staffing to permit each potential performer to propose the most efficient approach consistent with its organization and resources.

2. The work statement should describe all duties, tasks, responsibilities, frequency of performance of repetitive functions, and requirements for furnishing facilities and materials. Where the workload is variable, historical data for a representative period on workload, material and parts consumption, etc. will be provided, when available, along with the best estimate of future requirements. Bid solicitations will normally call for use of contractor facilities, unless performance on Government property is essential or would be more economical. When the work is currently being performed in a Government-owned facility or appropriate Government facilities are available, and contractor use of those facilities would be in the Government's interest, bids will be requested on that basis. Requirements regarding the proximity of the contractor's facility to the Government installation will be used only when clearly justified in terms of operational necessity to meet Government needs.

3. The work statement will be reviewed by the contacting officer to ensure that it is adequate and appropriate for a contract specification. The contracting officer will be responsible for advertising the requirement, through the Commerce Business Daily and by other means, and the functional organization will identify any known commercial sources—this is particularly important in the case of unique products or services which have not been previously obtained from a commercial source.

### D. Procedure

1. When the statement of work has been completed, firm bids or proposals will be solicited. Formal advertising, with firm fixed price bids, will be used when appropriate for the requirement. Proposals may be requested for competitive negotiations when this method would be more suitable and warranted under current acquisition regulations. It is essential that the invitation for bids or request for proposals provide for a common standard of performance to permit an equitable comparison of Government and contract costs for performing the same task. This is particularly important when the proposed contract will contain flexible pricing provisions, such as incentive or award fees. Use of the maximum incentive or award fee available would be inappropriate if it reflects a different standard of

performance from the level which provided the basis for the in-house cost estimate. The contract cost figure ultimately entered in line 10 of the Cost Comparison Form (Exhibit 1) must include an estimate of the incentive or award fee that corresponds to the level of performance expected of the Government in performing the same task.

2. Concurrent with the contracting procedure, the in-house cost estimate will be prepared, based on the same work statement that is used in the contract solicitation, by completing the Cost Comparison Form in accordance with the instructions in this Handbook. When the cost analysis concerns an existing Government activity manned by civilian personnel, and the proposed staffing plan differs from the existing activity, the proposal plan must be consistent with agency manpower and personnel regulations and implementation must be initiated within 30 days after a determination is made to continue Government performance.

3. When all the costs connected with in-house performance have been estimated (lines 1 through 9, 18 through 22, and 31, if appropriate), they should be totaled and entered on line 33 of the Cost Comparison Form. The Form should then be signed and dated by the person responsible for its preparation in the line entitled, "In-House Estimate Prepared By". If the Form was prepared by a task force, the Chairman of the group should sign, indicating that he was the Chairman. The sealed in-house cost estimate must then be submitted to the contracting officer by the required submission date for bids or proposals. The confidentiality of both the in-house estimate and contract prices will be maintained to ensure that they are completely independent.

4. After the contracting officer opens the bids or completes negotiations, he will determine the lowest acceptable contract price, conducting preaward surveys as required to establish the lowest responsible and responsive bidder. The contracting officer will enter the dollar amount of the lowest responsible bid or proposal in line 10 of the Cost Comparison Form, and will return it to the preparer for completion.

5. If the contract figure in line 10 is higher than the Government's in-house estimate in line 33, the preparer may be able to make a shortened cost comparison in accordance with Chapter V.B. If, on the other hand, the contract price is less than the total in-house costs, the detailed cost comparison must be completed, giving due consideration to all types of costs which could add to or subtract from the cost of either mode of performance (Chapter V.C.).

6. After the comparison is completed and the Form is signed, it will be submitted to a qualified activity independent of the cost analysis preparation to ensure that the Government's estimated costs have been prepared in accordance with the provisions of this Handbook. If no, or only minor, discrepancies are noted during the review, the reviewing activity will execute the audit certificate and return the Form to the preparer. If significant discrepancies are noted during the review, they will be reported to the party which prepared the cost

comparison. The reviewing agency should indicate the impact of the discrepancy or recommend that the preparer correct and resubmit its estimate. If the solicitation pertains to a new-start and the estimate cannot be corrected in a timely manner, the in-house figure will be rejected and the contract awarded. Conversely, if the contemplated contract pertains to an activity presently being performed in-house, and the estimate cannot be corrected within the validity date of the bids or proposals, the solicitation may be cancelled and the comparison rescheduled for a later date.

7. When the cost comparison has been audited and, with any necessary corrections approved by the reviewing agency, the party responsible for preparing the cost comparison will originate the Decision Summary Form (Exhibit 2), including the recommendation to award a contract or to perform the work in-house. When the amount in line 35 of the Cost Comparison Form indicates that the cost of in-house performance exceeds the cost of contracting-out, the recommendation should be for contract performance. Conversely, when the cost of in-house performance is less than (under) the cost of contracting out, the recommendation should be to perform in-house.

8. The Decision Summary Form and the Cost Comparison Form will be forwarded to the approving authority for review and approval. The approving authority is an official with responsibility for the organization in which the activity reviewed is or would be located.

9. The approving authority will send the approved Forms to the contracting officer, who will announce the results of the cost study and make available the detailed analysis to any interested parties: bidders, affected employees, and unions representing affected employees. If no significant discrepancy in the cost comparison is reported within five working days after the announcement, the contracting officer will award a contract or cancel the solicitation, as appropriate. When warranted by the complexity of the analysis, the contracting officer may extend this review period to a maximum of 15 working days.

10. If a discrepancy in the cost analysis is reported during the public review period, every effort will be made to correct it in a time frame that corresponds to the requirement and the validity date of the bids or proposals. If the analysis is for a new start, and there is a serious defect in the in-house cost estimate, the in-house figure will be rejected and a contract will be awarded. When the analysis concerns a Government commercial or industrial activity, and the discrepancies cannot be corrected within the validity date of proposals, the solicitation may be cancelled and the review rescheduled.

#### E. Organization of the Handbook

1. This Handbook (Chapters III through VI) is organized by the major subjects which must be considered in developing bottom line in-house and contract cost estimates. The significance of each topic (usually an element of cost) and related terms are discussed in

sufficient detail to explain all points which must be considered, computations which must be made, and documentation which must be retained to support the cost analysis and estimates. This method of presentation is intended to allow the user to approach the specific tasks of analysis and estimating with an adequate general understanding of the type of cost under review.

2. The user's ultimate goal is to complete the Cost Comparison Form (Exhibit 1) so that an informed decision can be made and documented on the Decision Summary Form (Exhibit 2). To facilitate achieving this goal, Cost Comparison Form line numbers are referred to in the text.

3. The three appendices to the text serve three distinct purposes. Appendix 1 provides a table for estimating the amount of federal income tax payable on the contract price, supplementing guidance on this subject in Section V.C. Appendix 2 is a glossary of pertinent terms in one alphabetical listing.

4. Appendix 3 is provided to put the entire cost comparison process in a chronological perspective. It lists the actions which must be taken to properly complete the cost comparison process, from start to finish. The party responsible for each action is noted in parentheses. Beside each numbered action is a reference to the paragraphs in the text which discuss the action in detail.

5. Appendix 3 provides an overview of the cost comparison process. However, it can also be used in initial planning, assigning specific tasks to group members, and noting progress throughout the process. Users must ensure that the actual performance of each action is consistent with the guidance provided in the referenced paragraphs of the Handbook.

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Exhibit 1

(DEPARTMENT OR AGENCY)

COMPARATIVE COST OF IN-HOUSE AND CONTRACTING-OUT PERFORMANCE OF (PRODUCT/SERVICE)

(Date)

LINE #	Cost Element	FIRST YEAR	SECOND YEAR	THIRD YEAR	ADDITIONAL YEARS AS APPROPRIATE (NOTE 1)	TOTAL	REFER- ENCE (NOTE 2)	
<u>IN-HOUSE PERFORMANCE (CHAPTER III)</u>								
1.	DIRECT MATERIAL						A	
2.	MATERIAL OVERHEAD						B	
3.	DIRECT LABOR						C	
4.	FRINGE BENEFITS ON DIRECT LABOR						D	
5.	OPERATIONS OVERHEAD						E	
6.	OTHER DIRECT COSTS						F	
7.	GENERAL AND ADMINISTRATIVE EXPENSE						G	
8.	INFLATION	Not applic.						H
9.	TOTAL							
<u>PERFORMANCE BY CONTRACTING-OUT (CHAPTER IV)</u>								
10.	CONTRACT PRICE						I	
11.	TRANSPORTATION						J	
12.	CONTRACT ADMINISTRATION						K	
13.	GOVERNMENT-FURNISHED PROPERTY						L	
14.	STANDBY MAINTENANCE						M	
15.	OTHER COSTS						N	
16.	GENERAL AND ADMINISTRATIVE EXPENSE						O	
17.	TOTAL							

NOTE 1: If more than four years are involved, use another form(s) to detail the annual cost of each year and enter the total here.

NOTE 2: Attach supporting documentation as prescribed for each element of cost for which an entry is made and identify it with the established reference. Pages should be separately numbered with the prescribed alphabetic reference and in numerical sequence, e.g., A-1, A-2, A-3, etc. The entry in this column should indicate the total number of pages submitted; e.g., A-14 means reference "A" consists of 14 pages.

REFER-  
ENCE

TOTAL

ADDITIONAL YEARS  
AS APPROPRIATE

THIRD YEAR

SECOND YEAR

FIRST YEAR

LINE # Cost Element  
OTHER CONSIDERATIONS (CHAPTER V)

ADDITIONS AND (DEDUCTIONS) TO IN-HOUSE PERFORMANCE

ADD:

- 18. COST OF CAPITAL
- 19. ONE-TIME NEW-START COSTS
- 20. OTHER COSTS
- 21. DEDUCT:
- 21. OTHER COSTS
- 22. TOTAL

ADDITIONS AND (DEDUCTIONS) TO CONTRACTING-OUT PERFORMANCE

ADD:

- 23. COST OF CAPITAL ON GOV'T-FURNISHED FACILITIES
- 24. UTILIZATION OF GOVERNMENT CAPACITY
- 25. ONE-TIME CONVERSION COSTS
- 26. OTHER COSTS
- 26. DEDUCT:
- 27. FEDERAL INCOME TAXES
- 28. NET PROCEEDS FROM DISPOSAL OF ASSETS  
(ANNUAL VALUE)
- 29. OTHER COSTS
- 30. TOTAL

MINIMUM COST DIFFERENTIAL (CHAPTER VI)

- 31. NEW-START
- 32. CONVERSION
- SUMMARY
- 33. ADJUSTED COST OF IN-HOUSE PERFORMANCE  
(LINE 9 + LINE 22 + 31)
- 34. ADJUSTED COST OF CONTRACTING-OUT PERFORMANCE  
(LINE 17 + LINE 30 + 32)
- 35. COST OF IN-HOUSE OVER (UNDER) COST OF  
CONTRACTING-OUT PERFORMANCE  
(LINE 33 - LINE 34)

P  
O  
R  
S

T  
U  
V  
W

X  
Y  
Z

AA  
BB



**COST COMPARISON PREPARED BY:**

\_\_\_\_\_  
(Name) \_\_\_\_\_ (Date)

\_\_\_\_\_  
(Title) \_\_\_\_\_ (Telephone)

**AUDIT CERTIFICATION**

We have reviewed the above form and substantiated the currency, accuracy, and completeness of the data. We further verified that the procedures followed were in compliance with OMB Circular A-76 and the related Cost Comparison Handbook.

\_\_\_\_\_  
(Name) \_\_\_\_\_ (Date)

\_\_\_\_\_  
(Title) \_\_\_\_\_ (Telephone)

**IN-HOUSE ESTIMATE PREPARED BY:**

\_\_\_\_\_  
(Name) \_\_\_\_\_ (Date)

\_\_\_\_\_  
(Title) \_\_\_\_\_ (Telephone)

**APPROVED BY:**

\_\_\_\_\_  
(Name) \_\_\_\_\_ (Date)

\_\_\_\_\_  
(Title) \_\_\_\_\_ (Telephone)

**PERFORMANCE RECOMMENDATION (IN-HOUSE OR CONTRACT) APPROVED BY:**

\_\_\_\_\_  
(Name) \_\_\_\_\_ (Date)

\_\_\_\_\_  
(Title) \_\_\_\_\_ (Telephone)

Exhibit 2

DECISION SUMMARY  
FOR  
IN-HOUSE OR CONTRACT PERFORMANCE  
BASED ON  
COST COMPARISON PER OMB CIRCULAR A-76

I. Department/Agency \_\_\_\_\_  
Location \_\_\_\_\_  
Function or Activity \_\_\_\_\_  
Currently Performed In-house/by Contract \_\_\_\_\_

II. Contract Data:  
Solicitation date \_\_\_\_\_ Solicitation No. \_\_\_\_\_  
Number of bids \_\_\_\_\_ Closing date \_\_\_\_\_  
  
Contract proposal is for \_\_\_ year(s) with options for  
\_\_\_ year(s).  
Cost comparison covered \_\_\_ years, from \_\_\_\_\_, 19\_\_  
to \_\_\_\_\_, 19\_\_.  
Proposed changeover date \_\_\_\_\_

III. Total Adjusted Cost of In-House  
Performance (Line 33) \_\_\_\_\_  
  
Total Adjusted Cost of Contract-  
ing-Out Performance (Line 34) \_\_\_\_\_  
  
Cost of In-House Performance  
Over (Under) Cost of Contract-  
ing-Out Performance (Line 35) \_\_\_\_\_

IV. Final Recommendation - Perform In-House \_\_\_\_\_  
Contract Out \_\_\_\_\_

Prepared by: \_\_\_\_\_ Approved by: \_\_\_\_\_  
/s/ \_\_\_\_\_ /s/ \_\_\_\_\_

(Name) (Date) (Name) (Date)

(Title) (Telephone) (Title) (Telephone)

V. Action of Contracting Officer:  
Perform In-House \_\_\_\_\_ Bidders Notified \_\_\_\_\_  
Contract Out \_\_\_\_\_ Contract No. \_\_\_\_\_  
Awarded To \_\_\_\_\_

\_\_\_\_\_  
(Name) (Date)

\_\_\_\_\_  
(Title) (Telephone)

Exhibit 2. Decision Summary Form

## CHAPTER III—DEVELOPING AN ESTIMATE OF GOVERNMENT COSTS

### A. General

1. In order to develop the estimated cost to the Government of producing a product or performing a service, it is necessary to determine and accumulate the various elements of direct and related indirect costs. The Costs Comparison Form (Exhibit 1), will be used for this purpose. The following sections provide instructions on how to estimate the amount to be included in each cost element, classify costs by elements, and distinguish between direct and indirect costs. Also included are the requirements for documentation to support estimates for each cost element. The following definitions are particularly pertinent to these determinations:

a. *Cost Objective.* A function, organizational subdivision, contract, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

b. *Final Cost Objective.* A cost objective which has allocated to it both direct and indirect costs, and, in the cost accumulation system, is one of the final accumulation points. For the purpose of this Handbook, the product/service being estimated is the final cost objective.

c. *Direct Cost.* Any cost which can be identified specifically with a particular final cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs which can be identified specifically with a product/service are direct costs of that product/service. All costs identified specifically with other products/services are direct costs of those products/services.

d. *Indirect Cost.* Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

2. It is important that the basic principles contained in the above definitions be understood to preclude the possibility of "double counting" in preparing the estimate of Government costs. "Double counting" results from inconsistent treatment of a specific type of cost, generally by classifying costs of that type as both direct and indirect. The following is an example of how "double counting" can occur. *Example:* An agency produces products A, B, and C in the same organization, which is treated as one cost center for cost accounting purposes. A comparative analysis is being conducted to determine if one of the products could be acquired from a private commercial source at less cost. Travel costs for personnel whose time is a direct cost to product A have been charged as direct costs to that product. All other travel costs for the cost center, including travel for personnel whose time is a direct charge to products B and C, are classified as indirect. Since the total indirect cost which is accumulated for the cost center is allocated proportionately to all three products, an excessive amount of travel cost

is charged to product A and the costs of products B and C are understated. The simplest way to avoid "double counting," as illustrated in this example, is to treat all travel costs as indirect, which is common practice. Alternatively, when there is some reason for charging travel as direct to one product/service, then comparable travel costs for all products/services provided by that cost center must be charged as direct.

### B. Material Costs

1. When the cost of the material that would be furnished by the Government, or by the contractor, is negligible in comparison to the cost of labor, this section and the requirement to make entries on lines 1 and 2 of the Cost Comparison Form may be disregarded. When the product or service being analyzed is the sole output from the cost center, it is not necessary to distinguish between direct and indirect material—total material cost can be shown on line 1.

#### 2. Direct Material Costs—Line 1

a. Direct material costs are those incurred for such goods as raw materials, parts, subassemblies, components, and supplies that are identifiable specifically for use in producing the product or performing the service for which costs are being estimated. "Use," in this sense, means to be consumed or to be incorporated into the product.

b. Material shall be classified as direct when:

(1) It is essentially directly related to the product or service;

(2) The material cost can be measured with reasonable effort; and

(3) The material cost is significant.

c. The estimate of direct material costs begins with a review of the work statement to determine the types and quantities of material needed. Available material usage data and detailed listings of material requirements (bills of material) prepared for the same or similar work will be used to estimate the material needed. Differences between the work statement and past practice or workload in an existing Government activity must be taken into consideration, and historical material usage data adjusted accordingly. Allowance for normal scrap, spoilage, overruns, and defective work must be included. To this extent, the estimated quantity of direct material to be used will exceed the minimum necessary to meet the requirements of the work statement. A detailed listing of each type of direct material and the quantity needed will be developed and retained as supporting documentation.

d. The next step is to determine the cost of the direct material to be used. When unit prices from past purchases are used, they must be adjusted for price level changes to the time period of the first year of the comparative analysis. If there is no usable purchase history, the appropriate supply or procurement activity should be requested to estimate expected prices, using recent purchase prices, suppliers' catalogs, and other available information.

e. *Pricing material from other government agencies.* For purposes of the cost analysis, indirect costs associated with direct material

obtained from other agencies will be added to the direct material cost and be included on Line 1 of the Cost Comparison Form.

(1) *General Services Administration.* In most instances, the prices charged by GSA for material do not include all the costs of the acquisition and storage functions performed by GSA. Since inclusion of some of these costs in GSA prices is not authorized by law, it will be necessary to adjust GSA prices for purposes of Circular A-76 cost estimates. Following is a description of the material supply services provided by GSA together with mark-up rates to be applied to GSA prices to show full costs:

*Wholesale and Stores Direct Delivery.* This program area involves the distribution of common-use, commercially available items, to agency requisitioners worldwide, through a network of supply distribution facilities located throughout the United States. Also included is the Stores Direct Delivery Program which is designed to provide customers with the same type of items carried in stock which, because of volume orders, are procured from the vendor for direct delivery to the requisitioner in instances when delivery time is not critical. Add 21%.

*Retail.* The Retail Program provides the agency requisitioner with high demand common-use office and janitorial requirements from retail outlets located in areas of concentrated Federal activity. Add 36%.

*Nonstores Direct Delivery and Competitive Federal Supply Schedules.* This program is concerned with obtaining customer nonstock requirements through direct shipment from the vendor. Presently, agencies are ordering directly from vendors using schedules established by the GSA Federal Supply Service. Agencies pay the vendors directly for goods and services obtained. Add 5%.

(2) *Department of Defense.* The following definitions describe material supply services provided by the Defense Logistics Agency (DLA). The appropriate mark-up rates to be applied to DLA prices to show full costs are noted.

*Wholesale Stock Fund.* Material for which the Defense Stock Fund has procurement, receiving, storage, and shipping responsibility. Add 24.5%.

*Direct Delivery.* Material for which the Defense Stock Fund has procurement responsibility only, and which is delivered directly to the customer from the vendor. Add 13.4%.

(3) *Other agencies.* The furnishing agency must be requested to determine the indirect costs of acquiring, managing, and storing the material. These indirect costs will usually be presented as a percentage of direct costs. For guidance in identifying the costs, the furnishing agency may use the instructions on Material Overhead in section III.B.3. of this Handbook.

f. The supporting documentation for the costs estimated for direct material is summarized in Figure 1. The material items, quantities, prices, supporting calculations, and sources of information must be indicated.

FIGURE 1.  
ESTIMATE OF DIRECT MATERIAL COSTS

Item Nomenclature (1)	National Stock Number (2)	Quantity			Cost				Direct Material Cost (Six(9)) (10)	Source of Supply (11)
		Quantity per Bill of Mat. or Specifications (3)	Adjust- ment 1/ (4)	Final Est. Quantity (5)	Unit Purchase Price (6)	Source of Unit Price (7)	Adjust- ment 1/ (8)	Final Est. Unit Price (9)		
Widget	6730001161618	120	30 a/	150	\$11.00	GSA Cat.c/	.55 b/	\$11.55	\$ 1,732.50	GSA
Socket	None	60	5 a/	65	15.00	Pur. Dept.	.75 b/	15.75	1,023.75	PM, Inc.
Frontam	3760000161611	500		550	57.00	Inventory	3.30 b/	60.30	<u>33,165.00</u>	ABC Corp.
<b>TOTAL COST</b>									<b>\$35,921.25</b>	

NOTE: 1/ Explain basis for adjustment.  
a/ Normal spoilage.  
b/ Estimated price change.  
c/ Price list dated October 1, 1978.

3. Material Overhead—Line 2

a. In addition to the basic cost of the material to be used, there are additional costs incurred in acquiring, handling, storing, and controlling the material which must be identified and included in the cost of performance. When the cost center acquires material for more than one product/service, these overhead costs are determined for all the material acquired and then allocated proportionately to each product/service. For material acquired from other Government agencies, however, the indirect material cost incurred by other agencies is added to the direct cost of the material rather than adding it to the material overhead cost pool of the using activity.

b. Functions that are normally included in the material overhead cost pool are described below:

(1) *Acquiring*. Includes the efforts related to determination of material needs, ordering and/or purchasing of material to meet the needs, and incoming transportation costs (when separately identified). Do not determine and include the costs of transportation provided by the supplier and included in the supplier's price; these costs are included in the direct cost figures.

(2) *Handling*. Includes all efforts involved in receipt, storage, and issuance of materials. These efforts include: physical receipt, unpacking, inspection, testing, preserving (when required), placing in storage, protecting, assembly and disassembly of "sets" or "kits" when required, removal from storage, and preparation for use (including depreservation when required). The cost of losses and damage during handling and storage is also included.

(3) *Controlling*. Includes all efforts involved in monitoring and documenting material acquisition, handling, and distribution. Specific activities covered by this function include physical inventory, maintenance of records and documentation of material on hand and on order, and records of material distributed.

c. Costs of these functions must be estimated for the first year of the cost analysis. Estimates will include all costs for efforts that benefit or are caused by these functions, such as assigned personnel, immediate supervision, material and supplies,

the cost of ownership (depreciation) of equipment and facilities, purchased services (such as special tests during receipt or storage), utilities, etc.

d. When the total amount of material overhead cost is determined, it is necessary to allocate the proper portion to the product/service for which the estimate is being prepared. In most cases, an equitable allocation can be obtained by developing a material overhead rate based on the total cost of material acquired by the cost center.

e. The material overhead rate will normally be expressed as a percentage of total material cost, computed by dividing the material overhead cost by total material cost. In making this computation, it is necessary to include in the base all costs of direct material for all products/services by all other work centers, and all indirect material included in operations overhead pools and general and administrative (G&A) expense, as determined later. The material overhead cost to be charged to a product/service is calculated by multiplying the material overhead rate times the direct material charged to that product/service and entering the result on line 2. The development of a material overhead rate is illustrated in Figure 2. Material overhead must also be applied to indirect material issues.

f. While the use of total material cost as an allocation base will generally be satisfactory, there could be cases where the relationship between material overhead and the individual products/services is better represented by some other characteristic of the material. In such cases, allocation can be based on volume, weight, quantity, or number of receipts or issues for any or all of the types of materials involved. When more than one allocation base is used, more than one overhead pool will be required, and care must be exercised to ensure that no applicable cost is omitted, counted twice, or inappropriately allocated.

Figure 2.—Material overhead

Description	Estimated Cost For the Year Ending
Salaries and Wages:	
Labor.....	\$300,000
Fringe Benefits on above.....	XX,XXX

Travel.....	XX,XXX
Operating Supplies.....	XX,XXX
Maintenance.....	XX,XXX
Stationery, Printing & Office Supplies.....	XX,XXX
Utilities.....	XX,XXX
Depreciation.....	XX,XXX
Rent (SLUC).....	XX,XXX
Allocated Amounts of Centrally Performed Functions: <sup>1</sup>	
Purchasing <sup>2</sup> .....	XX,XXX
Receiving.....	XX,XXX
Others (list separately).....	XX,XXX
<b>Total Material Overhead Expense (A).....</b>	<b>XX,XXX</b>
<b>Total Material Costs (B).....</b>	<b>XX,XXX,XXX</b>
<b>Material Overhead Rate (A) ÷ (B).....</b>	<b>.....</b>

<sup>1</sup> Attach details of allocation. That is, what rate was used and how the rate was determined.  
<sup>2</sup> This centrally performed purchasing is local/retail level purchasing performed for the activity producing the product or performing the service. Centralized wholesale level purchasing or contracting performed for all activities agency-wide is part of contract administration.

C. Personnel Costs

1. Direct Labor—Line 3

a. Direct labor cost is that portion of wages or salaries which can properly be identified with and charged only to one specific product or service (final cost objective). Costs are either direct or indirect only. As discussed previously in regard to "double-counting," labor costs of a type treated as direct for the product/service being estimated must also be considered as direct costs of other final cost objectives and not included in an indirect cost pool. Conversely, no final cost objective shall have charged to it as a direct labor cost a portion of any labor costs the remainder of which is included in an indirect cost pool.

b. Labor shall be classified as direct when:

- (1) It is essentially directly related to the product or service;
- (2) The labor cost can be measured with reasonable effort; and
- (3) The labor cost is significant.

c. Direct labor costs are composed of two factors: the first is the time it takes to do the job, and the second is the rate(s) of pay for the labor skills required. These two factors are equally important and each must be estimated as precisely as possible. For this reason, they are treated separately in the following paragraphs.

d. In estimating the time required to perform a service or produce a product, the starting point is the statement of work. When the estimate is being made for a product/

service presently being provided by the Government, and agency management considers that authorized staffing is proper for efficient operation, the number of nonsupervisory positions authorized may be used to estimate the number of man-years of direct labor required. For all other cases, including proposed "new starts," a thorough review of the work requirements should definitize the outputs requiring labor. The time required to perform these outputs can be estimated by utilizing prior experience if it is available, engineering standards, or engineering estimates. If similar jobs have been completed, the direct labor hours of those jobs may be used as a basis for subsequent job estimating, provided appropriate adjustments are made for any scope and procedural changes. Also, when estimating the direct labor hours, include all on-the-job training which involves productive work. Time spent on all other training will be treated as indirect labor and included in the appropriate overhead pool.

e. When time requirements are expressed in man-hours, they can be converted to man-years by dividing the total man-hours required by either the total number of working hours in a year (i.e.,  $52 \times 40$  or 2,080) or by the number of hours normally worked in a year (i.e., 2,080 less leave and holiday time). It is important to know how the man-years were developed to determine whether the labor rate to be applied to the time estimate should be increased to provide for leave and holidays to be earned and taken by the workers. If the time estimate includes a provision for leave and holidays, the rate by which such a time estimate is to be multiplied should not be increased to provide for these

costs, and vice versa. Additional comments in this regard are contained in the following paragraphs dealing with the rate of pay to be applied to the time estimates and in the examples at the end of this section.

f. When the number of hours of each type of labor are identified, they must be multiplied by the appropriate hourly rate in order to arrive at an estimate of direct labor costs. The skill requirements determined to be needed for performance (and thus for developing times estimates) will dictate the basic rates to be used. Normally, the skills required will specify a Wage Board (WB) or General Schedule (GS) level. When computing costs for an existing Government activity, use the actual rates for current employees. For positions that are not occupied, or for a proposed new start, use salary step 5 for GS positions and wage step 3 for Wage Board positions. When a salary increase for Government employees is expected during the first year of performance, the amount of the increase should be included in the direct labor estimate.

g. Wage Board rates are normally expressed as hourly rates. These are called the basic hourly rates and will be applied to all hours worked and to all hours of annual leave earned, and sick, holiday and other leave taken to ascertain the total pay of a Wage Board employee. If night and/or environmental differential pay will be required, these differentials should also be included in the direct labor cost for Wage Board employees. Premium pay for Federal civilian firefighters and law enforcement officers is also to be included. Excluded are bonuses, allowances, and overtime and holiday premium pay.

h. General Schedule rates are normally expressed as annual rates of pay. Night and post differentials are excluded from this annual rate for GS employees. In order to convert this annual rate to an hourly rate comparable to that of a Wage Board employee, it must be divided by 2,080 hours.

i. Based on Civil Service Commission data, a factor of 18% must be added to the basic hourly pay to compensate for the amount of annual leave earned and sick leave, holiday, and other leave taken. In computing direct labor costs when stated time requirements do not include allowances for leave and holiday time, this factor must be used. As indicated earlier, the factor may be applied to either the basic labor rate or the time estimate. Because of this, care must be taken that the 18% factor not be included in or excluded from both. The following decision diagram illustrates the proper rate to be applied to the time estimate.

Time estimate represents	Labor rate to use
Estimated hours required to do the job.	Basic hourly rate increased by the factor for leave and holidays (i.e., base pay $\times$ 118%).
Estimated hours required to do the job, plus the allowance for leave and holidays (i.e., actual hours $\times$ 118%).	Basic hourly rate.
Estimated man years of effort, including leave and holidays to be taken.	Annual rate, or basic hourly rate $\times$ 2,080.

j. The detail necessary to support the estimate of direct labor costs will be a listing of the various labor skills required, and the number of hours and rate of pay for each job or component contained in the statement of work as illustrated in Figure 3.

FIGURE 3  
ESTIMATE OF DIRECT LABOR COSTS  
(Examples of Typical Entries)

Line Item	Skill Required	Req. Hrs.	Basic Hourly Rate	Hourly Rate Based on Annual Salary	Annual Salary	Direct Cost W/O Leave & Holiday (Required Hours X Applicable Rate)	Leave & Holiday (18%)	Total Direct Labor Costs*
Repair Electric Meters	Electrician W/B-4	200	\$11.00	\$ -	-	\$2,200.00	\$396.00	\$2,596.00
Install Meter Mounts	Carpenter W/B-3	100	11.50	-	-	1,150.00	207.00	1,357.00
Install Water Coolers	Carpenter's Helper	100	7.00	-	-	700.00	126.00	826.00
Inspection	Inspector GS 9/2	100	-	7.21 (\$15,000 ÷ 2,080 hours = \$7.21)	-	721.00	129.78	850.78
Reliability Improvement Engineering	Engineer GS 12/2	1 Man Year*	-	-	\$23,000	-	-	\$23,000.00**

\* Includes leave and holiday but excludes other fringe benefits.

\*\*Annual salary already includes leave and holiday.

## 2. Fringe Benefits—Line 4

a. Fringe benefits are allowances and services provided by the Government to its employees as compensation in addition to the wages or salaries used in determining the basic hourly rate or the annual rate of pay. For purposes of estimating the cost of a Government operation, fringe benefits will include only the normal, recurring benefit costs attributable to an on-going operation. Costs such as termination and separation allowances of Government personnel displaced by a contractor operation are not fringe benefits but rather are to be included as termination costs in comparing Government costs and contractor costs. Employee relocation allowances provided to Government personnel shall be included in Government start-up or termination costs, as applicable, when associated with the opening or closing of a Government-operated activity. (Termination costs should be reflected in the cost analysis under one-time conversion (Line 25) or new-start (Line 19) costs.)

b. The following guidance has been developed to facilitate estimating fringe benefits applicable to the basic hourly pay and the annual rate of pay of Wage Board and General Schedule employees. In cases where certain employees receive fewer or additional benefits, special computations will be needed.

c. In determining direct labor costs, leave and holiday time is considered as being included. Therefore, they are not included in fringe benefits. Premium pay for working on holidays is discussed under "Additional Benefits."

d. **Standard Fringe Benefit Factors.** Government-wide percentage factors shall be applied to annual or periodic labor costs to determine the following fringe benefit costs:

(1) Retirement and Disability (for employees under Civil Service Retirement), 20.4%.

(2) Health and Life Insurance, 3.7%.

(3) Other Benefits (including work disability, unemployment programs, bonuses and awards, etc.), 1.9%.

e. **FICA.** For Government civilian employees (normally temporary employees) who are not under the Civil Service Retirement System, the Social Security (FICA) cost factor to be applied to salary or wage costs is the actual employer contribution rate for the employees involved. When estimating the FICA cost care must be exercised to assure that the FICA rate is applied only to wages and salaries subject to the tax. Information regarding FICA tax rates and maximum salaries and wages to which they are applicable should be obtained from the appropriate personnel office.

### f. Additional Benefits.

(1) If the Government employees whose time is included in the cost estimate will receive allowances for off-site pay, location allowances, hardship pay, hazardous duty pay, uniform allowances, incentive pay, cost of living differential, night differential for General Schedule employees, etc., an estimate of the actual costs thereof will be

used to develop individual rates for the local area. Information needed to compute rates involved should be obtained from the cognizant personnel or payroll office. Where allowances are not uniformly distributed among all local personnel, it may be necessary to compute separate rates or amounts for individual employees or employee groupings, such as General Schedule employees and Wage Board employees.

(2) Overtime premiums and premium pay for working holidays are not included as additional benefits. Overtime and holiday premiums are either "indirect costs" (to be included in the appropriate indirect cost pool), or "other direct costs." In either case, they are not included in the determination of additional benefits nor in the total annual or periodic labor costs. Overtime and holiday premiums are direct costs only when it is known that the work required to provide the product/service being estimated must be performed on overtime. Otherwise, overtime and holiday premiums are indirect costs since the incurrence of overtime provides equal benefit to all work scheduled. Although

night and environmental differentials are considered additional benefits for General Schedule employees, they are added to the hourly rate and included in the annual or periodic labor costs for Wage Board employees. Fire fighters and law enforcement officers' premiums are also included in the annual or periodic labor costs in the same manner.

g. **Documentation.** The backup material for the amount shown as fringe benefits applicable to direct and indirect labor shall be a detailed summary of each fringe benefit, supported by a schedule showing the computation of each fringe benefit cost. The computation schedule should include the base costs to which fringe benefit factors are applied and their source(s), as well as the rate factors and their source(s) (except for the standard factors provided). Normally, a single fringe benefit factor may be used for both direct and indirect labor. However, if significant differences exist in their composition, different fringe benefit rates will have to be calculated separately for direct labor costs and for indirect cost pools. A sample schedule is shown in Figure 4.

Figure 4.—Fringe Benefits

	Annual or periodic labor costs				Fringe benefit amounts
	Subject to retirement <sup>1</sup>	Subject to FICA		Total	
		Under limit	Over limit		
Direct labor.....	\$6,800,000	\$170,000	\$30,000	\$7,000,000	
Indirect labor included in:					
Material overhead.....	1,980,000	17,000	3,000	2,000,000	
Operations overhead.....	2,984,000	16,000		3,000,000	
G&A expense.....	4,000,000			4,000,000	
<b>Total.....</b>	<b>15,764,000</b>	<b>203,000</b>	<b>33,000</b>	<b>16,000,000</b>	
Retirement at 20.4% of \$15,764,000.....					\$3,215,856
FICA at 6.13% of \$203,000.....					12,444
Health, life insurance and other benefits at 5.6% of \$16,000,000.....					896,000
<b>Total standard fringe benefits.....</b>					<b>4,124,300</b>
Additional fringe benefits (list and explain).....					1,906,949
<b>Total fringe benefits.....</b>					<b>6,031,249</b>

<sup>1</sup> See Subchapter S, 14, "Computation of Annuities," Federal Personnel Manual.

### Calculation of fringe benefit rate:

Total fringe benefits ÷ total annual or periodic labor costs =

\$6,031,249 ÷ 38% =

\$16,000,000

Entries on cost comparison form:

Line 4—\$7,000,000 direct labor × 38% = \$2,660,000.

Lines 2, 5, and 7—The fringe benefits to be included in the overhead pools are 38% of \$2,000,000, \$3,000,000 and \$4,000,000, respectively. The prorata share of each of these pools is to be entered in the appropriate line.

## D. Operations Overhead—Line 5

### 1. General

Operations overhead is one of the three classifications of indirect costs. The other two, material overhead and general and administrative (G&A) expense, are discussed in separate sections. This section deals only with operations overhead.

### 2. Definition

a. Operations overhead costs are the indirect costs of an annual fiscal period which are necessarily incurred to produce or deliver the products/services being provided by a particular organizational element (hereinafter referred to as a work center). Operations overhead differs from material

overhead costs which are related only to acquiring, handling, and storing material, and from general and administrative expenses which are those costs whose incurrence benefits all the activities of the organization of which the particular work center is a part.

b. For practical reasons, some minor costs are treated as indirect costs even though a direct cost relationship can be determined. Short-term work efforts and small, inexpensive items of material generally fall in this category. They should be included in the overhead pool which is most closely related to the nature of the costs; i.e., material overhead, operations overhead, or general and administrative expense. It is important, however, that all costs incurred for the same purpose in like circumstances be treated consistently as either direct costs or indirect costs with respect to the final cost objective (i.e., the product or service being provided by the work center).

### 3. Estimating Operations Overhead Costs

a. *Step One.* The first step in estimating operations overhead costs is to determine the work center(s) which will perform the work necessary to provide the product/service being estimated. Once this determination is made, all of the estimated costs related to the elements of expense of that work center must be classified as either direct or indirect costs. (Refer to the applicable sections for each element of expense.) The following table illustrates the final result of such a classification.

Total Estimated Costs To Be Incurred by Work Center "A" During Fiscal Year 197X

Direct Costs	\$9,000,000
Indirect Costs:	
Operations Overhead	\$4,500,000
Material Overhead	(1)
General and Administrative Expense	(1)
Total Indirect Costs	4,500,000
Total Annual Costs	\$13,500,000

<sup>1</sup> While it is possible to incur some of these types of costs in Work Center "A", for purposes of this illustration it is assumed that none will be.

b. *Step Two.* The summary amount of operations overhead shown in the illustration in *Step One* represents the total cost of the individual types of expenses involved. To arrive at this amount, it is necessary to estimate the amount of the individual types of expenses. As a general rule, where the product or service is to be provided by an existing work center, historical records of the amounts and types of indirect costs incurred by it will be available. These historical records may be used as the basis for developing an estimate of the indirect costs to be incurred during the first year in which the product or service is to be provided. They should be adjusted to reflect inflation and any other changes in staffing or operations contemplated by management. If the product or service being estimated represents a new start, the statement of work will be the fundamental document on which the estimate will be predicated. Once the requirements of the statement of work are determined, it may be possible to find a work center within the organizational structure that is similar to the

one required. The indirect costs of that similar work center, appropriately adjusted, would be an acceptable basis for developing the estimate of the costs of the individual elements of expense. If neither an existing nor similar work center is available, then the annual amounts of the individual items of indirect costs necessary to accomplish the statement of work should be estimated in consultation with cognizant management and technical personnel.

4. *Types of Operations Overhead Expenses* A description of the more common types of operations overhead expenses are discussed in the following paragraphs.

a. *Indirect Labor*—This category includes all personnel costs of the work center not considered as direct labor, material overhead, or general and administrative expense, as defined in the sections dealing with those costs. The costs of supervision and administration within the work center, as well as the costs of the time of direct employees on leave or not spent in productive effort (e.g., idle time, training, etc.) should be included. Care must be taken to ensure that indirect labor costs that are more appropriately classified as material overhead or general and administrative expense are not included in the operations overhead. Indirect labor costs should include all applicable fringe benefit costs (see Figure 2). Estimates of and supporting documentation for indirect labor should be prepared in much the same way as for direct labor. Essentially, positions required by the work center identified as providing the product/service are identified and designated as direct or indirect. Once the designation is made, it must be consistently followed. The salaries and wages of the indirect employees are estimated for the first year of performance.

b. *Indirect Materials and Supplies*—Included in this category are those items of material or supplies utilized by the work center in its operations but which are not chargeable as direct materials as defined in section III.B.1. Included in indirect material cost is the applicable material overhead.

(1) Examples of such items are lubricants and rags for equipment, or common use low-cost fasteners, such as wire, staples and screws. The costs of indirect materials and supplies should include their allocable share of material overhead. Estimates of indirect materials and supplies are determined in much the same manner as those for direct materials. The prices for these types of materials and supplies are estimated and total indirect material and supply costs determined.

(2) If it is not practical to list each single item of indirect material and supplies in the documentation supporting the estimated amount, they may be aggregated into logical subgroupings and shown in total, with a reference to where the detail can be examined. If the amounts of indirect material and supplies are estimated other than by a detailed listing, a clear explanation of the method used to arrive at the estimated amount must be contained in the supporting documentation.

c. *Depreciation*—Depreciation is the method used to spread the cost of tangible

capital assets (plant, machinery, etc.) less residual value, over their estimated useful lives in a systematic and logical manner. Note that because land has an unlimited life, it is not a depreciable asset and its cost should not be included with other asset costs that are subject to depreciation. Land improvements, however, are depreciable assets (e.g., roads, parking lots). For purposes of this Handbook, depreciation will be computed on a straight-line basis. That is, an equal amount of the difference between the acquisition cost of the asset and its residual value should be charged to each accounting period or unit of usage covered by its useful life.

(1) The cost of a tangible capital asset includes the original acquisition cost plus the transportation and installation costs incurred to place the asset in use. Additions need to be added and retirements deleted to keep the costs current.

(2) Useful life refers to the estimated period of economic usefulness of the asset in a particular operation as distinguished from its physical life. Determination of the asset's useful life should be based on actual or planned retirement and replacement practices. An asset that is still in use should not be reflected as being fully depreciated. To avoid this happening, the estimated useful lives need to be reviewed and adjusted periodically to conform to current plans.

(3) Residual value is defined in Appendix 2. Because useful life and physical life may differ, the residual value is not always equal to scrap value. Both the useful life and residual value should be estimated, based on historical records and in consultation with engineering and management personnel.

(4) One example of calculating depreciation involves an asset which costs \$1,000 and had a residual value of \$100 and a useful life of 10 years. \$90 should be charged to each year's operation during its useful life (\$1,000 - \$100 = \$900 ÷ 10 years = \$90/year).

(5) In another example, where depreciation is to be based on hours of usage, the difference between the cost and residual value would be divided by the estimated number of hours the machine will be used during its useful life to arrive at an hourly depreciation rate. The amount of depreciation to be included in the operations overhead pool would be the product of the number of hours that the machine will be used during the year, multiplied by the hourly rate previously described, as illustrated below:

Acquisition Cost	\$1,000
Residual Value	- 100
	<hr/> \$900
Estimated usage during useful life (hours)	5,000
Depreciation Rate (\$900 ÷ 5,000 hours) (per hour)	\$0.18
Estimated usage during year (hours)	500
Depreciation to be included (500 hours × \$0.18 per hour)	\$90

(6) The annual depreciation related to all the tangible capital assets (building, plant, equipment, etc.) used by the work center in providing the product/service being estimated will be included in the work center operations overhead costs.

(7) For all other assets the indirect cost pool (material overhead, operations

overhead, or general and administrative expense) to which annual depreciation is assigned will depend on the use made of the assets.

(8) Supporting documentation for the estimated amount of depreciation should be a detailed listing of the assets involved and the annual depreciation related to each. Where, because of the magnitude of the assets involved, it would not be practical to prepare such a list, the amount of depreciation may be supported by a listing of logical groupings by type of assets, with references to where the detailed supporting property records may be examined. If depreciation is estimated on other than an item-by-item basis, a complete explanation of the methodology used must be included in the supporting documentation.

d. *Rent*—This is a cost incurred for the use of another entity's tangible assets (land, plant and machinery, etc.) in providing the product/service being estimated. All such costs anticipated to be incurred during a fiscal year encompassing the period of performance should be included in the operations overhead pool unless the assets are used in connection with only one product/service. In the latter case, the rental amounts will be treated as a direct cost of that product/service, provided that the rental amounts of similar assets are treated consistently for all other products/services. The amount of rent and the charges included must be determined.

(1) If the rent includes a separate charge for maintenance and repair, utility charges, etc., and the amount is significant, those charges should be included in their proper expense classification, if they do not benefit all products or services in the same proportion as the rental charge.

(2) Where a Government-owned asset is "rented" by one Government organization, from a different Government organization, only the actual costs of ownership should be regarded as cost. If the rental amount is predicated on the market rental value, or an incremental cost basis, there may be a significant difference between the rental amount and the cost of ownership. If the rental amount to be included in the estimate represents a GSA-billed Standard Level User Charge (SLUC) and is in excess of \$50,000 annually, a determination of this difference will be made. The difference will be either added to or subtracted from the "rental" costs to bring them to the actual costs to the Government. If the rental costs are based on incremental costs, the difference will be determined regardless of their amounts. If it is impractical to arrive at actual Government ownership costs by consultation with the Government lessor, a reasonable estimate of ownership costs will be included.

e. *Maintenance and Repair*—The normal costs incurred during a fiscal year for maintaining and repairing the tangible capital assets utilized by the work center providing the product or service being estimated (but not those properly classified as material overhead or general and administrative expense) will be included in the operations overhead cost pool. These costs relate only to those maintenance and repair activities that are necessary to keep the buildings and

equipment in operating condition. The costs of major overhauls and repairs which add value to or prolong the life of the asset should be treated as capital expenditures and depreciated over the extended or remaining useful life of the asset. The methodology used to estimate all of these costs should be contained in the supporting documentation.

f. *Support Costs*—This category includes those indirect costs incurred during the fiscal year by other organizational elements in support of the work center in which the product/service being estimated is to be performed.

(1) For example, motor pool services in support of the products or services provided by the work center would be included in operations overhead. Support costs applicable to material overhead or general and administrative expense should not be included in operations overhead (e.g., ADP services involving material inventory or general management information), but should be included in those accounts.

(2) Supporting documentation for these costs should indicate the service involved and the performing organization. If significant in amount, the organization supplying the support should estimate the costs in accordance with the provisions of this Handbook and provide the estimate and supporting documentation to the recipient work center for inclusion in its estimate. If the amount is not considered significant enough to warrant preparation of an estimate as described above, the methodology used to arrive at the estimate must be clearly stated in the supporting documentation.

g. *Utilities*—This category includes charges for fuel, electricity, telephone, water and sewage services, etc. The amount of these costs applicable to the work center will be determined either on a metered or allocated basis of consumption. Proration of the amounts to the various overhead pools will be by a unit of measure that would vary directly with consumption (e.g., floor space, number of telephones, etc.). Estimates of these expenses to be incurred for the first year of performance should be based on current experience appropriately adjusted for anticipated future experience. Engineering estimates should be used when experience data are not available. All estimates should be appropriately documented with supporting detail.

h. *Insurance*—Operation of any government activity involves risks and potential liabilities from fire and casualty losses and from liability claims. These risks are normally covered by insurance in the private sector, but the Government is primarily self-insured and must pay for such losses as incurred. Casualty losses can be estimated by multiplying .0005 times the value of Government facilities, equipment, and material; liability losses can be estimated by multiplying .0007 times personnel costs. For a simplified estimate of insurance costs, multiply the sum of lines 1 through 4 and the net book value (acquisition cost less depreciation accumulated to the beginning of the cost analysis period) of all depreciable assets used by the work center by .0006.

i. *Overtime and Other Premium Pay*—The amounts of overtime and other premium pay to be included as indirect costs in the operations overhead pool are those incurred in order to complete all work of the work center in a timely manner. The reason for considering the overtime or other premium portion of the salaries and wages as an indirect cost is that the scheduling of work effort is usually done on a random basis. That is, the actual work performed during overtime hours or on holidays is usually no more the basis for incurring the premium payments than the effort performed during the regularly scheduled hours. Accordingly, under these circumstances, all work performed in the work center should receive a proration of the premium costs. This is accomplished by including these costs in the overhead expense pool.

(1) The straight time portion of such wages will be considered as Direct Labor, as in section III.C.1. of this Handbook. If the premium pay is necessitated not by an overloading of the work center's normal capacity, but by the special demands of a single customer or client, the related premium costs should be considered as Other Direct Costs of the product or service furnished that customer or client.

(2) Supporting documentation for the amount of overtime and other premium pay included in the indirect cost pool should indicate how the need for such payments was determined and how the amount was computed.

j. *Other Costs*—There may be other indirect costs incurred by or for the work center being reviewed which do not fall into any of the categories discussed in this paragraph 4, but which must still be included in the overall cost estimate. If further guidance is required on some unique element of cost, the cognizant accounting office should be consulted.

#### 5. *Developing Overhead Rates*

a. *Allocation Base*—Determination of the amount of the annual operations overhead cost to be applied to the product/service being estimated required establishment of an appropriate base for allocation of costs. Where the product/service being estimated represents the total effort of the organization for the year, all of the operations overhead costs are applicable. However, where work is done on more than one product or service during the year, an allocation must be made among these products and/or services. This is normally done by determining and applying an overhead rate. Overhead rates can be expressed as a percentage of one or more elements of expense (e.g., 20% of direct labor or 15% of total direct costs). An overhead rate can also be expressed as a monetary unit related to some quantitative measure (e.g., \$2.00 per direct labor hour, \$3.00 per machine hour, \$0.50 per square foot of space used).

To illustrate, assume that Work Center "A" provides three products/services entitled A-1, A-2, and A-3, and a cost comparison analysis is being prepared for A-3. The following additional facts are to be assumed:



That 300,000 direct labor hours are incurred annually on the three products/services, as follows:

A-1	150,000
A-2	60,000
A-3	60,000
<b>Total (direct labor hours)</b>	<b>300,000</b>

Direct labor costs for the year are \$3,000,000.

50,000 machine hours are used to provide the three products/services.

A-1	5,000
A-2	5,000
A-3	40,000
<b>Total (machine hours)</b>	<b>50,000</b>

b. **Overhead Rates**—Using these assumptions as well as those shown for Work Center "A" in paragraph D.3.a., the following overhead rates (and many others) can be developed:

**Percentage of Direct Labor Costs:** Operations Overhead (\$4,500,000) divided by Direct Labor (\$3,000,000) equal 150%.

**Percentage of Direct Costs:** Operations Overhead (\$4,500,000) divided by Total Direct Costs (\$9,000,000) equal 50%.

**Rate Per Direct Labor Hour:** Operations Overhead (\$4,500,000) divided Direct Labor Hours (300,000) equal \$15.00 per Direct Labor Hour.

**Rate Per Machine Hour:** Operations Overhead (\$4,500,000) divided by Machine Hours (50,000) equal \$90.00 per Machine Hour.

(1) As can be seen from the above, there are several ways of developing overhead rates. Rarely will the various rates result in the identical allocation of the overhead costs to the products/services provided by the work center. Accordingly, the selection of the proper base of allocation is of extreme importance in costing product/service A-3.

(2) A straightforward way to select the best allocation base is to chart operations overhead costs and various possible allocation bases over time. The allocation base that varies most frequently in the same direction at the same time as the operations overhead costs would be the best allocation base.

(3) As long as it can be ascertained that indirect costs vary directly and proportionately with a measure of an element of expense or activity (dollars, hours, etc.) and that all products or services furnished by the work center benefit from the same elements of expense or activity, and in the same proportion, the use of that single element as the allocation base will normally result in an equitable distribution of overhead costs. Assuming direct labor hours meet these criteria for Work Center "A," operations overhead would be allocated to the three products/services as follows:

Product/service	Direct labor hours	Operations overhead rate per direct labor hour	Overhead allocation
	(1)	(2)	(1) x (2)
A-1	150,000	\$15.00	\$2,250,000
A-2	60,000	15.00	1,350,000
A-3	60,000	15.00	900,000
<b>Total</b>	<b>300,000</b>	<b>\$15.00</b>	<b>\$4,500,000</b>

(4) A single base of allocation will not normally be adequate in a work center where:

(a) The indirect costs do not vary directly and proportionately with a single measure of expense or activity, or

(b) all elements of expense and activities which influence the incurrence of operations overhead costs (e.g., direct labor influences supervision, etc.) are not incurred in roughly the same proportion for the various products/services provided.

When these conditions are encountered, there are two possible solutions. The first would be to subdivide the work centers into departments and develop a separate operations overhead pool and rate for each. In that case, development of the departmental operations overhead would be identical to the development of the operations overhead rate(s) for Work Center "A", as described herein. The second solution is to develop two or more overhead rates within the work center by grouping the indirect expenses in overhead pools related to the disparate functions and allocating them on appropriate bases. Obviously, the bases of allocation will not be the same.

(5) We can illustrate the use of two rates for Work Center "A" using the assumptions previously cited. From these assumptions, it can be seen that product/service A-3 is responsible for most of the machine hours used by the work center. Specifically:

- A-1 uses 5,000 machine hours;
- A-2 uses 5,000 machine hours;
- A-3 uses 40,000 machine hours.

Accordingly, direct labor hours would not be an appropriate allocation base because it would result in a disproportionate amount of machine shop expenses (depreciation, maintenance and repair) being allocated to products A-1 and A-2. Conversely, the use of machine hours would result in an inequitable share of the labor-related indirect expenses being allocated to product/service A-3.

(6) Two pools for Work Center "A" may be established by segregating machine-related costs from other operations overhead costs as follows:

Basic Pool	\$1,500,000
Machine Pool	3,000,000
<b>Total Operations Overhead</b>	<b>4,500,000</b>

(7) It is determined that the best allocation base for the basic pool is direct costs and the rate is: Basic Pool divided by \$1,500,000 equals 16.67%. Direct Costs total \$9,000,000.

(8) The \$9,000,000 direct costs are determined to be charged to each product as follows:

A-1	\$4,500,000
A-2	2,700,000
A-3	1,800,000
<b>Total</b>	<b>9,000,000</b>

(9) Therefore, the allocation of the \$1,500,000 in the basic pool is:

A-1—16.67% of \$4,500,000	\$750,000
A-2—16.67% of \$2,700,000	450,000
A-3—16.67% of \$1,800,000	300,000
<b>Total</b>	<b>1,500,000</b>

(10) It is also determined that the best allocation base for the machine pool is machine hours and the rate, \$60.00 per machine hour: \$3,000,000 Machine Pool divided by 50,000 Machine Hours equals \$60 per machine hour.

Taking the machine hour usage previously determined and this rate, the allocation is:

A-1—5,000 hours at \$60.00	\$300,000
A-2—5,000 hours at \$60.00	300,000
A-3—40,000 hours at \$60.00	2,400,000
<b>Total</b>	<b>3,000,000</b>

(11) Combining the two pools gives us the total allocations:

	Basic Pool	Machine Pool	Together
A-1	\$750,000	\$300,000	\$1,050,000
A-2	450,000	300,000	750,000
A-3	300,000	2,400,000	2,700,000
<b>Total</b>	<b>1,500,000</b>	<b>3,000,000</b>	<b>4,500,000</b>

(12) The following comparison highlights the significant differences that can result from using different overhead allocation methods.

	One Rate (Direct Labor Hours)	Two Rates (Basic and Machine)	Difference (Subtract One from Two)
A-1	\$2,250,000	\$1,050,000	\$(1,200,000)
A-2	1,350,000	750,000	(600,000)
A-3	900,000	2,700,000	1,800,000
<b>Total</b>	<b>4,500,000</b>	<b>4,500,000</b>	<b>0</b>

6. **Summary.** In summary, operations overhead is a significant cost element in estimating the cost of providing a product or service. It is extremely important that elements of indirect expense included in the operations overhead pool are appropriate and the amounts thereof are carefully estimated. It must be determined by careful study whether more than one pool of expenses is required. Also, the selection of a proper base(s) for allocation is essential to accurate estimating. As illustrated above, significant differences can result from the use of different methods for allocating overhead. The choice of the appropriate method should be based on a review of the functions and their related costs within the work center. The pools and bases should be selected based on supported facts and circumstances. They should not be selected on the basis of arbitrary assumptions, or the fact that the data for a particular base are readily available. The main purpose of the overhead rate must always be kept in mind. It is developed to permit the allocation of overhead expenses to the products/services being provided on the basis of the benefits they receive from the incurrence of the cost.

7. **Supporting Documentation.** The supporting documentation needed for the amount of operations overhead allocated to product/service A-3 will be a listing of the expenses included, the base used to develop the rate(s), and the supporting detail for each. Figure 5 is an illustration of the operations overhead costs of Work Center "A."

Figure 5—Work center "A": Computation of operations overhead rate for the year ending

Operations overhead expenses	Basic	Machine	Total
Indirect Labor:			
Supervision.....	\$70,000	\$30,000	\$100,000
Clerical.....	700,000	30,000	1,000,000
Indirect Time of Direct Personnel....	400,000	600,000	1,000,000
Indirect Materials and			
Supplies.....	30,000	370,000	400,000
Depreciation.....	40,000	400,000	440,000
Rent.....	10,000	50,000	60,000
Maintenance and			
Repair.....	40,000	385,000	425,000
Support Costs.....	50,000	115,000	165,000
Utilities.....	60,000	610,000	670,000
Insurance.....	10,000	20,000	30,000
Overtime and Other			
Premium Pay.....	60,000	100,000	160,000
Other.....	30,000	20,000	50,000
<b>Total Operations Overhead (A).....</b>	<b>1,500,000</b>	<b>3,000,000</b>	<b>4,500,000</b>
Allocation Bases (B):	\$9,000,000		
Machine Hours.....		50,000	
Overhead Rate (A) ÷ (B) = (C).....	16.67	\$60.00	
Application to Product/Service A-3:			
Direct Costs			
Applicable To A-3 (D).....	\$1,800,000		
Machine Hours Applicable To A-3 (D).....		40,000	
Amount of Operations Overhead Allocated to A-3 (C) × (D).....	\$300,000	\$2,400,000	\$2,700,000

<sup>1</sup> Percent of direct costs.  
<sup>2</sup> Per machine hour.

**E. Interagency Support**

1. In developing the estimates of Government costs, products or services which are excess to the needs of other Federal agencies should be used in preference to new procurements when reported as excess under a formal program or when more economical than procurement from a private commercial source. When a comparative cost analysis is to be made, the agency that would be providing the excess product or service must prepare cost estimates in accordance with this Handbook and furnish its cost data on lines 1 through 9 and its other considerations on lines 23 through 30 of the Cost Comparison Form. The Form must be signed on the "prepared by" and "audit certification" lines. The Cost Comparison Form will be submitted to the agency receiving the product or service. The receiving agency will classify the providing agency's costs as other direct costs, operations overhead, or general and administrative expense, as appropriate. The other considerations will also be added to the appropriate classification. The providing agency's Cost Comparison Form will be used as supporting documentation. NOTE: Agency reimbursement charges for providing the product or service to another agency may not be used as a basis for the cost estimate unless such charges reflect all costs as provided in this Handbook.

2. If a decision to contract out would cause the Government not to utilize available excess facilities, material or service capacity,

the impact in terms of costs to the Government must be considered in computing the total cost of contracting for the product or service. For guidance in developing and documenting such costs, see the section V.F.

**F. Other Direct Costs—Line 6**

1. Other direct costs are the sum of all those direct costs exclusive of direct material and direct labor, which are identified as having been incurred specifically for a particular product or service (the final cost objective). Some examples of other direct costs are: Service center charges (e.g., ADP service center, printing shop, etc.), travel, and purchased services.

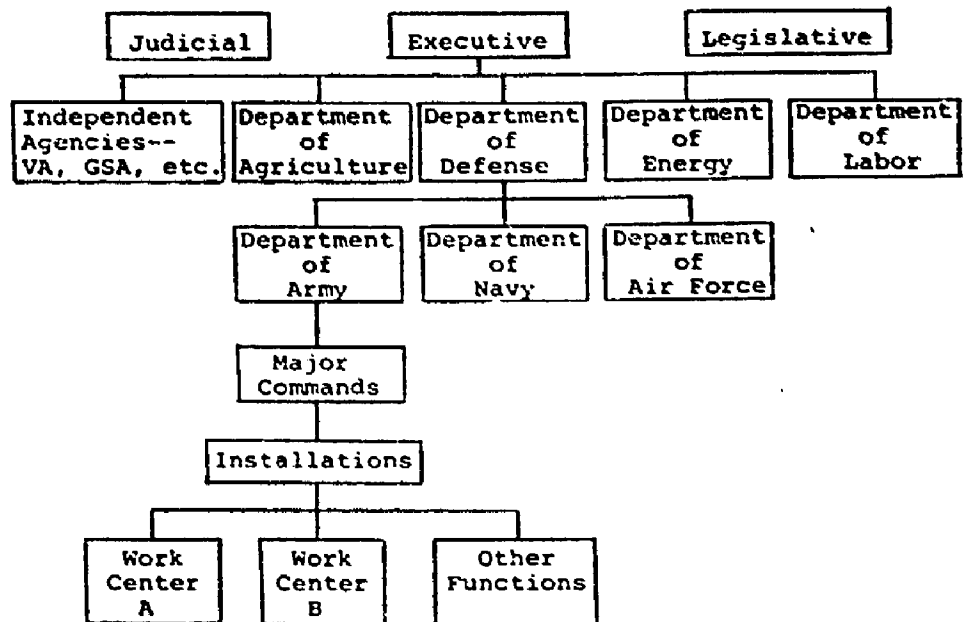
2. There are certain types of effort that some organizations treat as indirect expense and others classify as direct. Examples of these costs are special travel expenses, preservation, packaging and packing, plant rearrangement, consultant's fees, certain clerical salaries, shop supplies, transportation costs, plant protection, royalties, computer expenses, and telephone and telegraph expenses. Whenever an organization decides to classify any of these costs as direct, they normally will be included under Other Direct Costs unless they are direct material or direct labor. When an organization decides to reclassify a cost from an indirect to a direct charge, it is necessary to ascertain that the organization's

accounting and estimating practices provide consistent treatment of these special costs during the period under review. To prevent duplication, it must be established that when these items of expense are treated as direct costs, similar costs are excluded from indirect costs applied to the estimate. Conversely, when an organization reclassifies a cost from direct to indirect, care must be taken to include these costs in the appropriate indirect cost pool.

3. Refer to sections III.B.2. and III.C.1. for cost estimating instructions and supporting documentation requirements which are appropriate for estimating and documenting other direct costs.

**G. General and Administrative Expense—Line 7**

1. General and administrative (G&A) expense consists of those financial, management or other expenses which are incurred for the benefit of an organizational unit as a whole. They do not include expenses which should be classified as material or operations overhead expenses which have been discussed previously in this Handbook. Because of their nature, general and administrative expenses may be incurred at various levels within the Governmental structure. The following simplified diagram depicts the various levels within the Government where G&A expenses may be incurred:



2. Certain administrative expenses incurred by the executive, legislative and judicial branches of the Government are applicable to the various departments and independent agencies. Similarly, certain administrative expenses incurred at the department level would be applicable to the activities within the departments organization (e.g., Departments of Army, Navy, and Air Force). This flow would continue on down to the organization level. Within the organization itself, general and administrative expenses

may be incurred which are applicable to all the functions being performed there. This flow-down of G&A expenses will vary based on the organizational structure of each department or agency, but will exist in some form in each. A portion of the general and administrative expenses incurred above the installation level are applicable to the product or service being estimated. However, for purposes of this Handbook, only those G&A expenses which contribute directly to

the actual operation of the organization will be included in the estimate. This decision is based on materiality of amount and the conclusion that the efforts involved in funding, policy-making, long-range planning, direction, etc. (commonly referred to as staff functions) would continue and be equally applicable to either contractor or Government effort.

3. In deciding at what level to discontinue the allocation of G&A expenses to the product or service to be provided, a self-sufficiency criterion should be used. A self-sufficient organization is one that operates as an independent unit, receiving only funds, policy direction, and guidance from the next higher organizational unit. If any general and administrative-type activities are provided at no cost or on an incremental cost basis, the organization is not self-sufficient. In these circumstances, an appropriate allocation of the applicable expenses of the incurring organization should be included in the recipient's G&A expenses, to be allocated to the products and/or services the recipient provides.

4. To illustrate, assume the organization we are concerned with is a laundry. If that laundry is located on its own land, does its own maintenance, budgeting, accounting, etc., then it can be considered self-sufficient and no further G&A costs will be allocated to it from the next higher organizational unit. The G&A costs incurred by the laundry itself will be allocated to the various products or services it provides. However, if that laundry was located on the same grounds or in the same building of another organization, say a hospital, and the hospital staff provides it with certain maintenance, budgeting and accounting effort, on a no-cost or incremental cost basis, then the laundry would not be self-sufficient. The applicable portion of the hospital's G&A expense must be allocated to the laundry. Assume further that the hospital to which the laundry is attached is located on a military base and the hospital receives certain support from the base, such as road and parking lot maintenance, security, fire protection, etc. If the hospital receives these services on a no-cost or incremental cost basis, it is not a self-sufficient unit. The allocable portion of the costs incurred by the base that benefits the hospital should be included in the hospital's G&A expenses and an equitable amount thereof allocated to the laundry. For purposes of this illustration, we will assume that the military base is self-sufficient (they all are not); that is, it receives only funding, policy direction, and guidance from its next higher level of command. Accordingly, none of the G&A expenses incurred by the next higher level of command would be allocated to the military base.

5. In addition to the self-sufficiency criterion, materiality of amount must be kept in mind in determining the level above which G&A expenses will not be considered in the estimate. When the costs involved are minor in amount and their ultimate allocation to the product or service is not likely to have a bearing on the decision to contract-out or perform in-house, they may be excluded if not readily available.

6. The G&A rate to be used to allocate the organization's G&A expenses to its activities will be developed in much the same manner as the operations overhead rate was developed. That is, a pool of annual G&A expenses will be developed and the total will be divided by the allocation base.

7. A significant difference between the development of a general and administrative expense rate and an operations overhead rate is that G&A expenses must be accumulated in a single pool. This differs from operations overhead where certain circumstances may require the establishment of more than one pool. The reason that only one pool of G&A expenses is needed is the nature of G&A expenses. As previously stated, G&A expenses are incurred for the benefit of the organization as a whole. If an incurred expense does not meet this criterion, it should not be included in the G&A pool.

8. Typical examples of the types of cost to be included in the G&A expense pool are the expenses connected with the following offices or functions:

The Office of the Organization Director (Commander).

The Office of the Comptroller.

The Office of the General Counsel (Judge Advocate).

Centralized Personnel Services.

Centralized Administrative Services (Adjutant General).

Public Relations.

Internal Review (Audit).

Security, including security clearances.

9. To develop a G&A expense pool, the costs associated with any function performed for the benefit of all product/services provided must be estimated. The cost of performing each function is the total of the expenses (indirect labor, indirect material, etc.) incurred for that purpose during the year. The nomenclature for the types of expenses to be included in the G&A overhead pool is similar to that used in the context of operations and material overhead. The characteristic which distinguishes these three types of overhead costs, one from the other, is the purpose for which each is incurred. Accordingly, the G&A pool will be made up of elements of expense similar to those for operations overhead in nomenclature but which are related to performing functions and services such as those performed by the offices listed above. The methods of estimating the amounts of these costs will be the same as those described in the Operations Overhead section and are not repeated here.

10. Since all G&A expenses must be incurred for the benefit of the organization as a whole, the base used to allocate these costs to the final cost objective must be representative of the overall operation of the organization. For this reason, the total costs incurred (exclusive of G&A expenses) has been chosen as the allocation base. This base should include the cost of all the mission functions of the organization whether these are commercial, industrial or governmental functions.

11. The following steps depict the development of a G&A rate:

a. *Step 1:* Develop the G&A expense pool. The amount to be included in the pool is the amount of the G&A expense expected to be incurred during the first year of performance. This amount will be predicated on past experience, adjusted to provide for inflation and any change in operations.

#### General and Administrative Expenses

Executive, Professional, Technical, and Supervision Salaries (including fringe benefits).....	\$1,450,000
Clerical and Other Salaries (including fringe benefits).....	1,175,000
Other Expenses (Training, Depreciation, Indirect Materials, Allocated Support Costs, etc., except those included in material or operations overhead).....	3,100,000
<b>Total G&amp;A Expenses.....</b>	<b>5,725,000</b>

b. *Step 2:* Develop the Base of Allocation (costs incurred by Organization A, exclusive of G&A expense)

Direct Costs.....	\$42,500,000
Operations Overhead Costs.....	8,900,000
Material Overhead Costs.....	100,000
<b>Total Cost Incurred Exclusive of G&amp;A Expenses.....</b>	<b>51,500,000</b>

c. *Step 3:* Develop the Organizational G&A rate (divide the pool by the base): \$5,725,000 divided by \$51,500,000 equals 11.12%.

12. To estimate the amount of the annual G&A expenses applicable to the product or service being estimated, the above developed rate will be applied to the total estimated annual cost (exclusive of G&A) of providing the product or service as illustrated below:

Direct Material.....	\$450,000
Material Overhead.....	5,000
Direct Labor.....	1,000,000
Fringe Benefits.....	250,000
Other Direct Costs.....	50,000
Operations Overhead.....	1,500,000
<b>Subtotal.....</b>	<b>3,255,000</b>
<b>General and Administrative Expense (\$3,255,000 x 11.12%).....</b>	<b>\$361,958</b>
<b>Total cost.....</b>	<b>3,616,958</b>

13. The detail required to support the amount of G&A expense allocated to the product or service being estimated will be a listing of the expenses related to the functions and offices classified as general and administrative expenses.

#### H. Inflation of Out-Year Costs—Line 8

1. In preparing the Government's estimate, all known or anticipated increases in costs to be incurred in the first year of operation should be provided for in each element of cost, as stipulated by the instructions contained in this Handbook, including any expected salary increases for government employees. For all subsequent years, anticipated changes in scope of work may be added but no inflation factors will be added to the individual elements of cost.

2. To calculate the amount to enter in Line 8 for inflation, follow these instructions.

For year 2, multiply the sum of lines 1 through 7 in column "Second year" by the factor .64.

For year 3, multiply the sum of lines 1 through 7 in column "Third year" by the factor .062.

For year 4, multiply the sum of lines 1 through 7 in column for "Fourth Year" by the factor .125.

For year 5, multiply the sum of lines 1 through 7 in column for "Fifth Year" by the factor .17.

3. The entry in line 9 in each column will be the sum of lines 1 through 8 in that column.

#### CHAPTER IV—DEVELOPING AN ESTIMATE OF CONTRACTING-OUT COSTS

##### A. General

This section of the Handbook deals with the determination of the cost to the Government of acquiring the product or service being analyzed by letting a contract. It includes determination of not only the amount to be paid to the contractor (contract price) but also the related in-house costs that will be incurred by the Government as a result of contracting out. The Cost Comparison Form (Exhibit 1) identifies the following categories of Government cost which might be incurred in connection with contracting out: Contract Price, Transportation, Contract Administration, Government-Furnished Property, Standby Maintenance, Other Costs, and General and Administrative Expense (on the above).

Comments on each of these categories are contained in the following paragraphs.

##### B. Contract Price—Line 10

1. The contract price included in the cost comparison must be supported by a firm bid or proposal. The contractor's bid or proposal must be predicated on the same statement of work utilized in preparing the Government's estimate. Also, the solicitation for bids or proposals will notify the bidders or offerors that a comparison will be made between the cost of contracting the effort and performing it in-house.

2. In determining the amount to be recorded as the contract price, consideration must be given to the contract type. The following guidance is provided in this regard.

a. In the case of an advertised firm fixed price contract, the price of the low bidder or offeror will be entered without adjustment. If a firm fixed price contract is to be negotiated, the low negotiated price will be entered.

b. When fixed price contracts with flexible pricing arrangements are contemplated (e.g., fixed price incentive fee), the target price of the apparent low bidder or offeror will be entered.

c. If a contract with an award fee is proposed, the performance level comparable to that attributed to Government employees in preparing the Government's estimate will be used to estimate the amount of the fee. The estimated award fee, plus the contract costs of the apparent low bidder or offeror will be entered.

d. If a time and material or labor-hour contract is proposed, the estimated total cost of performance may be calculated and entered. Alternatively, comparable rates can be developed for the Government cost estimate and the comparison can be made on the basis of rates, rather than total costs.

e. If a cost reimbursement-type contract is required by special circumstances, the

apparent low bidder or offeror's estimated costs must be subjected to a meticulous technical and cost evaluation to assure that the estimated costs are neither over nor understated. Adjustments to the bidder's or offeror's estimate need to be reviewed with the bidder or offeror before the adjusted contract price is entered.

##### C. Transportation Cost—Line 11

1. The Government may incur transportation costs whether a product/service is provided by an in-house operation or by a contractor's operation. Transportation for an in-house operation is normally associated with the applicable overhead. This section deals with the cost to the Government of transportation provided in connection with a product/service obtained by contract.

2. The contract documents or negotiation memoranda will indicate the additional transportation that is to be furnished or reimbursed by the Government. These items are usually clearly indicated. There may be some transportation in addition to that spelled out in the contract which require an estimate. The best source for obtaining estimates of the cost of this transportation is the local transportation or purchasing office.

3. Typical of the transportation costs that may be incurred by the Government are:

a. Cost of transporting a contractor's employees;

b. Cost of transporting Government material, equipment, or supplies to and from a contractor's site, such as:

- (1) Cartage cost from airport, bus, rail or marine terminals;
- (2) The cost of special equipment, like refrigerated vans or heated containers;
- (3) The cost of demurrage on rail cars or detention charges for trucks;
- (4) In exceptional cases, the cost of special insurance.

4. The supporting documentation for these costs should describe the transportation to be provided, the mileage and/or rates utilized in arriving at the estimates, and the source(s) from which they were obtained. If transportation costs were derived in some way other than by extending applicable mileage and rates, the methodology used to arrive at the estimate should be fully explained.

##### D. Contract Administration—Line 12

1. Contract administration includes the costs incurred by the Government in assuring that the contract is faithfully executed by both the Government and the contractor. In addition to reviewing contractor performance and compliance with the terms of the contract, contract administration consists of processing payments, negotiating change orders, and monitoring close-out of contract operations. Centralized agency-wide contracting costs are also included.

2. The costs of contract administration will be determined by applying four percent (4%) to the contract price, line 10. The result will be entered on line 12 as the cost of contract administration.

##### E. Government-Furnished Property—Line 13

1. When Government property is furnished to a contractor in connection with the performance of a contract, associated costs must be considered in determining the overall cost of the contract. Government-furnished property includes:

a. Property that is in the possession of, or acquired directly by, the Government and is subsequently delivered or otherwise made available to the contractor.

b. Property, acquired by a contractor in accordance with the terms of the contract, that does not become a part of the end item and is not consumed during contract performance, and title thereto vests in the Government. Examples of Government-furnished property are land, buildings, facilities, equipment, special tooling, materials, and supplies.

2. The methods for determining the costs related to furnishing Government property will vary with the use made of the property. Where Government property becomes a part of the end product (material) or is consumed in providing a product or service (supplies) the full cost to the Government of acquiring and furnishing these materials and supplies must be added to the cost of contracting. When property such as land, buildings, facilities, equipment, and special tooling are provided for the contractor's use during the performance of the contract but will be returned to the Government upon contract completion, the costs of ownership of these assets by the Government during the period of contract performance, plus any other costs incurred in connection with furnishing the property to the contractor must be added to the cost of contracting. More specific guidance is contained in the following paragraphs. The sum of the costs for Government-furnished materials and supplies and for Government-furnished facilities, in accordance with these paragraphs, will be entered on line 13 of the Cost Comparison Form.

##### 3. Government-Furnished Material and Supplies

a. Government-furnished material and supplies (GFM&S) is property which may be incorporated into or attached to a product/service to be delivered under a contract and those supplies which may be consumed or expended in the performance of a contract. It includes, but is not limited to, such items as raw materials, parts, subassemblies, components, and manufacturing supplies.

b. The instructions for estimating the costs of GFM&S are identical to those for estimating the cost of in-house material and supplies (see sections III.B.2. and III.B.3. for guidance in estimating the cost of GFM&S). For instructions on the treatment of costs associated with transporting GFM&S to and from the contractor's site, see section IV.C.

c. The supporting documentation for GFM&S shall include a detailed listing of all the items to be furnished with quantities, unit prices, suppliers, details of adjustments and the source(s) of the information. See Figure 1 in section III.B. for an illustration of the supporting documentation required.

**4. Government-Furnished Facilities (Buildings and Other Land Improvements) and Equipment**

a. The costs applicable to facilities and equipment furnished to contractors by the Government must be added to the cost of contracting out for purposes of Circular A-76 comparisons. These costs consist of depreciation of capitalized equipment or facilities, or the full expense of minor items of equipment which do not meet agency capitalization criteria. Depreciation on government-furnished facilities and equipment shall be computed in accordance with the instructions on computing depreciation contained in section III.D.4.c. Only the depreciation costs applicable to the proposed contract period will be considered for purposes of the cost comparison.

b. When the Government rehabilitates, modifies, or expands existing Government-owned facilities or equipment for the purpose of providing it to a contractor as Government-furnished property, the related costs will be treated as follows:

(1) If the rehabilitation, modification or expansion of the Government facilities or equipment increases the useful life of the assets to the Government or the asset value of the property, the related costs shall be depreciated over the remaining useful life of the assets. The amount to be included in the Circular A-76 cost comparison as an add-on to the contract cost shall be limited to the cost amortization applicable to the period covered by the proposed contract.

(2) If the rehabilitation or modification work consists primarily of plant rearrangement, minor repairs, or other work which does not extend the useful life of the assets or does not increase the value of the property to the Government, the related costs shall be considered as additional costs of contracting out. The entire cost of such rehabilitation or modification will be charged to the first year of contract operations or spread over the contract period depending on the period the costs are determined to benefit.

(3) While the acquisition cost of land is not depreciable, the costs of any improvements or alterations made to land utilized in performance of the contract, such as landscaping, special grading, etc., should be accumulated and depreciated over the estimated useful life of the improvements or alteration. The add-on to the contract cost will be limited to the depreciation applicable to the period covered by the proposed contract.

c. Cost estimates will be supported by a summary listing of all the above types of cost and the location of the detailed records used to determine them as follows:

*Government-Furnished Facilities and Equipment*

	Amount	Location of Records
Depreciation:		
Land Improvements	\$XXX	
Buildings	X,XXX	

*Government-Furnished Facilities and Equipment—Continued*

	Amount	Location of Records
Equipment	XX,XXX	
	\$XX,XXX	
Other Expenses:		
Plant Rearrangement	X,XXX	
Minor Repairs	XXX	
Other	XXX	
	XXX	
Total	\$XX,XXX	

d. Supporting data should include details on original cost, residual value, annual depreciation, etc., of the equipment and facilities.

**F. Standby Costs—Line 14**

1. In unusual and infrequent instances, it may be necessary to hold Government equipment and/or facilities in a standby status when an in-house activity is terminated in favor of contract performance to assure provisions of the needed product or service. Costs related to holding equipment and facilities for any other purpose are not standby costs for purposes of this Handbook, and should not be added to the contract price. Standby costs are defined as expenses necessary for the upkeep of property in standby status which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient, operating condition or available for possible use in providing the needed product or service.

2. Standby cost is not to be confused with Utilization of Government Capacity or Disposal of Fixed Assets. Each of these factors is discussed separately in Chapter V of this Handbook. In most cases Government property will be disposed of or put to other use when a decision is made to obtain a product or service from the private sector instead of continuing to produce it in-house. A detailed justification is required for holding the Government property in standby status, and a copy of the justification should be included in documentation supporting the cost analysis.

3. If it is determined that it is necessary to hold Government property in a standby status, all related costs must be estimated for inclusion in the cost comparison analysis. The estimate of standby costs begins with a determination of the facilities and/or equipment that will be placed in a standby status to support a contractor. The next step is to estimate the cost, if any, of preparing the facilities and equipment for standby status. The cost of holding the facilities or equipment in a standby status must also be estimated in order to determine the total standby maintenance cost which would result from contract versus in-house production. These costs may be estimated by utilizing engineering estimates, prior experience, or experience of other organizations. If similar standby costs have been incurred previously,

these may be used as a basis for subsequent costing provided appropriate adjustments have been made for facilities, equipment, and pricing variations. When computing the depreciation cost of property in standby status, it will be necessary to review the useful life of the property since useful life may be increased by the change from production to standby status. This review will be necessary even if the depreciation is based on machine hours usage because, while wear and tear may cease, obsolescence may continue.

4. When the estimated standby cost is determined, the total of this cost will be entered on line 14 of the Cost Comparison Form. Backup data must be included for all the cost elements associated with preparation for and maintenance in standby status. See Chapter III for cost estimating instructions, types of cost elements to be included, and documentation requirements.

**G. Other Costs—Line 15**

1. This cost category encompasses any additional Government costs which would result from contracting and which are not covered elsewhere in the cost comparison. This cost category is included to provide for unusual circumstances which may be encountered in particular cost analyses. The total amount of such other costs should be entered on line 15 of the Cost Comparison Form.

2. Supporting data will include a complete description of the costs involved and the rationale for including each, together with cost detail as outlined for the various cost elements in Chapters III and IV.

**H. General and Administrative Expense—Line 16**

The general and administrative (G&A) expense applicable to the in-house effort related to contracting for a product or service must be included as part of the cost of contracting out. The amount of such expenses to be included will be determined by applying the G&A rate developed in Chapter III to the total costs of the in-house effort (the sum of lines 11 through 14).

**I. Inflation of Contracting-Out Costs**

1. The four percent inflation factor is applicable to the costs associated with contracting-out (lines 11, 13, 14, and 15) on a line by line basis. However, any nonrecurring costs included in the first year's total should be identified and removed from the base figure for purposes of applying the appropriate factor. For example, assume that the estimate of transportation costs for the first year of performance is \$5,000, and that \$3,000 of that total represents the cost of transportation necessary to enable the contractor to begin performance. While the full \$5,000 would be entered in Line 11 under the "First Year" column, only \$2,000 (\$5,000—\$3,000) would be incurred in subsequent years and be subject to inflation. This amount subject to inflation will be multiplied by 1.04 for the "Second Year" column, 1.082 for the "Third Year" column, 1.125 for a fourth year, and 1.17 for a fifth year.

2. The inflation factor must not be applied routinely to these first year costs, however. If

the Statement of Work does not require consistent Government support throughout the period of performance, then first-year costs should not be inflated. Instead, the requirements for support in each time period would have to be separately evaluated, and the appropriate inflation factor applied to the estimated cost. Therefore, entries in out-year columns may bear no direct connection to the "First Year" entry on the same line. Since General and Administrative expense is derived by applying a G&A rate to already-inflated figures, the inflation factor shall not be separately applied to line 18.

3. It is particularly important to identify the nonrecurring portion of Government-furnished property (line 13) and standby costs (line 14). Of the Government-furnished property costs, only minor repair and "other" costs are subject to inflation. The standby cost total must be reduced by the amount attributable to preparing facilities or equipment for standby status before the inflation factor is applied.

## CHAPTER V—OTHER CONSIDERATIONS

### A. General

Up to this point, the Handbook has been concerned with determining the cost to the Government of acquiring a product or service either by contracting-out or by in-house performance. The decision as to which alternative to follow will not usually be made solely on the basis of the costs of providing the product or service as developed in accordance with Chapters III and IV. Additional costs or revenue losses will normally be considered to determine the most economical of the two methods.

### B. Shortened Cost Comparison When In-House Costs are Below Best Offer for a Conversion

1. After the contracting officer opens the bids or completes negotiations, he will indicate in line 10 of the form the lowest responsible bid or proposal. When the basic contract price (line 10) exceeds the total in-house costs (line 33) it can be assumed that the cost of in-house performance will be less than the cost of contracting-out. This assumption precludes the necessity for completing the portions of the form dealing with the cost of contracting-out. Completion of these portions would only serve to document the net additional costs which must be added to the contract price. Since the contract price already exceeds the cost of in-house performance, such information would not alter the ultimate conclusion of the comparison. However, an exception should be made when it is likely that offsets resulting from contracting-out (e.g., Federal Income Tax lost, disposal of Government facilities, etc.) would reduce the contract cost below Government cost.

2. When the shortened comparison is considered proper and advisable, the contract price entered in line 10 will also be entered on line 34. The amount by which the cost of in-house performance (shown on line 33) is under the contract price (shown on line 34) will be determined and entered on line 35. The Form will then be signed on the line entitled "Cost Comparison Completed By,"

by the Task Force Chairman or such other individual who was assigned the responsibility. The Form, together with backup documentation, will then be subject to audit and other final procedures described in Chapter II.

### C. Detailed Cost Comparison

When total in-house costs (line 33) exceed the basic contract price (line 10), the full impact of the two alternatives on the overall cost of Government operations must be determined. This will require the decision-maker to evaluate the following types of costs, as described in the remainder of this chapter:

1. Loss of opportunity to employ resources in other areas if performed in-house (cost of capital);
2. The one-time costs that will be incurred to start or terminate a Government operation;
3. The impact on remaining operations of contracting-out a portion of a work center's effort (utilization of Government capacity);
4. Loss of revenue (Federal taxes) due to in-house performance.

### D. Cost of Capital

1. The cost of capital is defined as an imputed charge on the Government's investment in all of the plant facilities and other assets necessary for the work center to manufacture products or to provide services.

2. Basically, the imputed charge for the cost of capital is an opportunity cost: if the capital had not been devoted to this performance during the current period, it could have been devoted to another use which would have provided other income or avoided interest expenses. The imputed charge is not an attempt to recover interest on borrowed money. For purposes of the comparisons required by this Handbook, a distinction is made between those assets which will be retained and those that will be disposed of in the product or service is contracted out. However, all of the required assets will be considered.

a. The cost of capital for assets that will be used both for in-house performance and contractor performance will be determined in accordance with paragraphs D.3. and D.4. below. The appropriate amount will be entered on both lines 18 and 23 for each year in the period of performance.

b. The cost of capital related to assets that will be used in the event of in-house performance but disposed of in the event of contractor performance will be accorded the following treatment. The cost of capital computed as in D.3. and D.4. below, will be entered on line 18. In addition, the estimated gain or loss on the disposal of the assets will be determined by deducting the net book value of the assets and the related disposal costs from the estimated proceeds of the sale (see "Disposal of Fixed Assets"). A 10% cost of capital factor will be applied to this gain or loss and entered on line 28 for each year in the period of performance. If the disposal results in a gain, the amount entered on line 28 will reflect a reduction to the cost of contracting-out. If the disposal results in a loss, the amount entered on line 28 will be an additional cost of contracting-out.

c. The cost of capital for assets that will be used only for in-house performance but which must be retained by the Government to assure performance in the event of significant contract interruption or delay will also be entered on both lines 18 and 23 for each year in the period of performance.

d. The cost of capital for assets that will be used only for in-house performance, but will be retained by the Government if the function is contracted out to meet possible future contingencies, will be entered on line 18 for each year in the period of performance.

e. The cost of capital for assets that will not be used by the Government for in-house performance but will be required to assure contractor performance will be entered only on line 23 for each year in the period of performance.

f. No entry will be made for those assets that will not be used in in-house performance but are required to meet possible future contingencies.

### 3. Determination of the Cost of Capital for Fixed Assets.

a. In order to estimate the cost of capital, it is necessary to determine the net book value (total acquisition cost less depreciation accumulated prior to the cost comparison period) of each tangible capital asset (land, improvements, buildings, equipment, etc.) which is related to performance. The acquisition cost of land and the net book value of each depreciable tangible asset should be available from accounting records. However, if accounting records do not provide the necessary information, it will be necessary to utilize engineering estimates, prior experience, or experience of other organizations.

b. The cost of capital will be computed by applying an opportunity cost rate of 10% to the total net book value of the assets. If the assets involved are used solely to provide the product or service being estimated, the total amount of the cost of capital will be entered in the appropriate line(s) on the Cost Comparison Form. If the assets involved are used not only to provide the product or service being estimated, but other products or services as well, a proration of the cost of capital will be made.

### 4. Prorating Cost of Capital.

a. If the cost of capital were a real rather than an imputed cost, it would be properly classified as a General and Administrative (G&A) expense. Accordingly, its proration to the product or service being estimated will be in the same proportion that the total estimated costs to be incurred (less G&A expense) for the product or service being estimated bears to the total estimated cost to be incurred (less G&A expense) for the performing organization. This latter amount is the base for allocation of the G&A expenses and should be readily obtainable from the supporting documentation. An example of this computation is shown below:

b. From the illustration in section III.G., the following data are obtained:

Total costs incurred (less G&A expenses) for the product/service being estimated.....	\$3,255,000
Total costs incurred in Organization A (less G&A expenses).....	\$1,500,000
Assume total annual cost of capital for assets required.....	250,000



The cost of capital applicable to the product or service being estimated would be computed as follows: \$3,255,000 divided by \$51,500,000  $\times$  \$250,000 = \$15,800.

#### 5. Disposal of Fixed Assets.

a. When a product/service is being produced in-house by Federal employees, a decision to contract that operation may eliminate the need for all or some portion of the fixed assets used in providing the product or service. The value to the Government of reducing this need must be included as a consideration in the comparative cost analysis. This section deals with those fixed assets which will be disposed of if a decision is made to contract for the product or service.

b. In determining such costs for consideration in a comparative analysis, the current market value of each of the fixed assets must be ascertained. If the property is to be disposed of by GSA or the Defense Property Disposal Service, assistance may be obtained from the office concerned to estimate current market value and disposal costs. Also, estimates of the market value of equipment may be based on commercial publications which list sales prices of used machinery and equipment. Assistance in this regard may also be available from dealers in the specific equipment for which an estimate is needed.

c. After an estimate is made of the current market value of the fixed asset to be disposed of, an estimate will be made of the expenses connected with the disposition, i.e., sales commission, advertising, legal fee, relocation, etc. The total expenses related to the disposal will be deducted from the estimated market value to determine the net value to the Government of the fixed asset.

d. The net book value of the assets to be disposed of will be determined by reference to the amounts determined in D.3. above. The totals of the estimated net value and net book value for these assets will be determined. The net estimated gain or loss from the disposal of these assets will be calculated by deducting the net book value from the estimated net value of the assets. It is this estimated gain or loss that will be the basis for calculating the amount to be included on line 28 of the Cost Comparison Form. The gain or loss will be multiplied by a factor of 10% to ascertain the annual value to the government of the gain or loss. For purposes of this cost comparison, the net gain that could be realized by disposal of the assets is considered to be a source of additional revenue to the Government. Accordingly, when a gain is indicated, the amount determined from applying the cost of capital factor is considered as potential revenue and will be treated as an offset (reduction) to the cost of contracting out. Conversely, when a loss is indicated, the amount determined by applying the cost of capital factor must be considered as an addition to the cost of contracting-out.

#### 6. Supporting Documentation.

a. Supporting documentation for the cost of capital related to the assets to be utilized shall include a detailed listing of such assets and the net book value of each. If these assets have been previously listed in connection with the computation of

depreciation, a reference may be made to that listing rather than duplicating it. Where, because of the magnitude of the assets involved, it would not be practical to prepare such a list, the assets may be supported by a listing of logical groupings by types of assets and reference made to where the detailed supporting property records may be examined.

b. Supporting documentation for the cost of capital related to the assets to be disposed of shall include a list of the assets noting the market value and disposal expenses associated with each asset. The listing should also include references to more detailed documentation which indicates how the market value and disposal expense figures were determined.

#### E. One-Time Costs

1. In every case where the Government either starts or discontinues an in-house activity it incurs one-time costs resulting from changing the source of the product or service it uses. For new starts, the one-time costs are those associated with establishing the in-house capability and discontinuing a contract arrangement. For conversions, the one-time costs arise from terminating the in-house activity and starting a contract arrangement. Even though these costs are incurred only once and will not recur unless the mode of performance again changes, the impact on total costs may be significant. All one-time costs will be allocated over a five-year period.

2. Guidance involved in determining one-time costs for new starts and conversions is contained in the following paragraphs.

#### 3. One-Time Costs Related to a New Start—Line 19

a. While a new start may require substantial new investment by the Government in facilities and equipment, these costs should not be included as one-time costs under this section. Instead, such costs should be handled in accordance with the sections of this Handbook which deal with depreciation (III.D.4.c) and cost of capital (V.D.). The costs of acquiring a facility, however, and costs incurred for the acquisition and installation of equipment (unless included in the capitalized cost), would need to be included in one-time cost estimates. Other examples of one-time costs would include office and plant rearrangements; employee recruitment, training, clearance, and relocation expenses; and expenses which are the direct result of discontinuing an existing contract. If the contract is completed, it is not normal that any additional costs will be borne by the Government.

b. Determination of the full scope of the Government's one-time new start costs should be made in consultation with engineering, production, management, and contracting personnel. Supporting documentation should indicate clearly the type of new start costs anticipated and the methodology used to estimate the amounts to be incurred. The detail supporting the estimate of each element of cost should be similar to that provided for in Chapter III. One-fifth of the total one-time costs should be

added to each year of the cost comparison by entering the one-fifth figure(s) on line 19.

#### 4. One-Time Costs Related to a Conversion—Line 25

a. When the Government discontinues an in-house activity to obtain the product or service by contract there are usually substantial one-time costs associated with the conversion. These costs are identified and discussed in the following paragraphs.

b. *Material-Related Costs*—A conversion will normally result in certain items of material (either unissued material, work in process, or finished goods) becoming excess.

(1) It may be possible to transfer certain of this material to the contractor who is going to provide the product or service in the future. In this case, the material will be treated as Government-furnished material and priced in accordance with section IV.E.3.

(2) In other cases, the material may be diverted to other uses of the Government. Only the additional costs incurred in connection with making the material available for the other uses will be included as conversion costs.

(3) When neither of the above dispositions of the material is practical, the material will normally be disposed of by sale. If it is anticipated that the material will be sold, the estimated gain or loss on the sale must be considered in determining conversion costs. The estimated gain or loss will be computed by deducting from the estimated sales price the acquisition cost of the material plus material overhead (at the rate developed in Chapter III) and all other expenses related to disposition, such as packing, shipping, etc. If the material is to be disposed of by either GSA or the Defense Property Disposal Service, these agencies should be consulted in arriving at these costs and estimating the sales price.

(4) The supporting documentation for such costs should contain a listing of the items and the quantity to be disposed of, their acquisition cost, and the estimated sales price. In addition, all other expenses such as packing, shipping, disposal, etc., should be adequately supported by documentation describing how the amounts were determined.

c. *Labor-Related Costs*—A conversion will also normally result in the incurrence of certain labor-related expenses that are considered one-time costs. These include severance pay, homeowner's assistance, pay rate retention, relocation and retraining expenses. The amount of these expenses should be computed in consultation with management and the personnel department. Historical data from the agency or from other agencies gathered from similar circumstances can be considered in arriving at the appropriate cost. The supporting documentation should contain appropriate detail and indicate how the various amounts were determined.

Note.—When a conversion results in a reduction in force (RIF), there may be an impact on Civil Service retirement costs. Some employees could take premature retirement, which may increase costs; others could withdraw, which would reduce costs.

The actuarial model used to compute the standard retirement cost factor (20.4%) provides for normal levels of early retirement and withdrawals, but any significant number of actions could have additional impact. In cases where this effect is likely to have a determinative bearing on the outcome of the cost comparison, the situation will be called to the attention of the agency official responsible for Circular A-76, who may confer with OMB on proper consideration.

**d. Other Costs**—A conversion will normally require an agency to take certain actions that would not be necessary if the activity were to be continued. For example, a special physical inventory to ascertain the material (supplies, equipment, small tools, etc.) on hand may be necessary in connection with a transfer of accountability to a contractor. The cost of taking such an inventory would be a proper conversion cost. Also, it may not be possible to avoid the continuation of some costs, such as lease or rental agreements for facilities or equipment, beyond the time that they are no longer required. These are also conversion costs. Supporting documentation for such costs should clearly state the purpose for each item of cost, and how the associated dollar amount was determined.

**e. General and Administrative Expense**—An amount for general and administrative expense must be included. That amount will be determined by applying the G&A rate developed in Chapter III to the sum of the material-related, labor-related and other costs.

**f. Final Computation and Documentation**—The amount for general and administrative expense must be added to the sum of the costs to which the G&A rate was applied to establish the total one-time costs related to a conversion. The detail supporting the estimate of each element of cost should be similar to that provided for in Chapter III. One-fifth of the total one-time costs should be added to each year of the cost comparison by entering the one-fifth figure(s) on line 25.

**F. Utilization of Government Capacity—Line 24**

1. The potential impact on a work center of contracting out for a product or service which it currently provides must be taken into consideration before a decision is made. The decision to contract out can result in the work center becoming completely idle, operating at a reduced capacity, or operating at the same or increased capacity.

2. When the decision to contract out will result in the work center becoming completely idle because no other use of its capacity is planned, its facilities will either be disposed of or placed in standby status. The circumstances under which the costs related to placing assets in standby status will be considered as an additional cost of contracting out are set forth in the *Standby Costs* portion of this Handbook. When the assets are to be disposed of, they will be handled in accordance with section V.D.

3. When it is planned that the efforts of the work center will not be reduced because the product or service to be contracted out will be replaced by others, consideration should

be given to any savings or additional costs to the Government resulting from transferring the replacement products or services. Where the transfer of effort will result in the disposal of Government assets related to the replacement product or service or the avoidance of rental costs, these occurrences should be treated as if they were happening in the work center which currently provides the product or service being estimated. See sections V.D.5. and III.D.4.d. for further guidance in this regard.

4. Where the decision to contract out will result in the work center(s) operating at less than its present level of utilization, the costs attributable to this underutilized capacity must be determined. In these cases, some overhead costs which would be partially allocable to the product or service being contracted out may continue. These continuing overhead costs must be absorbed by the remaining in-house activities. The additional amount to be absorbed by the remaining activities is a cost of contracting out.

5. For purposes of this Handbook, the cost of underutilization will be determined as follows:

**a. Step 1:** From the supporting documentation for operations overhead, determine the total operations overhead expense pool(s), the total amount of the base of allocation and the resultant overhead rate. From the example shown in discussing operations overhead, these amounts would be as follows:

	Basic pool	Machine pool
Overhead Expense .....	\$1,500,000	\$3,000,000
Base of Allocation .....	\$9,000,000	50,000 machine hours
Overhead Rate .....	16.67% of direct costs.	\$60.00/machine hour.

**b. Step 2:** Again, from the supporting detail of the Government cost estimate, ascertain the amount of the base(s) of allocation applicable to the product or service being estimated. These amount(s) will then be deducted from the total base(s) of allocation. As illustrated in section III.D., the product/service A-3 incurred direct costs of \$1,800,000 and 40,000 machine hours. Thus, we would show:

	Direct costs	Machine hours
Total Base of Allocation .....	\$9,000,000	50,000
Less: Applicable to Product/Service Being Estimated (A-3) .....	1,800,000	40,000
Adjusted Base of Allocation .....	7,200,000	10,000

**c. Step 3:** In consultation with accounting and management personnel, ascertain the decreases in overhead expenses that can be expected to occur if the product/service is contracted out. Deduct these decreases from the appropriate overhead pool. Assume that, as a result of contracting out, the total basic overhead pool will be reduced by \$500,000 and the machine pool by \$2,000,000. This would result in the following:

	Basic	Machine
Total Overhead Expense .....	\$1,500,000	\$3,000,000
Less Reductions due to Contracting Out .....	500,000	2,000,000
Adjusted Overhead Pool .....	1,000,000	1,000,000

**d. Step 4:** Ascertain the overhead rate to be applied to the remaining effort. The overhead rate will be developed by dividing the adjusted overhead pool developed in Step 3, above, by the adjusted allocation base developed in Step 2, as follows:

	Basic	Machine
Adjusted Overhead Pool (From Step 3) .....	\$1,000,000	\$1,000,000
Adjusted Base of Allocation (From Step 2) .....	\$7,200,000	10,000 hours
Overhead Rate (Pool ÷ Base) .....	13.89%	\$100.00 per hour.

**e. Step 5:** Ascertain the difference between the amount of overhead costs applicable to the effort which is to be continued in-house in both circumstances. In our illustration, this would be done as follows:

Product/service (portion of allocation base)	Basic (direct costs)	Machine
A-1 .....	\$4,500,000	5,000 hours
A-2 .....	2,700,000	5,000 hours
Total (A) .....	\$7,200,000	10,000 hours
Overhead Rates if Performed In-House (From Step 1) (B) .....	16.67%	\$60.00/hours
Overhead Amount if Performed In-House (A)(B) = (C) .....	\$1,200,240	\$600,000
Overhead Rates if Contracted Out (From Step 4) (D) .....	13.89%	\$100.00/hour
Overhead Amount if Contracted Out (A)(D) = (E) .....	\$1,000,000	\$1,000,000
Increase (Decrease) in Overhead Charged to Remaining Products Due to Contracting Out (E)-(C) .....	(\$200,240)	\$400,000

**f.** The increase in cost due to contracting out is the sum of the differences shown above, or \$199,760 [\$400,000 - \$200,240]. This increased cost should be added to the cost of contracting out for the first year in the period of performance, and for each subsequent year unless it is likely that the agency will dispose of or be able to more fully utilize the excess capacity through reorganization or reallocation of work. The supporting documentation should contain the adjustments made to the overhead expense pool and explain how they were computed.

**g.** If the product or service being estimated represents more than 5% of the general and administrative expense allocation base (total costs incurred minus general and administrative expenses), computations similar to those above should also be made for the general and administrative expense



rate. Similarly, the impact of contracting-out a product or service on material overhead should be determined if the material content of the product or service is 5% of the total material costs.

#### G. Federal Taxes—Line 27

1. When comparing the cost to the Government of a product or service obtained by contract with the cost of in-house performance, the potential Federal income tax revenues must be considered. Since contract performance would provide the contractor with income subject to tax, an estimated amount of such taxes is an appropriate deduction from the net cost to the Government of acquiring the product or service by contract, unless the prospective contractor is a tax-exempt organization.

2. To simplify the tax computation, a table (Appendix 1) prepared by the Internal Revenue Service provides, by types of industry, appropriate tax rates in relation to business receipts. The industry groupings conform to the Enterprise Standard Industrial Classification issued by the Department of Commerce. To determine the amount of the estimated Federal income tax, the contract price (line 10 of the Cost Comparison Form) shall be multiplied by the tax rate in Appendix 1, which is applicable to the industry identified with the product or service under consideration. The result of this computation, the estimated amount of Federal income tax, will be entered on line 27 as a deduction from the cost of contracting.

#### H. Other Additions/Deductions

Space has been provided on the Cost Comparison Form for any additions to or deductions from the cost of in-house performance or contracting-out not specifically covered by any of the foregoing classifications of costs (see lines 20, 21, 28, and 29). Amounts entered on these lines should be supported by a definition of the type of cost, a justification for inclusion, a description of the methods of computation used, and if appropriate, a detailed listing of specific cost elements included therein.

### CHAPTER VI—COST DIFFERENTIALS

#### A. General.

Different cost margins have been established by OMB Circular A-76 that must be exceeded before initiating a "new start" (in-house), and before converting an in-house activity to a contract. Details pertaining to these cost margins and the methods by which they are to be determined are set forth in the following paragraphs.

#### B. Conversion—Line 32

1. Conversion, for purposes of OMB Circular A-76 and this Handbook, concerns only a change from in-house to contract performance. The opposite change, that is, from a contract to in-house performance, is considered a "new start" and is covered in paragraph C below. When a possible conversion is being considered, a cost margin equal to 10% of the in-house personnel-related costs must be added to the cost of contracting-out on the Cost Comparison Form. This amount is added to give

consideration in the cost comparison to the loss of production, the temporary decrease in efficiency and effectiveness, and other unpredictable risks that result any time a change is made in the method of operation from in-house to contract. It also takes into consideration the personnel turbulence that results from such a change.

2. Computation of this personnel-related cost margin is identical to the computation of the personnel-related portion of the cost margin for a new start. Accordingly, the personnel-related portion of Steps 1 through 6, below, will be followed to compute the cost margin. The resulting amount will be added to the cost of contracting-out by entry on line 32 of the Cost Comparison Form for each year of the analysis.

#### C. New Start—Line 31

1. A new start, for purposes of OMB Circular A-76 and this Handbook, refers to any activity not currently being done in-house at a particular location. When a comparative cost analysis is conducted for a possible "new start", a cost margin equal to 10% of the estimated Government personnel-related costs plus 25% of the estimated cost of ownership of the required facilities and equipment must be added to the cost of in-house performance on the Cost Comparison Form. For this purpose, ownership costs will be considered to be the product's or service's prorata share of the depreciation and cost of capital that are applicable to the required assets.

2. The margin of 10% of estimated personnel costs is consistent with the margin favoring the status quo in studies of existing Government activities. (See paragraph B, above.) The additional margin, 25% of the cost of ownership of the required facilities and equipment, recognizes the risks inherent in Government investment in industrial facilities, and provides a tangible expression of the basic policy of the circular.

3. The method of computing the cost margin for a "new start" is illustrated in the following steps. Data from the figures provided in sections III, D. and G., as they pertain to Product A-3, will be used to the extent possible. Since these examples do not contain all the data necessary for the computation (e.g., direct labor, material overhead data), certain additional assumptions pertaining to Product A-3 are necessary. These assumptions and the steps in the computation of the cost margin are shown below:

a. *Step 1.* Determine the amount of direct labor applicable to the product or service being estimated. This will be the amount shown on line 3 of the Cost Comparison Form.

Example: For product A-3, this amount is assumed to be \$1,000,000 of its \$1,800,000 direct costs. Based on this assumption, the direct labor amount that would be shown on line 3 is \$1,000,000.

b. *Step 2.* Determine the prorata share of the indirect labor and depreciation contained in each overhead pool that is applicable to the product or service being estimated. The total indirect labor and depreciation contained in each overhead pool should be

readily available from the detail utilized to develop the various overhead rates, which is to be included as supporting documentation.

Example: To the extent data were available in the examples used in various sections of the Handbook, they have been utilized; otherwise, the assumptions made are stated.

(1) *Material Overhead* Assume that \$600,000 of the direct costs of \$1,800,000 shown for Product A-3 in the Operations Overhead section represent direct material costs. This would normally be obtained from line 1 of the Cost Comparison Form. Also, assume that in the material overhead pool there are total indirect labor costs of \$500,000 and depreciation costs of \$100,000; also, the total material costs (direct and indirect) in the allocation base are \$4,800,000. These data should normally be available from the documentation supporting material overhead. The following computation for Product A-3 can then be made.

(a) Determine the ratio of Product A-3's direct material cost to the total allocation base:  $600,000/4,800,000 = 12.5\%$ .

(b) Apply the above ratio to the total indirect labor and depreciation in the material overhead pool to arrive at the amounts thereof applicable to Product A-3:

Indirect Labor,  $\$500,000 \times 12.5\% = \$62,500$ .  
Depreciation,  $\$100,000 \times 12.5\% = \$12,500$ .

(2) *Operations Overhead* From the illustration in the Operations Overhead section, the following data are available:

Total Indirect Labor in Basic Pool	\$1,170,000
Indirect Labor in Machine Pool	\$930,000
Total Depreciation in Basic Pool	\$40,000
Total Depreciation in Machine Pool	\$400,000
Total Allocation Base (direct costs) of Basic Pool	\$9,000,000
Total allocation base (machine hours) of Machine Pool	\$50,000
Direct Costs of Product A-3	\$1,800,000
Machine Hours applicable to Product A-3	\$40,000

(a) The computations for the two pools would be as follows:

*Basic Pool:*  $\$1,800,000/\$9,000,000 = 20\%$ .  
Indirect Labor,  $\$1,170,000 \times 20\% = \$234,000$ .  
Depreciation,  $\$40,000 \times 20\% = \$8,000$ .  
*Machine Pool:*  $40,000 \text{ hours}/50,000$

hours = 80%.  
Indirect Labor,  $\$930,000 \times 80\% = \$744,000$ .  
Depreciation,  $\$400,000 \times 80\% = \$320,000$ .

#### (b) Summary

Total indirect labor in operations overhead applicable to Product A-3 = \$1,078,000.

Total depreciation in operations overhead applicable to Product A-3 = \$328,000.

(3) *General and Administrative (G&A) Expense.* From the illustrations in the G&A Expense section, the following data are available:

Executive, Professional, and Technical Supervision Salaries	\$1,450,000
Clerical and Other Salaries	1,175,000

Total Indirect Labor	\$2,625,000
Total Allocation Base (total cost incurred, exclusive of G&A)	\$51,500,000

#### (a) Assume:

Depreciation included in the \$3,100,000 of Other Expenses is \$100,000.

The total incurred costs, exclusive of G&A, applicable to Product A-3 are \$4,940,000.

(b) Then the computation to determine the indirect labor and depreciation in G&A

applicable to product A-3 would be as follows: \$4,940,000/\$51,600,000=9.6%.

Indirect Labor, \$2,625,000 x 9.6% = \$252,000.

Depreciation, \$100,000 x 9.6% = \$9,600.

c. Step 3. Accumulate all the labor costs applicable to the product or service being estimated, as developed in Steps 1 and 2:

Example:

Direct Labor (from Step 1)	Indirect labor (from Step 2)	
Material Overhead	Operations Overhead	G&A Expense
	\$1,000,000	62,500
	1,078,000	252,000

Total Labor applicable to Product A-3... \$2,392,500

d. Step 4. Apply the fringe benefits rate(s) developed in accordance with section III.C.2. to the labor costs developed in Step 3, above.

Example: Assume a single fringe benefit rate of 38% has been developed. Then, \$2,392,500 x 38% = \$909,150.

e. Step 5. Combine the amounts developed in Steps 3 and 4 to arrive at total personnel-related costs.

Example: \$2,392,500 + \$909,150 = \$3,301,650.

f. Step 6. Compute 10% of the amount developed in Step 5 to determine the personnel-related cost margin.

Example: \$3,301,650 x 10% = \$330,165.

g. Step 7. Accumulate the depreciation applicable to the product or service being estimated as developed in Step 2.

Example: Depreciation from Step 2:

Material Overhead	Operations Overhead	General and Administrative Expense
\$12,500	328,000	9,600

Total depreciation applicable to Product A-3 350,100

h. Step 8. Determine the Cost of Capital that is applicable to the product or service being estimated. The Cost of Capital will be computed in accordance with section V.D. and entered on line 18 of the Cost Comparison Form. Assume the cost of capital applicable to the facilities and equipment required to provide Product A-3 is \$300,000.

i. Step 9. Combine the amounts of Depreciation and Cost of Capital developed in Steps 7 and 8 to arrive at the total ownership cost of the required facilities and equipment.

Example: Amounts Applicable to Product A-3:

Depreciation	Cost of Capital
\$350,100	300,000
Total Ownership Costs \$650,100	

j. Step 10. Compute the ownership cost margin by applying 25% to total ownership costs.

Example: \$650,100 x 25% = \$162,525.

k. Step 11. Combine the personnel-related margin developed in Step 6 and the ownership margin developed in Step 10 to arrive at the total cost margin for a new start.

Example:

Personnel margin	Ownership margin
\$330,165	162,525
Total cost margin for new start \$492,690	

l. Step 12. Enter the cost margin developed in Step 11 on line 31 of the Cost Comparison Form for each year of the analysis.

Appendix 1.—Tax Computation Table

(Tax rates are in relation to business receipts)

Code No.	Industry	Tax Rate (%)
Extractive Industries		
10-01-0400	Agriculture Production	2
10-01-0600	Agricultural Services	1
20-02-1010	Mining Iron Ores	2
20-02-1070	Mining Copper, Lead, Zinc, Gold and Silver Ores	5
20-02-1098	Mining Other Metals	1
20-03-1150	Coal Mining	7
20-05-1430	Sand, Gravel, Dimension, Crushed and broken Stone	2
Construction		
30-08-1510	General building (construction)	1
30-08-1531	Operative builders (construction)	1
30-07-1600	Heavy construction	2
30-08-1711	Plumbing, heating, air-conditioning	1
30-08-1731	Electrical work	1
30-08-1798	Other special trades	1
Manufacturing		
40-09-2010	Meat products	1
40-09-2020	Dairy products	2
40-09-2030	Preserved fruits and vegetables	2
40-09-2040	Grain mill products	2
40-09-2050	Bakery products	1
40-09-2060	Sugar and confectionary products	4
40-09-2089	Bottled soft drinks and flavorings	3
40-09-2096	Other food and kindred products	2
40-12-2315	Men's and Boy's clothing	1
40-12-2345	Women's and children's clothing	1
40-12-2368	Other apparel and accessories	2
40-12-2390	Other fabricated textile products	2
40-13-2415	Logging, sawmills, and planing mills	3
40-13-2430	Millwork, plywood, related products	2
40-13-2498	Other wood products	1
40-14-2500	Furniture and fixtures	2
40-15-2825	Pulp, paper and board mills	4
40-15-2899	Other paper products	4
40-18-2710	Newspapers (printing and publishing)	4
40-18-2720	Periodicals (printing and publishing)	2
40-18-2735	Books, greeting cards, and miscellaneous publishing	3
40-18-2799	Commercial and other printing and printing trade services	2
40-17-2815	Industrial chemicals, plastics materials and synthetics	4
40-17-2830	Drugs	3
40-17-2840	Soap, cleaners, and toilet goods	2
40-17-2850	Paints and allied products	4
40-17-2898	Agricultural and other chemical products	5
40-18-2898	Petroleum and coal products, not elsewhere classified	3
40-18-3050	Rubber products; plastics, footwear, hose and belting	2
40-19-3070	Miscellaneous plastics products	2
40-20-3140	Leather footwear	1
40-20-3198	Leather and leather products not elsewhere classified	2
40-21-3225	Glass products	2
40-21-3240	Cement, hydraulic	2
40-21-3270	Concrete, gypsum, and plaster products	1
40-21-3298	Other nonmetallic mineral products	2
40-22-3370	Ferrous metal industries; miscellaneous primary metal products	3
40-22-3380	Nonferrous metal industries	2
40-23-3410	Metal cans and shipping containers	3
40-23-3428	Cutlery, hand tools, and hardware, screw machine products, bolts, and similar products	4
40-23-3430	Plumbing and heating, except electric and warm air	3
40-23-3440	Fabricated structural metal products	2
40-23-3480	Metal forgings and stampings	2
40-23-3470	Casting, engraving, and allied services	2
40-23-3480	Ordnance and accessories, except vehicles and guided missiles	1
40-23-3490	Miscellaneous fabricated metal products	3
40-24-3520	Farm machinery	2
40-24-3530	Construction and related machinery	3
40-24-3540	Metalworking machinery	3

Manufacturing		
40-24-3550	Special industry machinery	2
40-24-3560	General industrial machinery	2
40-24-3570	Office and computing machines	6
40-24-3598	Other machinery, except electrical	2
40-25-3665	Radio, television, communication equipment	1
40-25-3670	Electronic components and accessories	2
40-25-3698	Other electrical equipment	2
40-26-3710	Motor vehicles and equipment	1
40-27-3725	Aircraft, guided missiles and parts	1
40-27-3730	Ship and boat building and repairing	2
40-27-3798	Other transportation equipment, except motor vehicles	2
40-28-3815	Scientific instruments and measuring devices; watches and clocks	2
40-28-3845	Optical, medical, and ophthalmic goods	4
40-28-3890	Photographic equipment and supplies	7
40-29-3998	Miscellaneous manufacturing and manufacturing not allocable	2
Transportation And Utilities		
50-30-4000	Railroad transportation	2
50-30-4100	Local and interurban passenger transit	1
50-30-4200	Trucking and warehousing	1
50-30-4400	Water transportation	3
50-30-4500	Transportation by air	1
50-30-4800	Pipe lines, except natural gas	5
50-30-4700	Transportation services, not elsewhere classified	1
50-31-4825	Telephones, telegraph, and other communication services	3
50-31-4830	Radio and television broadcasting	5
50-32-4910	Electric services	2
50-32-4920	Gas production and distribution	3
50-32-4930	Combination utility services	1
50-32-4990	Water supply and other sanitary services	2
Wholesale Trade		
61-33-5004	Groceries and related products	1
61-34-5006	Machinery, equipment, and supplies	2
61-35-5010	Motor vehicles and automotive equipment	1
61-35-5030	Lumber and construction materials	1
61-35-5050	Metals and minerals, except petroleum and scrap	2
61-35-5080	Electrical goods	1
61-35-5070	Hardware; plumbing, and heating	1
61-35-5098	Other durable goods	1
61-35-5110	Paper and paper products	1
61-35-5129	Drugs, chemicals, and allied products	2
61-35-5130	Apparel, piece goods, and notions	1
61-35-5150	Farm-product raw materials	1
61-35-5170	Petroleum and petroleum products	1
61-35-5180	Alcoholic beverages	1
61-35-5190	Miscellaneous nondurable goods; wholesale trade not allocable	1
Retail Trade		
62-36-5220	Building materials dealers	1
62-36-5251	Hardware stores	1
62-36-5265	Garden supplies and mobile home dealers	1
62-37-5300	General merchandise stores	1
62-38-5400	Food stores	1
62-39-5541	Gasoline service stations	2
62-39-5598	Other automotive dealers	1
62-40-5600	Apparel and accessory stores	1
62-41-5700	Furniture and home furnishings stores	1
62-42-5800	Eating and drinking places	1
62-43-5912	Drug stores and proprietary stores	1
62-43-5921	Liquor stores	1
62-43-5895	Other retail stores	1
63-44-5897	Wholesale and retail trade not allocable	1
Services		
80-62-7700	Hotels and other lodging places	1
80-53-7200	Personal services	2
80-54-7310	Advertising services	1
80-54-7389	Business services, except advertising	2
80-55-7500	Auto repair and services	1
80-55-7600	Miscellaneous repair services	1
80-56-7612	Motion picture production, distribution, and services	2
80-56-7830	Motion picture theaters	2

Services	
80-55-7900 Amusement and recreation services, except motion pictures	3
80-57-8015 Physicians' services	1
80-57-8021 Dentists' services	0.4
80-57-8050 Nursing and personal care facilities	1
80-57-8071 Medical laboratories	2
80-57-8099 Other medical services	1
80-57-8111 Legal services	0.4
80-57-8200 Educational services	1
80-57-8599 Miscellaneous services, not elsewhere classified	1

## Appendix 2—Glossary of Terms

The definitions presented below are taken from the text of this handbook, procurement regulations, and other authoritative publications.

**Acquisition Cost.** The amount paid to acquire an asset (Chapter III, Operations Overhead).

**Actual Cost.** An amount based on cost incurred as distinguished from estimated costs; includes standard cost properly adjusted for applicable variance (Chapter III, Fringe Benefits).

**Allocate.** To assign an item of cost or a group of items of cost to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool (Chapter III, Operations Overhead).

**Allocation Base.** The denominator in the fraction used to develop an overhead rate. It is either the total of some element of expense (or group thereof) or a quantitative measure that is common to all items or activities to which the indirect costs are to be allocated (Chapter III, Material Overhead, Operations Overhead, G & A Expenses).

**Amortization.** The gradual extinguishment of any amount over a period of time, such as the write-off of a portion or all the cost of an asset, or the retirement of a debt over a period of years (Chapter IV, Government-Furnished Facilities).

**Award-Fee Contract.** A cost reimbursement-type contract with special fee provisions. It provides a means of applying incentives in contracts which are not susceptible to finite measurements of performance necessary for structuring incentive contracts (Chapter IV, Contract Price).

**Basic Labor Rate.** For Wage Board employees, the basic labor rate is the hourly rate to be applied to all hours worked and to all hours of annual leave earned, and sick, holiday and other leave taken. The General Schedule (GS) basic rate is the published annual rate of pay for the particular GS grade and step level (Chapter III, Direct Labor).

**Bill of material.** A detailed listing of the material requirements for performing a service or providing a product (Chapter III, Direct Material).

**Capitalized Cost.** The cost of acquiring, installing and modifying a tangible capital asset that has been added to an asset account (Chapter V, One-Time Costs).

**Cartage.** Transportation from a freight terminal to the point of use or consumption (Chapter V, Transportation).

**Contract Administration Costs.** The costs incurred by the Government in assuring that

a contract is faithfully executed by both the Government and the contractor (Chapter IV, Contract Administration).

**Conversion.** The transfer of work from a Government commercial or industrial activity to performance by a contractor (Chapter V, One-Time Costs).

**Cost Comparison (or Comparative Cost Analysis.)** An accurate determination of whether it is more economical to acquire the needed products or services from the private sector or from an existing or proposed Government commercial or industrial activity (Chapter I, Policy).

**Cost Differentials.** The cost margins established by OMB Circular A-76 that must be exceeded before performing a "new-start" in-house and before converting an in-house activity to contract performance (Chapter VI, Cost Differentials).

**Cost Element.** A basic unit of cost, such as labor or material. The accumulation of all the basic units related to a given product or service provides the total cost of that product or service (Chapter III, General).

**Cost Objective.** A function, organizational subdivision, contract, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc. (Chapter III, General).

**Cost of Capital.** An imputed charge on the Government's investment in all of the plant facilities and other assets necessary for the work center to manufacture products or provide services (Chapter V, Cost of Capital).

**Cost of Capital Committed to Facilities.** An imputed cost determined by applying a cost of money rate to facilities' capital (Chapter V, Cost of Capital).

**Cost Reimbursement Contract.** A type of contract that provides for reimbursement to the contractor of allowable costs incurred in the performance of a contract, to the extent prescribed in the contract (Chapter IV, Contract Price).

**Current Costs.** Costs incurred in the current accounting period (Chapter III, Direct material).

**Current Market Value.** The amount for which an item could be sold in today's market (Chapter V, Cost of Capital).

**Demurrage.** The compensation paid for the delaying of a ship, freight car, etc., as by the failure to load, unload, or dispatch within the time allowed (Chapter IV, Transportation Cost).

**Depreciation.** The method used to spread the cost of tangible capital assets (plant, machinery, etc.), less residual value, over their estimated useful lives in a systematic and logical manner (Chapter III, Operations Overhead).

**Direct Cost.** Any cost which can be identified specifically with a particular final cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs which can be identified specifically with a product/service are direct costs of that product/service. All costs identified specifically with other products/services are direct costs of those products/services. (Chapter III, General).

**Direct Labor.** That portion of salaries and wages which, as a practical matter, can be identified with and charged only to a specific product or service (Chapter III, Direct Labor).

**Direct Material.** The costs of such goods as raw material, parts, sub-assemblies, components and supplies which, as a practical matter, can be identified specifically with the product/service (the final objective) under review (Chapter III, Direct material).

**Double-Counting.** The treatment of certain costs as direct costs of the product/service, while similar costs related to other products/services are treated as indirect costs and a portion thereof is allocated to the product/service for which the estimate is being prepared (Chapter III, General).

**Estimating Cost.** The process of determining a future or past result in terms of costs, based upon information available at the time (Chapter III, General).

**Final Cost Objective.** A cost objective which has allocated to it both direct and indirect costs, and, in the cost accumulation system, is one of the final accumulation points (Chapter III, General).

**Firm-Fixed-Price Contract.** A contract which provides for a price which is not subject to any adjustment by reason of the cost experience of the contractor in performance of the contract (Chapter IV, Contract Price).

**Fiscal Year.** The accounting period for which annual financial statements are regularly prepared. The Government's Fiscal Year begins on October 1, and ends on September 30 (Chapter III, Operations Overhead).

**Fixed Price Contract With Flexible Pricing Arrangements.** This type of contract provides for either a firm-fixed-price for an initial period and for prospective price redetermination at stated times during the performance of the contract or a ceiling price and retroactive price redetermination after completion of the contract (Chapter IV, Contract Price).

**Fringe Benefits.** Allowances and services provided employees as compensation in addition to basic salaries and wages (Chapter III, Fringe Benefits).

**Full Costs.** The total of all direct and indirect costs allocable to a product or service (Chapter III, Direct Material).

**General and Administrative (G&A) Expense.** Any management, financial and other expense which is incurred by or allocated to an organizational unit and which is for the general management and administration of the unit as a whole. G&A expense does not include those management expenses whose beneficial or causal relationship to cost objectives can be more directly measured by a base other than a cost input base representing the total activity of the unit during a cost accounting period. (Chapter III, General and Administrative Expense).

**Government-Furnished Facilities and Equipment.** Facilities and equipment in the possession of or acquired directly by the Government, and subsequently delivered or otherwise made available to the contractor

**(Chapter IV, Government-Furnished Property).**

**Incremental Cost.** The increases or decreases in total cost, or the changes in specific elements of cost, that result from variations in operations (Chapter III, Operations Overhead).

**Indirect Costs.** Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective (Chapter III, General).

**Indirect Cost (Overhead) Pool.** A grouping of incurred (or projected) costs identified with two or more cost objectives but not identified specifically with any final cost objective (Chapter III, Operations Overhead).

**Insurance Costs.** The cost to the Government arising from liabilities and losses not covered by insurance. The costs are incurred in consonance with the Government's policy of acting as a self-insurer (Chapter III, Operations Overhead).

**Interagency Support.** Products or services furnished from the capacity of another Government agency or organization to the agency which will provide the product or service being estimated (Chapter III, Interagency Support).

**Labor Hour Contract.** A variant of the time and material-type contract, differing only in that materials are not supplied by the contractor (Chapter IV, Contract Price).

**Labor-Time Standard.** A preestablished measure expressed in temporal terms, of the quantity of labor required to perform a task (Chapter III, Direct Labor).

**Maintenance and Repair.** Cost incurred to keep buildings and equipment in normal operating condition (Chapter III, Operations Overhead).

**Material Overhead Costs.** Indirect costs related to an activity or group of activities for acquiring, handling, and/or controlling required materials, until the materials are used or consumed in the production of goods and services or are sold without processing (Chapter III, Material Overhead).

**Material-Quantity Standard.** A preestablished measure, expressed in physical terms, of the quantity of material required for a specific purpose (Chapter III, Direct Material).

**New Book Value.** The capitalized cost of an asset or group of assets shown in the accounting records, less accumulated depreciation or other applicable offset (Chapter V, Cost of Capital).

**New Start.** A newly established Government commercial or industrial activity, including a transfer of work from contract to in-house performance (Chapter V, One-Time Costs).

**No-Cost Basis.** The provision of a product or service without charge or remuneration (Chapter III, General and Administrative Expense).

**Nominal Cost.** Cost of a very minor amount (Chapter III, Direct Material).

**One-Time Costs.** The non-recurring costs to the Government when it either starts or discontinues an in-house activity as a result of a decision to change the source of a product or service (Chapter V, One-Time Costs).

**Operations Overhead Costs.** The indirect costs which are necessarily incurred during a fiscal year to produce or deliver the products or services being provided by a particular organizational element (Chapter III, Operations Overhead).

**Opportunity Costs.** Other income, or expense avoidance, foregone by using limited resources for a particular purpose (Chapter V, Cost of Capital).

**Other Direct Costs.** All those direct costs (exclusive of direct labor and direct material) which are identified as having been incurred specifically for a particular product or service (Chapter III, Other Direct Costs).

**Overhead Rate.** A percentage, or monetary unit related to a quantitative measure, derived by dividing an indirect cost pool by an allocation base (Chapter III, General, Material Overhead, Operations Overhead).

**Overtime and Other Premium Pay.** Additional amounts added to basic salaries for working longer than the regularly scheduled hours or under unusual conditions (Chapter III, Operations Overhead).

**Ownership Cost (or Cost of Ownership).** A product's or service's prorata share of the depreciation and cost of capital applicable to the fixed assets required for performance (Chapter VI, New Start).

**Pricing.** The process of establishing the amount or amounts to be paid in return for goods or services (Chapter III, Direct Material).

**Proposal.** Any offer or other submission used as a basis for pricing a contract, contract modification or termination settlement, or for securing payments thereunder (Chapter IV, Contract Price).

**Rent.** The cost incurred for the use of another entity's tangible assets (land, plant and machinery, etc.) in providing the product/service being estimated (Chapter III, Operations Overhead).

**Residual Value.** The proceeds (less removal and disposal costs, if any) realized upon disposition of a tangible capital asset. It usually is measured by the net proceeds from the sale or other disposition of the asset, or its fair value if the asset is traded on another asset (Chapter III, Operations Overhead).

**Standard Costs.** Any cost computed with the use of preestablished measures (Chapter III, Direct Material, Direct Labor).

**Standard Level User Charge (SLUC).** The amount which the General Services Administration (GSA) assesses Federal agencies for their assigned space in GSA-controlled buildings. This SLUC rate is a composite of three ingredients:

- a. the fair annual rental appraisal rate for space, utilities and normal services;
- b. an escalation of this rate; and
- c. an added charge for standard protection.

**Standby Maintenance Costs.** The costs necessary for the upkeep of property held in a standby status to assure contract performance. This maintenance neither adds value to the property nor appreciably prolongs its useful life. Rather, the maintenance keeps the property in an efficient operating condition so that it will be available for possible use in case of nonperformance by the contractor (Chapter IV, Standby Costs).

**Straight-Line Depreciation.** A method of depreciating an asset by charging an equal amount of its depreciable cost (capitalized cost less residual value) to each accounting period covered by its useful life, or by charging an equal amount of its depreciable cost to each hour of use, each product produced, etc. (Chapter III, Operations Overhead).

**Support Costs.** Costs incurred by one organizational unit for the benefit of another (Chapter III, Operations Overhead).

**Surcharge.** An additional amount added to the basic charge to cover expenses incurred in providing the products or services (Chapter III, Direct Material, Material Overhead).

**Tangible Capital Asset.** An asset that has physical substance, more than minimal value, and is expected to be held for continued use or possession beyond the current accounting period (Chapter III, Depreciation).

**Time and Material Contract.** A type of contract which provides for the procurement of supplies and services on the basis of (i) direct labor hours at specified fixed hourly rates (which shall include wages, overhead, general and administrative expense, and profit) and (ii) material at cost, and where appropriate, material handling costs as a part of material cost (Chapter IV, Contract Price).

**Work Center.** The lowest organizational unit at which costs are accumulated (Chapter III, Operations Overhead).

**Work Statement.** A comprehensive description of what is to be done, including performance standards as appropriate. The work statement should describe all duties, tasks, responsibilities, frequency of performance of repetitive functions, and requirements for furnishing facilities and materials (Chapter II, Statement of Work).

### Appendix 3—Chronological Outline of the Cost Comparison Process

**Note.**—The individual or group noted in the parentheses after each step is responsible for completing the action described in the step.

#### PRE-SOLICITATION PERIOD

##### Step and handbook reference

1. Establish a task group and designate a chairman (Approving Authority). II. B.1.
2. Establish an overall plan and schedule (Task Group). II.B.2.
3. Prepare a Statement of Work (Task Group). II.C.
4. Review the Statement of Work (Contracting Officer). II.C.3.

#### SOLICITATION PERIOD

##### Step and handbook reference

5. Issue and publicize a solicitation (Contracting Officer). II.D.1.
6. Prepare bids or proposals (Prospective Contractors). II.D.
7. Prepare the in-house cost estimate (Task Group). \*II.D.2.III.

\* A detailed checklist for completing this process is provided on pages 4-8 of this Appendix.

8. Determine additions to and deductions from the costs of in-house performance (Task Group). \*\* I.D.3.V.

9. Submit bids or proposals (Prospective Contractors) and the in-house estimate (Task Group) to the contracting office by the time and at the place specified in the solicitation. I.D.3.

### BID OPENING/CONCLUSION OF NEGOTIATIONS

*Step and handbook reference*

10. Determine the "contract price" to be entered in Line 10 of the Cost Comparison Form (Contracting Officer). I.D.4.

### COST COMPARISON

*Step and handbook reference*

11. Complete the Cost Comparison Form (Task Group). \*\*\* I.D.5.

12. Review the Cost Comparison Form and associated documentation for conformance to the applicable guidance (Qualified Independent Party). I.D.6.

13. Adjust the Cost Comparison Form and/or data, if necessary (Task Group). I.D.6.

14. Certify the Cost Comparison (Qualified Independent Party). I.D.6.

15. Originate the Decision Summary Form and send it to the Approving Authority with recommendation (Task Group). I.D.7.8.

16. Send the approved Decision Summary Form to the Contracting Officer (Approving Authority). I.D.9.

17. Announce the results of the cost study and allow time for interested parties to review them (Contracting Officer). I.D.9.

### ACTION

*Step and handbook reference*

18. Act on the decision by awarding a contract or by cancelling the solicitation (Contracting Officer). I.D.9.10.

### PREPARE THE IN-HOUSE COST ESTIMATE (Step 7)

*Step and handbook reference*

7.1. Estimate Direct Material Costs by preparing a spread sheet similar to Figure 1, and completing it in accordance with text references. Enter the Total Direct Material Costs in Line 1 of the Cost Comparison Form. III.B.2.

7.2. Estimate Direct Labor Costs, using a spread sheet similar to Figure 3 and the text references. Enter the Total Direct Labor Costs in line 3 of the Cost Comparison Form. III.C.1.

\*\* A detailed checklist for completing this process is provided on pages 9-12 of this Appendix.

\*\*\* A detailed checklist for completing this process is provided on pages 13-17 of this Appendix.

7.3. Estimate any other Direct Costs. Enter the Total amount in Line 6 of the Cost Comparison Form. III.F.

**Note.**— Steps 7.4 through 7.6 involve indirect costs (defined in III.A.1.d.). There are many types of indirect costs, the most common of which are Indirect labor, indirect material and supplies, depreciation, rent maintenance and repair costs, support costs, utilities, insurance, and overtime and other premium pay. Each of these types of indirect costs is described in III.D.4. of the handbook, in the context of Operations Overhead expenses. However, each type is likely to be represented in *all three* overhead pools: Operations Overhead, Material Overhead (see Figure 2) and General and Administrative Expense (see III.G.11.).

7.4. Identify and accumulate Material Overhead costs. III.B.3. Figure 2.

7.5. Identify and accumulate Operations Overhead costs. III.D. Figure 5.

7.6. Identify and accumulate General and Administrative expenses. III.C.

7.7. Estimate the Cost of Fringe Benefits applicable to the product/service being analyzed. III.C.2.

7.7.1. Using the Total Direct Labor Costs (Step 7.1) and the indirect labor costs identified in Steps 7.4, 7.5 and 7.6, prepare and fill in a fringe benefits table similar to the example in Figure 4. Figure 4.

7.7.2. Apply the predetermined factors for retirement and insurance and other benefits to the appropriate total dollar amounts. III.C.2.d.

7.7.3. Apply the actual employer contribution rate for FICA to the applicable labor costs attributable to employees covered by social security. III.C.2.e. Figure 4.

7.7.4. Sum up the costs of retirement, FICA, and insurance and other benefits calculated in Steps 7.7.2 and 7.7.3 to determine total standard fringe benefits. Figure 4.

7.7.5. Estimate the Costs of any additional benefits. III. C.2.f.

7.7.6. Add total standard fringe benefits and additional benefits together to determine Total Fringe Benefits. Figure 4.

7.8. Calculate the Fringe Benefits Rate. III.C.2.g. Figure 4.

7.9. Determine Total Material Overhead Expense by developing a schedule similar to Figure 2 with data developed in Steps 7.4 and 7.6 Figure 2.

7.10. Compute the base for distributing Material Overhead Costs. (This will often be Total Material Costs, which would be the sum of: Direct Material

Costs calculated in Step 7.1; direct material costs associated with all other products/services (those not being reviewed); and indirect material and supplies costs identified in Steps 7.4, 7.5 and 7.6.). III.B.3.d-f.

7.11. Determine the Material Overhead costs applicable to the product/service being estimated. III.B.3.d.

7.11.1. Develop a Material Overhead Rate by dividing Material Overhead Costs (Step 7.9) by the appropriate base (Step 7.10). III.B.3.e.

7.11.2. Apply the Material Overhead Rate (Step 7.11.1.) to Direct Material Costs to determine the Material Overhead Costs allocable to the product/service being estimated. Enter this amount in Line 2 of the Cost Comparison Form. III.B.3.e.

7.12. Determine Operations Overhead costs applicable to the product/service being estimated. III.D.5.

7.12.1. Determine Total Operations Overhead costs by completing a schedule similar to Figure 5, with data developed in Steps 7.5, 7.8 and 7.11.1. III.D. Figure 5.

7.12.2. Establish an appropriate base or bases for the allocation of operations overhead costs to the product/service being estimated. III.D.5.a.

7.12.3. Develop an applicable operations overhead rate or rates by dividing total or the applicable portion of operations overhead dollars (Step 7.12.1) by the amount(s) of the applicable established allocation base(s) (Step 7.12.2). III.D.5.b.

7.12.4. Apply the operations overhead rate(s) to the part the allocation base(s) applicable to the product/service being estimated. This yields the dollar amount of operations overhead allocated to the product/service. If more than one rate/base is involved, sum up the resulting dollar amounts to obtain an overall total. Enter this amount in line 5 of the Cost Comparison Form. Figure 5.

7.13. Determine the General and Administrative expense applicable to the product/service being estimated.

7.13.1. Determine total G & A expense with data developed in Steps 7.8, 7.8 and 7.11.1. III.G.11.a.

7.13.2. Develop the appropriate allocation base (total costs incurred by mission functions of the organization, except for G & A expense). III.G.10. III.G.11.b.

7.13.3. Compute the G & A rate by dividing total G & A expenses (Step 7.13.1) by the allocation base (Step 7.13.2). III.G.11.c.

7.13.4. Apply the G & A rate to the cost of the product/service less G & A

expense. Enter the amount in line 7 of the form. III.G.12.

**7.14. Wrap up the Basic In-House Estimate**

7.14.1. Sum up the entries in lines 1 through 7 of the form for the first year, and enter the total in line 9 under the "first year" column. Exhibit 1.

7.14.2. For each subsequent year, calculate the inflation amount to be entered in line 8. Then sum up lines 1 through 8 and enter the total in line 9. III.H. Exhibit 1.

**DETERMINE ADDITIONS TO AND DEDUCTIONS FROM THE COSTS OF IN-HOUSE PERFORMANCE (Step 8)**

*Step and handbook reference*

8.1. Estimate the cost of capital for assets related to in-house and/or contractor performance of the function(s) being reviewed. V.D.

8.1.1. Decide which of the six possible "use situations" the assets fall into to determine what calculations must be made and which Cost Comparison Form line numbers must be filled in. V.D.2.

8.1.2. For assets to be utilized:

8.1.2.1. Determine the net book value of each tangible capital asset related to performance. Sum these amounts up to calculate the Total Net Book Value of the assets. V.D.3.a.

8.1.2.2. Compute the cost of capital by multiplying the Total Net Book Value by .10. V.D.3.b.

8.1.2.3. Are the assets involved to be used solely to provide the product/service being estimated? V.D.3.b.

—If "Yes", enter the cost of capital computed in Step 8.1.2.2 in the appropriate line(s) of the Cost Comparison Form. V.D.3.b.

—If "No", prorate the cost of capital to determine the cost of capital applicable to the product/service being estimated. Enter this amount in the appropriate line(s) on the Cost Comparison Form. V.D.4.

8.1.3. For assets to be disposed of: V.D.5.

8.1.3.1. Ascertain the current market value of each asset. V.D.5.b.

8.1.3.2. Estimate the costs of disposing of each asset. V.D.5.c.

8.1.3.3. Determine the net value to the government of each asset by subtracting disposal expenses from its market value. Sum up the individual net values to compute Total Estimated Net Value. V.D.5.d.

8.1.3.4. Determine the net book value of each asset. Sum up individual values to compute the Total Net Book Value of the assets. V.D.5.d.

8.1.3.5. Calculate the net estimated gain or loss from the disposal of these

assets by deducting Total Net Book Value (Step 8.1.3.4) from Total Estimated Net Value (Step 6.1.3.3). V.D.5.d.

8.1.3.6. Multiply the gain or loss figure by .10 to ascertain the annual value to the Government of the gain or loss. V.D.5.d.

8.1.3.7. Enter the amount calculated in Step 8.1.3.6 in line 28 of the Cost Comparison Form. V.D.5.d.

8.2. Estimate one-time new-start costs (if applicable). V.E.3.

8.2.1. Estimate the cost of acquiring and installing new facilities and equipment. V.E.3.a.

8.2.2. Estimate the cost of office and plant rearrangements. V.E.3.a.

8.2.3. Estimate the cost of employee recruiting, training, and relocations. V.E.3.a.

8.2.4. Estimate the cost of other actions directly resulting from discontinuing an existing contract. V.F.3.a.

**Note.**—The costs of investment in new facilities and equipment should not be included in one-time new-start costs, but should be annualized in the context of cost of capital and depreciation (see V.E.3.a.).

8.2.5. Sum up the totals of estimates derived in Steps 8.2.1 through 8.2.4 to obtain Total New Start Costs. V.E.3.

8.2.6. Divide the Total New Start Costs by 5 and enter this amount in Line 19. V.E.3.b.

8.3. Estimate any other costs of in-house performance. Enter the aggregate amount of such costs in line 20 of the form. V.H.

8.4. Estimate any deductions from the cost of in-house performance which are not covered by any of the Handbook's cost classifications. Enter the total amount in line 21. V.H.

8.5. Total the additions and deductions to obtain the amount to be entered in line 22 of the form. Exhibit 1.

8.6. Determine the new-start cost differential (if applicable). (Follow steps 1 through 12 in the text, paragraph VI.C.3.) Enter the total cost margin in line 31 of the form. VI.C. Exhibit 1.

8.7. Calculate the adjusted cost of in-house performance. Enter the amount in line 33 of the form. Exhibit 1.

**COMPLETE THE COST COMPARISON FORM (Step 11)**

*Step and Handbook reference*

11.1. Determine the cost of transportation the Government will provide in connection with the product/service being obtained by contract. Enter this total in line 11. IV.C.

11.2. Determine the cost of Contract Administration by applying 4% to the

contract price. Enter this amount in line 12 of the Form. IV.D.

11.3. Determine the cost of Government furnished property. IV.E.

11.3.1. Determine the costs connected with the contractor's use of Government-furnished materials and supplies. IV.E.3.

11.3.2. Determine the cost connected with the contractor's use of Government-furnished facilities and equipment. IV.E.4

11.3.3. Sum up the totals derived in Steps 11.3.1 and 11.3.2 to determine the total cost of Government-Furnished Property. Enter this total in line 13. IV.E.2.

11.4. Determine standby maintenance costs (see Steps 11.9.2.1-5).

11.5. Determine the amount of any other costs which would result from contracting-out. Enter the total amount of such costs in line 15. IV.G.

11.6. Determine the in-house G&A expenses associated with contracting-out by applying the G&A rate developed in Step 7.13.3 to the total of lines 11 through 14 on the form. Enter this amount in line 16. IV.H.

11.7 Sum up lines 10 through 16 and enter the total in line 17 (after completing Steps 11.9.2.3 through 11.9.2.5, if applicable). Exhibit 1.

11.8 Determine Additions to and deductions from the Costs of Contracting.

11.8.1 The Cost of Capital to be entered in line 23 was determined in Step 8.1.

11.8.2 Estimate one-time conversion costs (if applicable). V.E.4.

11.8.2.1 Estimate material-related costs of conversion. V.E.4.b.

11.8.2.1.1 Determine how excess material will be disposed of. V.E.4.b.

11.8.2.1.2 Estimate the gain or loss on the sale of material expected to be sold. V.E.4.b.(3)

11.8.2.1.3 Determine the cost of transferring any material to the contractor by following Steps 11.3.1 through 11.3.3. V.E.4.b.(1)

11.8.2.1.4 Estimate the additional costs to be incurred in making any material available for other uses in the Government. V.E.4.b.(2)

11.8.2.1.5 Sum up totals derived in Steps 11.8.2.1.2 through 11.8.2.1.4.

11.8.2.2 Estimate labor-related costs of conversion. V.E.4.c.

11.8.2.3 Estimate other costs of conversion. V.E.4.d.

11.8.2.4 Sum up amounts calculated in Steps 11.8.2.1.5, 11.8.2.2, and 11.8.2.3 for a conversion cost subtotal.

11.8.2.5 Multiply the conversion cost subtotal (Step 11.8.2.4) by the G&A rate

developed in Step 7.13.3 to arrive at applicable G&A costs. V.E.4.e.

11.8.2.6 Add the conversion cost subtotal (Step 11.8.2.4) to applicable G&A costs (Step 11.8.2.5) for total one-time costs related to conversion. V.E.4.f.

11.8.2.7 Divide this total (Step 11.8.2.6) by 5. Enter the one-fifth figure in line 25.

11.9 Estimate the impact of Conversion on utilization of Government capacity.

11.9.1 Determine what will happen to the existing work center if a contract is awarded. V.F.

—Will it be completely idle? If so, go on to Step 11.9.2.

—Will it operate at reduced capacity? If so, go on to Step 11.9.3.

—Will it operate at the same or increased capacity? If so, go on to Step 11.9.4.1.

11.9.2 Determine whether work center facilities will be disposed of or placed in standby status. V.F.2.

11.9.2.1 For facilities which will be disposed of, calculate the opportunity cost to be added to the Government's in-house estimate. V.D.

11.9.2.2. For facilities that will be placed in standby status, estimate standby costs to be added to the costs of contracting out by following Steps 11.9.2.3 through 11.9.2.5. V.F.2.

11.9.2.3. Estimate the cost, if any, of preparing facilities and equipment for standby status. IV.F.3.

11.9.2.4. Estimate the cost of holding facilities and equipment in a standby status (standby maintenance cost). This should include depreciation. IV.F.

11.9.2.5 Add preparation cost (Step 11.9.2.3) to standby maintenance costs (Step 11.9.2.4) to determine total estimate standby costs. Enter this amount in line 14. IV.F.3.4.

11.9.3. Determine costs attributable to underutilized capacity. V.F.5.

11.9.4.1. Estimate the proceeds or costs of disposing of any government assets related to the replacement product/service. V.F.3.

11.9.4.2. Estimate the rental costs which will be avoided as a result of transferring the replacement product/service. V.F.3.

11.9.4.3. Add final totals derived in Steps 11.9.4.1 and 11.9.4.2 for total savings (or total additional cost) resulting from transferring the replacement product/service. Enter this total in line 24. V.F.3.

11.10. Estimate the amount of Federal tax payable on the contract price. Enter this amount in line 27 as a deduction from the cost of contracting. IV.G.

Appendix 1.

11.11. Estimate any other costs of contracting out. Enter the total amount of such costs in line 26. V.H.

11.12. Estimate any other costs which should be *deducted* from the cost of contracting out, but are not covered by any of the Handbook's classifications of costs. Enter the total amount in line 29. V.H.

11.13. Determine the conversion cost differential (if applicable). VI.B.

11.13.1. Follow steps 1 through 6 in text paragraph VI. C.3. VI.C.3.

11.13.2. Enter the conversion cost margin (i.e., the personnel-related cost margin calculated in Step 6 of VI.C.3.) in line 32 of the Form. VI.B.2.

[FR Doc. 79-10386 Filed 4-4-79; 8:45 am]

BILLING CODE 3110-01-M

## 1983 OMB Circular A-76



*Federal Bureau of Investigation*

Mr. Robert W. Knapp, Unit Chief,  
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*Federal Communications Commission*

Mr. Richard Goodfriend, Management  
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Communications Commission, 1919  
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Washington, D.C. 20554; (202) 632-  
7513

*Federal Emergency Management Agency*

Ms. Gail Kercheval, Management  
Planning Staff, Office of  
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Emergency Management Agency, 500  
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*Federal Home Loan Bank Board*

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Chief, Federal Home Loan Bank  
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377-6030

*Federal Trade Commission*

Mr. Richard Casazza, Code XDSA,  
Federal Trade Commission, 6th and  
Pennsylvania Avenue, N.W.,  
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Ms. Frances Clark, Office of  
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N.W., Room 6022A, General  
Services Administration,  
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0100

*Department of Health and Human Services*

Mr. Frank Proden, Office of  
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Logistics, Department of Health and  
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Avenue, S.W., Hubert Humphrey  
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*Department of Housing and Urban Development*

Mr. Mike Franklin, Office of  
Procurement and Contracts,  
Department of Housing and Urban  
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S.W., Room 5260, Washington, D.C.  
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*Department of the Interior*

Ms. Cecil Bouchard, Division of  
Acquisition and Grants, Department  
of the Interior, Room 5529,  
Washington, D.C. 20240; (202) 343-  
3348

*International Communications Agency*

Mr. Charles N. Canestro,  
Management, Plans and Analysis

Staff, International Communications  
Agency, 400 C Street, S.W.,  
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8676

*Interstate Commerce Commission*

Mr. Vergil L. Schultz, Chief, Section of  
Administrative Services, Office of  
the Managing Director, Interstate  
Commerce Commission, Room 1315,  
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7236

*Internal Revenue Service*

Mr. Edwin Murphy, Internal Revenue  
Service, Contracts and  
Procurements (PM:S:FM:C), 1111  
Constitution Avenue, N.W.,  
Washington, D.C. 20224; (202) 566-  
9140

*International Trade Commission*

Mr. Richard Arnold, Director, Finance  
and Budget, International Trade  
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(202) 523-0035

*Department of Justice*

Mr. Larry Silvis, Assistant Director,  
Procurement and Contracts Staff,  
Department of Justice, Room 6213,  
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3217

*Department of Labor*

Mr. Theodore Goldberg, Director,  
Office of Procurement and Grant  
Policy, Department of Labor, 200  
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C4311, Washington, D.C. 20210;  
(202) 523-9174

*Department of the Navy*

*For Copies:* Office of the Comptroller,  
Program/Budget Coordination  
Branch, (NCBG-2), Room 4C640,  
Pentagon, Washington, D.C. 20350,  
Autovon 225-6598 or (202) 695-6598  
*Questions:* Mr. Peter Cirafici, CNO  
(OP-443), 1300 Wilson Boulevard,  
Room 802, Arlington, Virginia 22209,  
Autovon 224-0880 or (202) 694-0880

*National Aeronautics and Space Administration*

Mr. Donald L. Hess, Institutional  
Program Analysis Division,  
National Aeronautics and Space  
Administration (Code BI-5), Room  
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*National Credit Union Administration*

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*National Science Foundation*

Mr. William H. Ward, Division of  
Finance, National Science  
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*Nuclear Regulatory Commission*

Mr. Robert E. Loach, Resources

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Washington, D.C. 20555; (202) 492-  
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*Office of Personnel Management*

Mr. Bruce Fredrics, Office of Planning  
and Evaluation, Office of Personnel  
Management, 1900 E Street, N.W.,  
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*Railroad Retirement Board*

Mr. J. D. Farr, Bureau of Supply and  
Service, U.S. Railroad Retirement  
Board, 844 Rush Street, Chicago,  
Illinois 60611; FTS 8-387-4520

*Small Business Administration*

Mr. Richard Sadowski, Administrative  
Officer, Small Business  
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*Department of State*

Mr. John F. Perdew, Director, OPR/ST,  
Department of State, Room 532, SA/  
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235-9512

*Tennessee Valley Authority*

Mr. James L. McAnally, Chief,  
Financial Management Staff,  
Tennessee Valley Authority, 400  
West Summit Hill Drive, Knoxville,  
Tennessee 37902; FTS 8-856-6960

*Department of Transportation*

Mr. Angelo Picillo, Deputy Director of  
Installations and Logistics,  
Department of Transportation, 400  
Seventh Street, S.W., Washington,  
D.C. 20590; (202) 426-4243

*Department of the Treasury*

Mr. Robert Howard, Office of  
Management and Organization,  
Department of the Treasury, Room  
4418, Washington, D.C. 20220; (202)  
566-2463

*Veterans Administration*

Mr. Clyde C. Cook, Assistant Deputy  
Administrator for Procurement and  
Supply (90), Veterans  
Administration, 810 Vermont  
Avenue, N.W., Washington, D.C.  
20420; (202) 389-3808

**OMB Contacts**

Mr. David Muzio, Mr. Curt Holland, or  
Ms. Lee Miller, Office of Federal  
Procurement Policy, Office of  
Management and Budget, 726 Jackson  
Place, N.W., Room 9013, Washington,  
D.C. 20503, telephone (202) 395-6810.

**Candice C. Bryant,**

*Deputy Associate Director for  
Administration.*

**August 4, 1983.**

**[Circular No. A-76 (revised)]**

To: The Heads of Executive Departments and  
Establishments

Subject: Performance of Commercial Activities

1. *Purpose.* This Circular establishes Federal policy regarding the performance of commercial activities. The Supplement to the Circular sets forth procedures for determining whether commercial activities should be performed under contract with commercial sources or in-housing using Government facilities and personnel.

2. *Rescission.* OMB Circular No. A-76 (revised), dated March 29, 1979; Transmittal Memoranda 1 through 7; Supplement No. 1 to the Circular, dated March 1979.

3. *Authority.* The Budget and Accounting Act of 1921 (31 U.S.C. 1 *et seq.*), and the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 *et seq.*).

4. *Background.*

a. In the process of governing, the Government should not compete with its citizens. The competitive enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength. In recognition of this principle, it has been and continues to be the general policy of the Government to rely on commercial sources to supply the products and services the Government needs.

b. This national policy was promulgated through Bureau of the Budget Bulletins issued in 1955, 1957, and 1960. OMB Circular No. A-76 was issued in 1966. The Circular was revised in 1967 and again in 1979.

5. *Policy.* It is the policy of the United States Government to:

a. *Achieve Economy and Enhance Productivity.* Competition enhances quality, economy, and productivity. Whenever commercial sector performance of a Government operated commercial activity is permissible, in accordance with this Circular and its Supplement, comparison of the cost of contracting and the cost of in-house performance shall be performed to determine who will do the work.

b. *Retain Governmental Functions In-House.* Certain functions are inherently governmental in nature, being so intimately related to the public interest as to mandate performance only by Federal employees. These functions are not in competition with the commercial sector. Therefore, these functions shall be performed by Government employees.

c. *Rely on the Commercial Sector.* The Federal Government shall rely on commercially available sources to provide commercial products and services. In accordance with the provisions of this Circular, the Government shall not start or carry on any activity to provide a commercial product or service if the product or service can be procured more economically from a commercial source.

6. *Definitions.* For purposes of this Circular:

a. A *commercial activity* is one which is operated by a Federal executive agency and which provides a product or service which could be obtained from a commercial source. A commercial activity is not a Governmental function. A representative list of such activities is provided in Attachment A. A commercial activity also may be part of an organization or a type of work that is separable from other functions or activities and is suitable for performance by contract.

b. A *conversion to contract* is the changeover of an activity from Government performance to performance under contract by a commercial source.

c. A *conversion to in-house* is the changeover of an activity from performance under contract to Government performance.

d. A *commercial source* is a business or other non-Federal activity located in the United States, its territories and possessions, the District of Columbia or the Commonwealth of Puerto Rico, which provides a commercial product or service.

e. A *Governmental function* is a function which is so intimately related to the public interest as to mandate performance by Government employees. These functions include those activities which require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Government. Services or products in support of Governmental functions, such as those listed in Attachment A, are commercial activities and are normally subject to this Circular. Governmental functions normally fall into two categories:

(1) *The act of governing;* i.e., the discretionary exercise of Government authority. Examples include criminal investigations, prosecutions and other judicial functions; management of Government programs requiring value judgments, as in direction of the national defense; management and direction of the Armed Services; activities performed exclusively by military personnel who are subject to deployment in a combat, combat support or combat service support role; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

(2) *Monetary transactions and entitlements,* such as tax collection and revenue disbursements; control of the treasury accounts and money supply; and the administration of public trusts.

f. A *cost comparison* is the process of developing an estimate of the cost of Government performance of a commercial activity and comparing it, in accordance with the requirements in Parts II, III, and IV of the Supplement, to the cost to the Government for contract performance of the activity.

g. *Directly affected parties* are Federal employees and their representative organizations and bidders or offerors on the instant solicitation.

7. *Scope.*

a. Unless otherwise provided by law, this Circular and its Supplement shall apply to all executive agencies and shall provide administrative direction to heads of agencies.

b. This Circular and its Supplement apply to printing and binding only in those agencies or departments which are exempted by law from the provisions of Title 44 of the United States Code.

c. This Circular and its Supplement shall not:

(1) Be applicable when contrary to law, Executive Orders, or any treaty or international agreement;

(2) Apply to Governmental functions as defined in paragraph 6.e.;

(3) Apply to the Department of Defense in times of a declared war or military mobilization;

(4) Provide authority to enter into contracts;

(5) Authorize contracts which establish an employer-employee relationship between the Government and contractor employees. An employer-employee relationship involves close, continual supervision of individual contractor employees by Government employees, as distinguished from general oversight of contractor operations. However, limited and necessary interaction between Government employees and contractor employees, particularly during the transition period of conversion to contract, does not establish an employer-employee relationship. Additional guidance on this subject is provided in the Federal Personnel Manual issued by the Office of Personnel Management;

(6) Be used to justify conversion to contract solely to avoid personnel ceilings or salary limitations;

(7) Apply to the conduct of research and development. However, severable in-house commercial activities in support of research and development, such as those listed in Attachment A, are normally subject to this Circular and its Supplement; or

(8) Establish and shall not be construed to create any substantive or procedural basis for anyone to challenge any agency or inaction on the basis that such action or inaction was not in accordance with this Circular, except as specifically set forth in Part I, Chapter 2, paragraph I of the Supplement, "Appeals of Cost Comparison Decisions."

8. *Government Performance of a Commercial Activity.* Government performance of a commercial activity is authorized under any of the following conditions:

a. *No Satisfactory Commercial Source Available.* Either no commercial source is capable of providing the needed product or service, or use of such a source would cause unacceptable delay or disruption of an essential program. Findings shall be supported as follows:

(1) If the finding is that no commercial source is capable of providing the needed product or service, the efforts made to find commercial sources must be documented and made available to the public upon request. These efforts shall include, in addition to consideration of preferential procurement programs (see Part I, Chapter 3, paragraph C of the Supplement), at least three notices describing the requirement in the *Commerce Business Daily* over a 90-day period or, in cases of *bona fide* urgency, two notices over a 30-day period. Specifications and requirements in the solicitation shall not be unduly restrictive and shall not exceed those required of in-house Government personnel or operations.

(2) If the finding is that a commercial source would cause unacceptable delay or disruption of an agency program, a written explanation, approved by the assistant secretary or designee in paragraph 9.a. of the Circular, must show the specific impact on an agency mission in terms of cost and performance. Urgency alone is not adequate reason to continue in-house operation of a commercial activity. Temporary disruption resulting from conversion to contract is not sufficient support for such a finding, nor is the possibility of a strike by contract employees. If the commercial activity has ever been performed by contract, an explanation of how the instant circumstances differ must be documented. These decisions must be made available to the public upon request.

(3) Activities may not be justified for in-house performance solely on the basis that the activity involves or supports a classified program or the activity is required to perform an agency's basic mission.

**b. National Defense.**

(1) The Secretary of Defense shall establish criteria for determining when Government performance of a commercial activity is required for national defense reasons. Such criteria shall be furnished to the Office of Federal Procurement Policy, OMB, upon request.

(2) Only the Secretary of Defense or his designee has the authority to exempt commercial activities for national defense reasons.

**c. Patient Care.** Commercial activities performed at hospitals operated by the Government shall be retained in-house if the agency head, in consultation with the agency's chief medical director, determines that in-house performance would be in the best interests of direct patient care.

**d. Lower cost.** Government performance of a commercial activity is authorized if a cost comparison prepared in accordance with Parts II, III and IV of the Supplement demonstrates that the Government is operating or can operate the activity on an ongoing basis at an estimated lower cost than a qualified commercial source.

**9. Action Requirements.** To ensure that the provisions of this Circular and its Supplement are followed, each agency head shall:

a. Designate an official at the assistant secretary or equivalent level and officials at a comparable level in major component organizations to have responsibility for implementation of this Circular and its Supplement within the agency.

b. Establish one or more offices as central points of contacts to carry out implementation. These offices shall have access to all documents and data pertinent to actions taken under the Circular and its Supplement and will respond in a timely manner to all requests concerning inventories, schedules, reviews, results of cost comparisons and cost comparison data.

c. Be guided by OFPP Policy Letter No. 78-3, "Requests for Disclosure of Contractor-Supplied Information Obtained in the Course of a Procurement," in considering requests for information supplied by contractors.

d. Implement this Circular and its Supplement within 90 days after its issuance

with a minimum of internal instructions. Cost comparisons shall not be delayed pending issuance of such instructions. Copies of the implementing instructions and any subsequent changes, the appeals procedure required in Part I, Chapter 2, paragraph I of the Supplement, and the names of the designated officials in paragraph 9.a. and the offices in paragraph 9.b. will be forwarded to the Office of Federal Procurement Policy, OMB.

e. Ensure the initial reviews of all existing in-house commercial activities are completed in accordance with Part I, Chapter 1, paragraph C.1. of the Supplement by September 30, 1987.

**10. Annual Reporting Requirement.** No later than March 15 of each year, agencies shall submit to the Office of Federal Procurement Policy a report on the implementation of OMB Circular No. A-76, in accordance with instructions in Part I, Chapter 4 of the Supplement.

**11. OMB Responsibility and Contact Point.** All questions or inquiries should be submitted to the Office of Management and Budget, Office of Federal Procurement Policy, 726 Jackson Place, NW, Room 9013, Washington, DC 20503. Telephone number (202) 395-6810.

**12. Effective Date.** This Circular and its Supplement are effective immediately, but need not be applied where a cost comparison was begun, using the March 1979 Circular, prior to the effective date.

**13. Review.** The policy in this Circular will be reviewed no later than four years from the date of issuance.

David A. Stockman,  
*Director.*

**Attachment A—**

**Examples of Commercial Activities<sup>1</sup>**

*Audiovisual Products and Services*

- Photography (still, movie, aerial, etc.)
- Photographic processing (developing, printing, enlarging, etc.)
- Film and videotape production (script writing, direction, animation, editing, acting, etc.)
- Microfilming and other microforms
- Art and graphics services
- Distribution of audiovisual materials
- Reproduction and duplication of audiovisual products
- Audiovisual facility management and operation
- Maintenance of audiovisual

<sup>1</sup> This list should be used in conjunction with the policy and procedures of the Circular to determine an agency's A-76 commercial activities inventory. It has been compiled primarily from examples of commercial activities currently contracted or operated in-house by agencies. It should not be considered exhaustive, but should be considered an aid in identifying commercial activities. For example, some Federal libraries are primarily recreational in nature and would be deemed commercial activities. However, the National Archives or certain functions within research libraries might not be considered commercial activities. Agency management must use informed judgment on a case-by-case basis in making these decisions.

equipment

*Automatic Data Processing*

ADP services—batch processing, time-sharing, facility management, etc.

Programming and systems analysis, design, development, and simulation

Key punching, data entry, transmission, and teleprocessing services

Systems engineering and installation  
Equipment installation, operation, and maintenance

*Food Services*

Operation of cafeterias, mess halls, kitchens, bakeries, dairies, and commissaries

Vending machines

Ice and water

*Health Services*

Surgical, medical, dental, and psychiatric care

Hospitalization, outpatient, and nursing care

Physical examinations

Eye and hearing examinations and manufacturing and fitting glasses and hearing aids

Medical and dental laboratories

Dispensaries

Preventive medicine

Dietary services

Veterinary services

*Industrial Shops and Services*

Machine, carpentry, electrical, plumbing, painting, and other shops

Industrial gas production and recharging

Equipment and instrument fabrication, repair and calibration

Plumbing, heating, electrical, and air conditioning services, including repair

Fire protection and prevention services

Custodial and janitorial services

Refuse collection and processing

*Maintenance, Overhaul, Repair, and Testing*

Aircraft and aircraft components

Ships, boats, and components

Motor vehicles

Combat vehicles

Railway systems

Electronic equipment and systems

Weapons and weapon systems

Medical and dental equipment

Office furniture and equipment

Industrial plant equipment

Photographic equipment

Space systems

*Management Support Services*

Advertising and public relations services

Financial and payroll services

Debt collection

*Manufacturing, Fabrication, Processing, Testing, and Packaging*  
 Ordnance equipment  
 Clothing and fabric products  
 Liquid, gaseous, and chemical products  
 Lumber products  
 Communications and electronics equipment  
 Rubber and plastic products  
 Optical and related products  
 Sheet metal and foundry products  
 Machined products  
 Construction materials  
 Test and instrumentation equipment

*Office and Administrative Services*  
 Library operations  
 Stenographic recording and transcribing  
 Word processing/data entry/typing services  
 Mail/messenger  
 Translation  
 Management information systems, products and distribution  
 Financial auditing and services  
 Compliance auditing  
 Court reporting  
 Material management  
 Supply services

*Other Services*  
 Laundry and dry cleaning  
 Mapping and charting  
 Architect and engineer services  
 Geological surveys  
 Cataloging  
 Training—academic, technical, vocational, and specialized  
 Operation of utility systems (power, gas, water, steam, and sewage)  
 Laboratory testing services

*Printing and Reproduction*  
 Facility management and operation  
 Printing and binding—where the agency or department is exempted from the provisions of Title 44 of the U.S. Code  
 Reproduction, copying, and duplication  
 Blueprinting

*Real Property*  
 Design, engineering, construction, modification, repair, and maintenance of buildings and structures; building mechanical and electrical equipment and systems; elevators; escalators; moving walks  
 Construction, alteration, repair, and maintenance of roads and other surfaced areas  
 Landscaping, drainage, mowing and care of grounds  
 Dredging of waterways

*Security*  
 Guard and protective services  
 Systems engineering, installation, and maintenance of security systems and individual privacy systems  
 Forensic laboratories

*Special Studies and Analyses*  
 Cost benefit analyses  
 Statistical analyses  
 Scientific data studies  
 Regulatory studies  
 Defense, education, energy studies  
 Legal/litigation studies  
 Management studies

*Systems Engineering, Installation, Operation, Maintenance, and Testing*  
 Communications systems—voice, message, data, radio, wire, microwave, and satellite  
 Missile ranges  
 Satellite tracking and data acquisition  
 Radar detection and tracking  
 Television systems—studio and transmission equipment, distribution systems, receivers, antennas, etc.  
 Recreational areas  
 Bulk storage facilities

*Transportation*  
 Operation of motor pools  
 Bus service  
 Vehicle operation and maintenance  
 Air, water, and land transportation of people and things  
 Trucking and hauling

[FR Doc. 83-22469 Filed 8-15-83; 8:45 am]

BILLING CODE 3110-01-M

## OFFICE OF PERSONNEL MANAGEMENT

### Privacy Act of 1974; Publication of Notices of Systems of Records

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice; publication of notices of systems of records.

**SUMMARY.** The purpose of this notice is to meet the requirement of the Privacy Act of 1974, as amended by the Congressional Reports Elimination Act of 1982 (Pub. L. 97-375), regarding the publication of an agency's notices of systems of records when the system is established or when revisions are made to an existing system.

**DATES:** Except for a revised routine use which appears in several systems and a new routine use proposed for the OPM/GOVT-2 system, the other changes described in this notice become effective on August 16, 1983. The revised and one new routine use will become effective, without further notice, on September 30, 1983, unless comments dictate otherwise.

**ADDRESS:** Written comments may be sent or delivered to: Assistant Director for Workforce Information, Room 5431, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

**FOR FURTHER INFORMATION CONTACT:** William H. Lynch, Workforce Records Management Division, (202) 632-5433.

**SUPPLEMENTARY INFORMATION:** Under the Privacy Act of 1974, as amended by Pub. L. 97-375 agencies are required to publish a notice of the systems of records they maintain that are subject to the Act only when that agency is establishing a new system or when it substantively alters an existing system. A substantive change to an existing system is one which would also require a "Report on New Systems" and is described in the Office of Management and Budget's Circular A-108, Transmittal Memorandum No. 1 and No. 3. Thus, a change to the system notice that does not also require such a report need only be described in a Federal Register notice, without the necessity of publishing the complete text of the notice. For the convenience of individual data subjects and other interested parties, the Office is including in this notice a citation of the Federal Register issue where the complete text of all of the Office's system notices last appeared.

On January 22, 1982 (47 FR 3231), the Office published a proposal to modify an existing system, identified as OPM/GOVT-1, General Personnel Records, and to establish a new system of records to be identified as OPM/GOVT-2, Employee Performance File System Records. The notice inadvertently omitted a statement that the changes and the new system would become effective, without further notice, 60 days from the date of publication, i.e., on March 22, 1982. Due to an administrative oversight, no notice has been published concerning the adoption of those proposals. Since that notice indicated that the records covered by the new OPM/GOVT-2 would continue to be covered by OPM/GOVT-1 until the new system became operational, the records described in the notice have always been covered for purposes of the Privacy Act. The Office hereby formally announces the adoption of the changes to OPM/GOVT-1 and the new OPM/GOVT-2 system of records as proposed.

With the adoption of OPM/GOVT-2, two Internal record systems maintained by the Office became unnecessary as the records included in those systems are now covered by OPM/GOVT-2. Therefore the Office is deleting the OPM/Internal-10 system, Employee Production Records, and the OPM/Internal-11 system, Investigator Performance Records from its inventory of systems and reserving those identifiers for possible future use. Additionally, the Office is deleting the

## 1992 OMB Policy Letter

characterized by the Department of Energy (DOE) for its suitability as the possible location of a permanent repository for civilian spent fuel and defense high-level waste. The workshop, which is open to the public, will be held at the Stouffer Concourse Hotel, 3801 Quebec Street, Denver, Colorado 80207; (303) 399-7500.

The workshop tentatively has four sessions, each of which will consist of a brief status update by DOE staff and/or contractors followed by informal round-table discussion. Tentative session topics include (1) the baseline ESF—approaches to developing the baseline configuration and alternative strategies; (2) exploration and testing—the definition of early exploration and testing, and how the ESF can best be used to accomplish key elements of the site-suitability and site-characterization programs; (3) management and acquisition strategies—a review of alternatives for obtaining early delivery of construction at minimum cost; and (4) a summary and wrap-up of recommendations for a preferred alternative for obtaining early access to the underground.

The Board has invited representatives from the DOE and its contractors and from the construction industry to the workshop. Expert consultants to the Board also will be attending.

Transcripts of the workshop will be available on a library-basis from Victoria Reich, Board librarian, beginning December 17, 1992. For further information, contact Paula N. Alford, Director, External Affairs, Nuclear Water Technical Review Board, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235-4473.

Dated: September 25, 1992.

William Barnard,

Executive Director, Nuclear Technical Review Board.

[FR Doc. 92-23738 Filed 9-29-92; 8:45 am]

BILLING CODE 6820-AM-M

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

#### Policy Letter on Inherently Governmental Functions

**AGENCY:** Office of Management and Budget, Executive Office of the President, Office of Federal Procurement Policy.

**ACTION:** Policy letter on inherently governmental functions.

**SUMMARY:** The Office of Federal Procurement Policy (OFPP) publishes

today the final version of a policy letter providing guidance to Executive Departments and agencies on (1) what functions are inherently governmental functions that must only be performed by Government officers and employees and (2) what contractible functions so closely support Government officers and employees in their performance of inherently governmental functions that the terms and performance of those contracts require closer scrutiny from Federal officials. This policy letter has been developed because executive agencies, members of Congress, the General Accounting Office, and the public have from time to time either requested guidance regarding, or inquired about, the propriety of awarding contracts for certain types of functions or administering contracts in certain ways. Previous guidance on this issue has also not been as detailed as that which we now provide.

**FOR FURTHER INFORMATION CONTACT:**

Richard A. Ong, Deputy Associate Administrator, Office of Federal Procurement Policy, 725 17th Street, NW.—Suite 9001, Washington, DC 20503 (202) 395-7209. To obtain a copy of this policy letter, please call OMB's Publications Office at (202) 395-7332.

**SUPPLEMENTARY INFORMATION:**

*Comments received.* We received 34 comments in response to our proposed policy letter published in the *Federal Register* on December 18, 1991 (56 Fed. Reg. 65279): Eight from industry or trade groups, four from private individuals, two from employee organizations, one from a Federally funded research and development center, and 19 from Government agencies.

1. *Purpose of the policy letter.* This policy letter on inherently governmental functions is being published to provide guidance on what kinds of functions, as a matter of policy, must be performed by officials of the Executive Branch of the United States and what kinds of functions may be performed by private persons under contract with the Federal Government.

Previous guidance on these matters that has been available to the Executive Branch has not been detailed and sometimes Federal agencies have permitted contractors to perform functions that should be performed by Government personnel. We now provide more detailed guidance.

2. *Relationship of policy letter to other OFPP publications on service contracting.* This policy letter is also one of several that the Office of Federal Procurement Policy (OFPP) has published recently that have focused on some aspect of service contracting in the

Federal Government. At this time, OFPP has determined it is best to deal with individual aspects of service contracting rather than trying to publish comprehensive guidance in one document. We will consider collecting all of the guidance on service contracts in one document in the future.

Thus, we do not cover in detail in this policy letter such matters as cost effectiveness of contracting for services, conflicts of interest of service contractors, and management of service contracts. These issues are dealt with in OMB Circular No. A-76, Performance of Commercial Activities, August 4, 1983 (under revision); OFPP Policy Letter 89-1, Conflict of Interest Policies Applicable to Consultants, 54 FR 51805 (December 18, 1989); OFPP Memorandum for Agency Senior Procurement Executives, Government-Wide Guidance on Contract Administration (March 15, 1991); OFPP Policy Letter 91-2, Service Contracting, 56 FR 15110 (April 15, 1991); proposed OFPP Policy Letter 92-\_\_\_\_\_, Past Performance Information, 56 FR 63988 (December 6, 1991); and proposed OFPP Policy Letter of 92-\_\_\_\_\_, Management of Service Contracting, 56 FR 66091 (December 20, 1991).

3. *Relationship to OMB Circular No. A-76.* One commenter asked that we make clear our apparent intent to clarify rather than alter the guidance originally found in OMB Circular No. A-76 on inherently governmental functions. That is our intent. No fundamental change is intended.

We have altered the form of the original Circular A-76 definition of an inherently governmental function in the interest of clarity. Specific examples cited in the original A-76 definition have been incorporated into appendix A and a list of the general principles underlying the selection of the functions listed in that appendix has been added in their stead.

The terms "function" and "activity" as used in this policy letter and Circular A-76, respectively, are interchangeable.

The same commenter above suggested that we add a new appendix C, containing a nonexclusive list of functions that are commercial activities that should be contracted. We have not adopted this suggestion because the scheme proposed is the same one we have implicitly adopted. The proposed appendix C is nothing more than the list of examples of commercial activities found as an Attachment to Circular A-76. We do not believe it is necessary to incorporate that A-76 attachment in this policy letter. The fact that we have not provided this appendix C thus should



not be construed as narrowing the scope of functions that have been contracted in the past. Nonetheless, we have added language to section 5 to clarify the relationship between Circular A-76 and this policy letter on this point.

Another commenter stated that the relationship between this policy letter and Circular A-76 is unclear. This policy letter is to be the exclusive source of guidance on what constitutes, as a matter of policy, an inherently governmental function.

4. *Libraries.* Several persons questioned the inclusion of library operations as a ministerial function that should be contracted out in subsection 7(a) of the December version of the policy letter. The fact that employees render professional services in performing a function does not mean that the function in question is necessarily inherently governmental. In fact, the Government frequently seeks out contract services precisely because of the level of sophistication required to perform a particular function. On the other hand, agencies may determine that aspects of their library operations, such as handling certain types of information in certain circumstances, involve performance of an inherently governmental function. Therefore, we have removed the reference to libraries.

5. *Contract audits for inspectors general.* One commenter suggested that Federal inspector general (IG) work should be done by using Government resources, with exceptions justified on a case-by-case basis, unless specific technical expertise is needed temporarily and is not available within the Government. This suggestion was not adopted because (1) Congress has specifically authorized the use of contract auditors in ¶ 6(a)(9) of the Inspector General Act codified at 5 U.S.C. App. 3, and (2) financial and compliance audit activities are not considered inherently governmental functions.

Another commenter questioned whether subsection 12(g) of Appendix A pertaining to the determination of whether contract costs are reasonable, allocable, and allowable proscribes the use of contract audit services. It does not. The decision on what costs are reasonable, allocable, and allowable is ultimately a Government decision, but that decision may be based on recommendations made by contract auditors. Certified public accountants, for example, only render "opinions" and contracts sometimes provide that audit reports are advisory only. Moreover, the use of contract auditors has been authorized by Congress, as noted above.

6. *Agency determinations.* One commenter interpreted the policy letter as authorizing Federal managers to make a final determination on whether a function is an inherently governmental function, under this policy letter, without such determination's being subject to being overturned by the Office of Management and Budget (OMB) or being subject to a cost comparison study under Circular A-76. In general, agencies are expected to make their own determinations, subject to oversight by OMB. Language has been added to subsection 7(c) to clarify this point.

7. *Agency discretion.* One commenter questioned the need for the language in former subsection 7(e) regarding agency discretion to award nonpersonal service contracts. We agree it is unnecessary. It is already clear that awarding a contract is an agency responsibility.

8. *Incorporation in OMB Circular No. A-76, other documents.* Several commenters suggested that the policy letter be incorporated in Circular A-76, "Commercial Activities," currently being revised. We did not incorporate this suggestion because A-76 is already a lengthy document. Also, contracting for inherently governmental functions is indeed a consideration in contracting out, but it is not unique to the A-76 program. All Federal officials who contract for nonpersonal services must consider the problem of inherently governmental functions, and we thus believe separate guidance applicable to all such contracting, not just to nonpersonal service contracting in the A-76 context, is the better alternative. Other commenters urged that the policy letter be combined with one or more other OFPP policy letters, such as those on conflict of interest, service contracting, and past performance and published in a form other than a policy letter. This suggestion has merit but we believe it best to try to deal with discrete portions of service contracting rather than to try to deal with all facets of a complex problem at once, as discussed in point 2, above.

9. *Agency discretion regarding resource allocation.* One commenter suggested we should address the issues of the future balance between official and contractor workforce in the performance of "basic governmental work," the specific expertise needed to manage the contractor workforce now or in the future, where this expertise should be located, and the way in which it can be maintained. We believe this is a matter for agencies themselves to determine, given their knowledge of their mission, their resources, the kinds of services they wish to contract, and

the size of their service contracting effort. We merely highlight the problem of lack of oversight as a loss of Government control and require agencies to be aware of their existing oversight responsibilities. They are, however, to use their own discretion to figure out how to manage their contracts.

10. *Evaluation of proposals.* One commenter believes there is an apparent conflict between former subsection 14(b) in appendix A and section 8 of appendix B. There is no conflict as new subsection 12(b) refers to participation as a voting member on source selection boards only.

11. *Appendix B. controls.* The same commenter also suggested that appendix B should contain a discussion of possible controls that the Government should employ to prevent the functions listed there from being perceived as inherently governmental function. We do not believe this is necessary, as any function that is in appendix B is by definition not an inherently governmental function.

12. *Applicability to nonpersonal services.* Three commenters questioned why the policy letter applies only to nonpersonal service contracts. Upon consideration, we have accordingly deleted the definition of "service contract" in section 5. No useful purpose is served by defining "personal services" differently from the FAR and no harm arises from having the policy letter apply to the minimal number of true personal service contracts. Personal service contracts that are really personnel appointments are excluded from the coverage of the policy letter. Thus, FAR 37.102(b) need not be amended as a result of this policy letter.

13. *Subcontractors.* Commenters questioned whether subsection 12(d) of appendix A should apply to subcontractors. It does not and clarifying language has been added.

14. *Supplies or services purchased by prime contractors.* Some commenters questioned the apparent effect of subsection 12 in appendix A of preventing contractors from buying supplies and services for their own account. It is not the intent of this policy letter to prevent contractor mess halls from buying food to be prepared for military personnel. Nor does it affect what or how contractors buy to be incorporated into supplies or services to be delivered to the Government. Similarly, contractors may purchase supplies or services for the Government while acting within reasonable Government guidelines. Section 12 is

only meant to address the Government's direct acquisition of supplies or services.

15. *Independent judgement.* The emphasis placed on independent judgement by this policy letter does not preclude the wholesale adoption of contractor advice, opinions, recommendations, ideas, or conclusions. They merely may not be adopted, in whole or in part, without officials' first exercising independent judgement.

16. *Duties of contracting officers.* We have added language to section 8 to spell out the analytical steps to be followed by contracting officers seeking to comply with this policy letter.

17. *Risk of injury to the public.* One commenter stated that the definition of an inherently governmental function does not clearly address the danger to the public interest when a function is contracted out and the public is at risk if contractors, such as fire fighters or military support contractors, fail or refuse to act in time of crisis. The risk of injury to the public is an important consideration. We believe, however, that ¶7(b)(5) appropriately identifies this point as a consideration in determining whether a function is, as a matter of policy, an inherently governmental function. The decision to include several of the functions listed in appendix A reflects an underlying concern for this risk.

18. *Binding nature of decisions.* This same commenter noted that it is an overstatement to say that the use of discretion (referred to in what is now subsection 7(a) of the policy letter) must have the effect of committing the Government to a course of action. This is because a scientific consulting firm, for example, could submit a study that would have a tremendous impact or regulations or other agency actions but would not necessarily lead to a commitment to a course of action.

We have addressed the element of discretion in subsection 7(a) to convey the idea that the mere existence of the element of discretion is not determinative of whether, as a matter of policy, an inherently governmental function is involved. Moreover, it is useful to observe that a study that has a tremendous impact is not per se a bad thing. A study may have that effect because of its great merit. We should be concerned, however, when a study is allowed to proceed to the point where alternative views, solutions, research, or conclusions, and so forth, cannot realistically be included or taken into account. In this case, the contractor has in effect made all important decisions. Section 7(b)(3) addresses this issue.

19. *Federally funded research and development centers (FFRDCs).* One

commenter stated that while profit-making contractors can perform functions listed in appendix B, the policy letter should cross-reference FAR 35.017 pertaining to FFRDCs and "recognize that FFRDCs are an equally viable source of expertise requiring less rigorous oversight." We have not adopted this suggestion. We do not agree that FFRDCs necessarily require less oversight. We do recognize, however, that they are dealt with in detail in FAR Part 35 and that its provisions may suffice to enable satisfactory agency oversight of FFRDCs. Whether fewer or additional control measures are necessary to ensure agency control over FFRDCs is a matter for agencies to decide in the circumstances of each case.

20. *Architect-engineer evaluation boards.* This same commenter questioned whether section 3, which states that services obtained by personnel appointments and advisory committees are not covered by this policy letter, could be construed to prohibit private individuals appointed to architect-engineer source evaluation boards in accordance with FAR 36.602 from voting. To the extent such boards are advisory committees, the policy letter is not applicable to them. If they are not, the commenter makes an excellent point. FAR 36.602-4 makes clear that the agency is to make the final selection and FAR 36.602-3(d) provides for the evaluation board to set out in its report the considerations upon which its recommendations were based. This is an acceptable mechanism and we have accordingly revised subsection 12(b) of appendix A and section 14 of appendix B to make clear that it is selection of sources that is the most sensitive function. Contractor activities that result in recommendations and that explain how those recommendations were arrived at adequately preserve agency options. A related change has been made in subsection 7(f) stating that requiring contractors to explain how they arrived at their recommendations is another available control measure.

21. *Factors to consider in totality of the circumstances—(a) Complexity and oversight.* One commenter questioned the inclusion of ¶7(d)(2) of the proposed policy letter relating to the complexity of the task to be performed. Upon consideration, we conclude that complexity is better considered in conjunction with the provision that was at 7(d)(12) relating to oversight procedures, resources, and practices. We have amended paragraph 12 accordingly and moved it, as well as the provision in former ¶7(d)(4) relating to the duration of the contract, to new

subsection 7(d). Post-award responsibilities. This was done to remove questions relating to contract oversight from the "totality of the circumstances" test. It is important to understand that, if an agency has inadequate oversight procedures or poor oversight practices, the underlying function of any agency contract affected by these deficiencies is not thereby transformed into an inherently governmental function. As the totality test focuses on the nature of the function in question and as there can be a transfer of oversight responsibility even if the underlying function is contractible, the issue of de facto transfer of control should therefore be dealt with elsewhere. (Note that a transfer of contract management responsibility to the contractor is explicitly not permitted by appendix A, subsection 12(e).)

(b) *Ultimate user of contractor work product.* Several commenters questioned the inclusion of this factor at ¶7(d)(3) of the proposed policy letter. We agree it should be taken out. Who will use the contractor's work product is important and this has bearing on how much management attention to give to the contract, but it doesn't say anything about the nature of the underlying function or the adequacy of agency contract administration.

(c) *Review of contractor action.* The same commenter questions the advisability of including a factor (new ¶7(d)(5)) that relates to the finality of any contractor's adjudication of any claim and the type of agency review of contractor adjudications. We see no problem with agencies' providing for contractor adjudication of claims so long as citizens know that they have a right of recourse to agency decisionmakers if they are dissatisfied with the decision of the contractor. (Note, however, that certain kinds of hearings may still not be conducted by contractors, e.g., hearings to determine the eligibility of any person for a security clearance, or hearings involving actions that affect matters of personal reputation or eligibility to participate in Government programs. See appendix A, section 14.)

Thus, we distinguish between, on the one hand, holding hearings and making recommendations and, on the other, retaining the authority to issue the final adjudicatory decision. Contractors may perform the former functions so long as there is adequate oversight, agencies retain the authority to issue the final decision, and the public has a right to insist that the agency make the final decision, if it so desires. This is easier to understand if one views the contractor's action as more of an advisory action



than one that binds the claimant with only limited opportunities to change the result before the agency. Note that in the absence of an appeal by a claimant, the agency need not rule on each contractor decision or ruling. It should, of course, inspect or sample contractor decisions or rulings from time to time to ensure that contractors comply with agency guidelines and procedures.

(d) *Limiting or extinguishing discretion.* The same commenter noted that our speaking in terms of contractor limiting or extinguishing discretion in former §7(d)(5) could mistakenly create the impression that some of the Government's authority can be exercised by a contractor. The policy letter attempts to clarify this issue at subsection 7(a).

(e) *Public perception.* Several commenters questioned the inclusion of this factor at §7(d)(11) of the proposed policy letter, believing that public perception is too ambiguous a concept. We agree. A function can probably be analyzed in the light of other factors listed without the need to resort to the concept of perceptions. Appendix A of the policy letter is itself an up-to-date listing that already takes into account the factor of public perceptions. The paragraph has been deleted.

(f) *Laws applicable to the Civil Service.* Several commenters questioned the inclusion of this factor at §7(d)(13) of the proposed policy letter. We agree and have deleted this factor. The considerations listed may be relevant to what good contract management should require by way of contract conditions, but they don't say anything about the nature of the function or the adequacy of agency contract administration practices.

(g) *Record keeping requirement.* One commenter found the meaning of paragraph 7(d)(15) of the proposed policy letter unclear. This factor was included to cover situations such as a contractor's providing aircraft-related training. If the contractor proves to be incompetent or negligent, the fact that the contractor did maintain or was required to maintain records of who was trained permits corrective action to be taken, such as locating improperly trained students and requiring retraining. If records are not maintained, the Government cannot exercise ultimate control because it cannot correct any errors. Nonetheless, the provision appears to have only limited application and has been deleted.

22. *Collection of fees.* Two commenters questioned the provisions of section 20 of appendix A of the proposed policy letter prohibiting collection of fees or other public

moneys, pointing out that contractors in mess halls for military personnel currently collect charges for meals and Department of Housing and Urban Development (HUD) contractors collect fees from purchasers of HUD properties. We have modified the policy letter to enable routine collection of fees where good cash management practices and other controls are in effect, where there is little danger of miscalculating the amount of money ultimately due the Government, and where there is little difficulty in obtaining payment. For example, a contractor could have discretion to determine that a family seeking entrance to a park consists of four people rather than three, and that one of the four is a child under 12, but the contractor would not have the discretion to determine the amount of the fee to be paid by each person in a particular category. HUD contractors may also collect fees from purchasers of HUD properties in accordance with subsection 17(a) of appendix A. We also make clear that routine voucher and invoice examination by contractors is an acceptable practice.

23. *Contract for one function or several.* One commenter questioned whether the policy letter reflects our belief that only contracts with multiple functions are susceptible to confusion with respect to inherently governmental functions. This is not our belief. The policy letter is intended to provide guidance with respect to discrete functions regardless of whether there is a mixture of several functions in a contract or there is only one function that is being contracted.

24. *Post-award responsibilities.* Section 7(e) has been amended to make clear that agency contract oversight is to ensure contractor performance in accordance with the terms of the contract, but that oversight must not be exercised so as to create a personal service contract. Language from subsection 7(d) of the proposed policy letter has been moved to subsection 7(e), as explained in section 21, above.

25. *Drafting of Congressional testimony, responses to Congressional correspondence, and agency responses to audit reports from an Inspector General, the General Accounting Office, or other Federal audit entity.* Two commenters questioned whether contractors should be able to draft Congressional testimony, subject to ultimate agency approval. Approval is a key power reserved to any official and we by no means agree that officials do or will approve contractor work in a perfunctory manner. We have nonetheless reexamined this issue and, because of the importance of

Congressional testimony and correspondence and of agency responses to audit reports, we are now deciding, as a matter of policy, that these documents should not be drafted by contractors. We have thus added a new subsection (c) to the body of the policy letter to this effect. We deleted the relative portions of appendix A because we do not believe that drafting documents per se is an inherently governmental function and failing to exercise sufficient oversight with respect to drafting of such documents does not transform the underlying function into an inherently governmental function, as noted in subsection 21(a), above. Contractor reports, conclusions, summaries, analyses, and other work products may, of course, still be quoted or otherwise referenced in Congressional testimony, correspondence, responses to audit reports, or set out in such things as attachments, appendices, or enclosures thereto.

26. *Reliance on contractor support.* One commenter called attention to our statement in section 4 of the policy letter that agencies "award service contracts for various reasons, such as to acquire special skills not available in the Government or to meet the need for intermittent services." The commenter pointed out that "support service" contractors have come to serve as the permanent workforce for many programs" seemingly implying that our statement does not take this into account. In fact, our statement is an accurate one, citing only two of the reasons why agencies award service contracts as examples. Contracting actions under Circular A-76 are also a reason why agencies award service contracts.

Whatever the reason for using service contracts to accomplish agency missions, it is important to understand that agency use of service contracts is limited by our policy letter in two ways: the function must not be an inherently governmental function, and if it is not, the agency must be able to exercise effective oversight of any contract awarded. We make clear that management of a contract is just as important as deciding whether the contract may properly be awarded in the first place.

Our policy letter is limited in scope and does not focus on why agencies use service contracts. Rather we are concerned that service contracts, when used, are used only when contractors may perform the functions in question and when agencies have the resources to manage the contracts. It is true that

agencies have sometimes contracted functions that we have listed in the policy letter as inherently governmental functions, and it is true that they have sometimes failed to recognize that they were not exercising effective oversight over nongovernmental functions that has been contracted. Nonetheless, effective corrective action has been taken by the agencies in the past when oversight problems were identified.

Additional problems in this area will probably arise in the future. Even the General Accounting Office recognized the difficulty in defining inherently governmental functions and providing guidance to agencies on the subject. Are Service Contractors Performing Inherently Governmental Functions?, GAO/GGD-92-11, November 1991, p. 3. We have every reason to expect, however, that because our guidance is much more detailed than anything that was available to agencies in the past there will be fewer instances of problems in this area. We thus disagree strongly with the commenter that the policy letter is a mere exhortation to better management.

27. *Other issues.* One commenter also suggested that we should address whether "contractors who perform work historically performed by civil servants should be subjected to comparable limitations on pay and rules of conduct;" measurement of the short-term and long-term costs of reliance on contractors versus officials; whether Superfund and the savings and loan bailout programs "provide models for public management of the next bailout or cleanup program;" and the "practical meaning that we will give to the concept of 'public service' as the Federal Government heads into the 21st century."

The concept of work "historically performed" by civil servants is not useful because a function may have been performed by civil servants in the past for reasons other than the belief that the function was inherently governmental. In fact, the premise of Circular No. A-76 is that many functions historically performed by Government employees can more appropriately be performed by the private sector.

We believe that competition is the most powerful force available to keep costs down, even though there may be instances where this will not be so. In such instances, determinations shall be made in accordance with Circular No. A-76.

Measurement of the short-term and long-term costs of reliance on contractors versus officials is an aspect of cost effectiveness of service contracts and need not be dealt with here. Similarly, the efficacy of the Superfund

and savings and loan programs is a matter beyond the scope of this policy letter.

So far as the practical meaning of the concept of public service is concerned, this policy letter attempts to identify those functions that, as a matter of policy, should only be performed by Government officials and those that may be performed by service contractors. If our taxonomy and analytical methods are sound, our policy letter should define what public service entails in terms of the functions that officials must perform for the foreseeable future.

28. *Acknowledgement.* Finally, we wish to acknowledge our reliance on the excellent work of the Environmental Protection Agency in our drafting of the appendices to this policy letter. Also, the comments we received were all exceptionally well thought out. We are most grateful for the time, effort, and imagination that went into the preparation of those comments.

Dated: September 23, 1992.

Allan V. Burman,  
Administrator.  
Policy Letter 92-1

To the Heads of Executive Departments and Establishments

Subject: Inherently Governmental Functions  
September 23, 1992.

1. *Purpose.* This policy letter establishes Executive Branch policy relating to service contracting and inherently governmental functions. Its purpose is to assist Executive Branch officers and employees in avoiding an unacceptable transfer of official responsibility to Government contractors.

2. *Authority.* This policy letter is issued pursuant to subsection 6(a) of the Office of Federal Procurement Policy (OFPP) Act, as amended, codified at 41 U.S.C. 405(a).

3. *Exclusions.* Services obtained by personnel appointments and advisory committees are not covered by this policy letter.

4. *Background.* Contractors, when properly used, provide a wide variety of useful services that play an important part in helping agencies to accomplish their missions. Agencies use service contracts to acquire special knowledge and skills not available in the Government, obtain cost effective services, or obtain temporary or intermittent services, among other reasons.

Not all functions may be performed by contractors, however. Just as it is clear that certain functions, such as the command of combat troops, may not be contracted, it is also clear that other functions, such as building maintenance and food services, may be contracted. The difficulty is in determining which of these services that fall between these extremes may be acquired by contract. Agencies have occasionally relied on contractors to perform certain functions in such a way as to raise questions about whether Government policy is being created by private persons. Also, from time to time

questions have arisen regarding the extent to which de facto control over contract performance has been transferred to contractors. This policy letter provides an illustrative list of functions, that are, as a matter of policy, inherently governmental (see appendix A), and articulates the practical and policy considerations that underlie such determinations (see section 7).

As stated in section 9, however, this policy letter does not purport to specify which functions are, as a legal matter, inherently governmental, or to define the factors used in making such legal determinations. Thus, the fact that a function is listed in appendix A, or a factor is set forth in section 7(b), does not necessarily mean that the function is inherently governmental as a legal matter or that the factor would be relevant in making the legal determination.

5. *Definition.* As a matter of policy, an "inherently governmental function" is a function that is so intimately related to the public interest as to mandate performance by Government employees. These functions include those activities that require either the exercise of discretion in applying Government authority or the making of value judgements in making decisions for the Government. Governmental functions normally fall into two categories: (1) The act of governing, i.e., the discretionary exercise of Government authority, and (2) monetary transactions and entitlements.

An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as to:

(a) Bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(b) Determine, protect, and advance its economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(c) Significantly affect the life, liberty, or property of private persons;

(d) Commission, appoint, direct, or control officers or employees of the United States; or

(e) Exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of appropriated and other Federal funds.

Inherently governmental functions do not normally include gathering information for or providing advice, opinions, recommendations, or ideas to Government officials. They also do not include functions that are primarily ministerial and internal in nature, such as building security; mail operations; operation of cafeterias; housekeeping; facilities operations and maintenance, warehouse operations, motor vehicle fleet management and operations, or other routine electrical or mechanical services.

The detailed list of examples of commercial activities found as an attachment to Office of Management and Budget (OMB) Cir. No. A-76 is an authoritative, nonexclusive list of functions that are not inherently

governmental functions. These functions therefore may be contracted.

6. *Policy*—(a) *Accountability*. It is the policy of the Executive Branch to ensure that Government action is taken as a result of informed, independent judgments made by Government officials who are ultimately accountable to the President. When the Government uses service contracts, such informed, independent judgment is ensured by:

(1) Prohibiting the use of service contracts for the performance of inherently governmental functions (See appendix A);

(2) Providing greater scrutiny and an appropriate enhanced degree of management oversight (see subsection 7(f)) when contracting for functions that are not inherently governmental but closely support the performance of inherently governmental functions (see appendix B);

(3) Ensuring, in using the products of those contracts, that any final agency action complies with the laws and policies of the United States and reflects the independent conclusions of agency officials and not those of contractors who may have interests that are not in concert with the public interest, and who may be beyond the reach of management controls otherwise applicable to public employees; and

(4) Ensuring that reasonable identification of contractors and contractor work products is made whenever there is a risk that the public, Congress, or other persons outside of the Government might confuse them with Government officials or with Government work products, respectively.

(b) *OMB Circular No. A-76*. This policy letter does not purport to supersede or otherwise effect any change in OMB Circular No. A-76, Performance of Commercial Activities.

(c) *Drafting of Congressional testimony, responses to Congressional correspondence, and agency responses to audit reports from an Inspector General, the General Accounting Office, or other Federal audit entity*. While the approval of a Government document is an inherently governmental function, its drafting is not necessarily such a function. Accordingly, in most situations the drafting of a document, or portions thereof, may be contracted, and the agency should review and revise the draft document, to the extent necessary, to ensure that the final document expresses the agency's views and advances the public interest. However, even though the drafting function is not necessarily an inherently governmental function, it may be inappropriate, for various reasons, for a private party to draft a document in particular circumstances. Because of the appearance of private influence with respect to documents that are prepared for Congress or for law enforcement or oversight agencies and that may be particularly sensitive, contractors are not to be used for the drafting of Congressional testimony; responses to Congressional correspondence; or agency responses to audit reports from an Inspector General, the General Accounting Office, or other Federal audit entity.

7. *Guidelines*. If a function proposed for contract performance is not found in appendix A, the following guidelines will

assist agencies in understanding the application of this policy letter, determining whether the function is, as a matter of policy, inherently governmental and forestalling potential problems.

(a) *The exercise of discretion*. While inherently governmental functions necessarily involve the exercise of substantial discretion, not every exercise of discretion is evidence that such a function is involved. Rather, the use of discretion must have the effect of committing the Federal Government to a course of action when two or more alternative courses of action exist (e.g., purchasing a minicomputer rather than a mainframe computer, hiring a statistician rather than an economist, supporting proposed legislation rather than opposing it, devoting more resources to prosecuting one type of criminal case than another, awarding a contract to one firm rather than another, adopting one policy rather than another, and so forth).

A contract may thus properly be awarded where the contractor does not have the authority to decide on the course of action to be pursued but is rather tasked to develop options to inform an agency decision maker, or to develop or expand decisions already made by Federal officials. Moreover, the mere fact that decisions are made by the contractor in performing his or her duties (e.g., how to allocate the contractor's own or subcontract resources, what techniques and procedures to employ, whether and whom to consult, what research alternatives to explore given the scope of the contract, what conclusions to emphasize, how frequently to test) is not determinative of whether he or she is performing an inherently governmental function.

(b) *Totality of the circumstances*. Determining whether a function is an inherently governmental function often is difficult and depends upon an analysis of the facts of the case. Such analysis involves consideration of a number of factors, and the presence or absence of any one is not in itself determinative of the issue. Nor will the same emphasis necessarily be placed on any one factor at different times, due to the changing nature of the Government's requirements.

The following factors should be considered when deciding whether award of a contract might effect, or the performance of a contract has effected, a transfer of official responsibility:

(1) Congressional legislative restrictions or authorizations.

(2) The degree to which official discretion is or would be limited, i.e., whether the contractor's involvement in agency functions is or would be so extensive or his or her work product is so far advanced toward completion that the agency's ability to develop and consider options other than those provided by the contractor is restricted.

(3) In claims adjudication and related services.

(i) The finality of any contractor's action affecting individual claimants or applicants, and whether or not review of the contractor's action is *de novo* (i.e., to be effected without the appellate body's being bound by prior legal rulings or factual determinations) on appeal of his or her decision to an agency official;

(ii) The degree to which contractor activities may involve wide-ranging interpretations of complex, ambiguous case law and other legal authorities, as opposed to being circumscribed by detailed laws, regulations, and procedures;

(iii) The degree to which matters for decision by the contractor involve recurring fact patterns or unique fact patterns; and

(iv) The contractor's discretion to determine an appropriate award or penalty.

(4) The contractor's ability to take action that will significantly and directly affect the life, liberty, or property of individual members of the public, including the likelihood of the contractor's need to resort to force in support of a police or judicial function; whether force, especially deadly force, is more likely to be initiated by the contractor or by some other person; and the degree to which force may have to be exercised in public or relatively uncontrolled areas. (Note that contracting for guard, convoy security, and plant protection services, armed or unarmed, is not proscribed by these policies.)

(5) The availability of special agency authorities and the appropriateness of their application to the situation at hand, such as the power to deputize private persons.

(6) Whether the function in question is already being performed by private persons, and the circumstances under which it is being performed by them.

(c) *Finality of agency determinations*. Whether or not a function is an inherently governmental function, the purposes of this policy letter, is a matter for agency determination. However, agency decisions that a function is or is not an inherently governmental function may be reviewed, and, if necessary, modified by appropriate OMB officials.

(d) *Preaward responsibilities*. Whether a function being considered for performance by contract is an inherently governmental function is an issue to be addressed prior to issuance of the solicitation.

(e) *Post-award responsibilities*. After award, even when a contract does not involve performance of an inherently governmental function, agencies must take steps to protect the public interest by playing an active, informed role in contract administration. This ensures that contractors comply with the terms of the contract and that Government policies, rather than private ones, are implemented. Such participation should be appropriate to the nature of the contract, and should leave no doubt that the contract is under the control of Government officials. This does not relieve contractors of their performance responsibilities under the contract. Nor does this responsibility to administer the contract require Government officials to exercise such control over contractor activities as to convert the contract, or portion thereof, to a personal service contract.

In deciding whether Government officials have lost or might lose control of the administration of a contract, the following are relevant considerations: the degree to which agencies have effective management procedures and policies that enable

meaningful oversight of contractor performance, the resources available for such oversight, the actual practice of the agency regarding oversight, the duration of the contract, and the complexity of the tasks to be performed.

(f) *Management controls.* When functions described in appendix B are involved, additional management attention to the terms of the contract and the manner of performance is necessary. How close the scrutiny or how extensive or stringent the management controls need to be is for agencies to determine. Examples of additional control measures that might be employed are:

(1) Developing carefully crafted statements of work and quality assurance plans, as described in OFPP Policy Letter 91-2, Service Contracting, that focus on the issue of Government oversight and measurement of contractor performance;

(2) Establishing audit plans for periodic review of contracts by Government auditors;

(3) Conducting preaward conflict of interest reviews to ensure contract performance in accordance with objective standards and contract specifications;

(4) Physically separating contractor personnel from Government personnel at the worksite; and

(5) Requiring contractors to (a) submit reports that contain recommendations and that explain and rank policy or action alternatives, if any, (b) describe what procedures they used to arrive at their recommendations, (c) summarize the substance of their deliberations, (d) report any dissenting views, (e) list sources relied upon, and/or (f) otherwise make clear the methods and considerations upon which their recommendations are based.

(g) *Identification of contractor personnel and acknowledgement of contractor participation.* Contractor personnel attending meetings, answering Government telephones, and working in other situations where their contractor status is not obvious to third parties must be required to identify themselves as such to avoid creating an impression in the minds of members of the public or the Congress that they are Government officials, unless, in the judgment of the agency, no harm can come from failing to identify themselves. All documents or reports produced by contractors are to be suitably marked as contractor products.

(h) *Degree of reliance.* The extent of reliance on service contractors is not by itself a cause for concern. Agencies must, however, have a sufficient number of trained and experienced staff to manage Government programs properly. The greater the degree of reliance on contractors the greater the need for oversight by agencies. What number of Government officials is needed to oversee a particular contract is a management decision to be made after analysis of a number of factors. These include, among others, the scope of the activity in question; the technical complexity of the project or its components; the technical capability, numbers, and workloads of Federal oversight officials; the inspection techniques available; and the importance of the activity. Current contract administration resources shall not be

determinative. The most efficient and cost effective approach shall be utilized.

(i) *Exercise of approving or signature authority.* Official responsibility to approve the work of contractors is a power reserved to Government officials. It should be exercised with a thorough knowledge and understanding of the contents of documents submitted by contractors and a recognition of the need to apply independent judgment in the use of these work products.

8. *Responsibilities—(a) Heads of agencies.* Heads of departments and agencies are responsible for implementing this policy letter. While these policies must be implemented in the Federal Acquisition Regulation (FAR), it is expected that agencies will take all appropriate actions in the interim to develop implementation strategies and initiate staff training to ensure effective implementation of these policies.

(b) *Federal Acquisition Regulatory Council.* Pursuant to subsections 6(a) and 25(f) of the OFPP Act, as amended, 41 U.S.C. 405(a) and 421(f), the Federal Acquisition Regulatory Council shall ensure that the policies established herein are incorporated in the FAR within 210 days from the date this policy letter is published in the *Federal Register*. Issuance of final regulations within this 210-day period shall be considered issuance "in a timely manner" as prescribed in 41 U.S.C. 405(b).

(c) *Contracting officers.* When requirements are developed, when solicitations are drafted, and when contracts are being performed, contracting officers are to ensure:

(1) That functions to be contracted are not among those listed in appendix A of this letter and do not closely resemble any functions listed there;

(2) That functions to be contracted that are not listed in appendix A, and that do not closely resemble them, are not inherently governmental functions according to the totality of the circumstances test in subsection 7(b), above;

(3) That the terms and the manner of performance of any contract involving functions listed in appendix B of this letter are subject to adequate scrutiny and oversight in accordance with subsection 7(f), above; and

(4) That all other contractible functions are properly managed in accordance with subsection 7(e), above.

(d) *All officials.* When they are aware that contractor advice, opinions, recommendations, ideas, reports, analyses, and other work products are to be considered in the course of their official duties, all Federal Government officials are to ensure that they exercise independent judgment and critically examine these products.

9. *Judicial review.* This policy letter is not intended to provide a constitutional or statutory interpretation of any kind and it is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person. It is intended only to provide policy guidance to agencies in the exercise of their discretion concerning Federal contracting. Thus, this policy letter is

not intended, and should not be construed, to create any substantive or procedural basis on which to challenge any agency action or inaction on the ground that such action or inaction was not in accordance with this policy letter.

10. *Information contact.* For information regarding this policy letter contact Richard A. Ong, Deputy Associate Administrator, the Office of Federal Procurement Policy, 725 17th Street, NW., Washington, DC 20503. Telephone (202) 395-7209.

11. *Effective date.* This policy letter is effective 30 days after the date of publication. Allan V. Burman,  
*Administrator.*

## Appendix A

The following is an illustrative list of functions considered to be inherently governmental functions:<sup>1</sup>

1. The direct conduct of criminal investigations.
2. The control of prosecutions and performance of adjudicatory functions (other than those relating to arbitration or other methods of alternative dispute resolution).
3. The command of military forces, especially the leadership of military personnel who are members of the combat, combat support or combat service support role.
4. The conduct of foreign relations and the determination of foreign policy.
5. The determination of agency policy, such as determining the content and application of regulations, among other things.
6. The determination of Federal program priorities or budget requests.
7. The direction and control of Federal employees.
8. The direction and control of intelligence and counter-intelligence operations.
9. The selection or nonselection of individuals for Federal Government employment.
10. The approval of position descriptions and performance standards for Federal employees.
11. The determination of what Government property is to be disposed of and on what terms (although an agency may give contractors authority to dispose of property at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency).
12. In Federal procurement activities with respect to prime contracts,
  - (a) Determining what supplies or services are to be acquired by the Government (although an agency may give contractors authority to acquire supplies at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency);

<sup>1</sup> With respect to the actual drafting of Congressional testimony, of responses to Congressional correspondence, and of agency responses to audit reports from an Inspector General, the General Accounting Office, or other Federal audit entity, see special provisions in subsection 6(c) of the text of the policy letter.

(b) Participating as a voting member on any source selection boards;

(c) Approval of any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria;

(d) Awarding contracts;

(e) Administering contracts (including ordering changes in contract performance or contract quantities, taking action based on evaluations of contractor performance, and accepting or rejecting contractor products or services);

(f) Terminating contracts; and

(g) Determining whether contract costs are reasonable, allocable, and allowable.

13. The approval of agency responses to Freedom of Information Act requests (other than routine responses that, because of statute, regulation, or agency policy, do not require the exercise of judgment in determining whether documents are to be released or withheld), and the approval of agency responses to the administrative appeals of denials of Freedom of Information Act requests.

14. The conduct of administrative hearings to determine the eligibility of any person for a security clearance, or involving actions that affect matters of personal reputation or eligibility to participate in Government programs.

15. The approval of Federal licensing actions and inspections.

16. The determination of budget policy, guidance, and strategy.

17. The collection, control, and disbursement of fees, royalties, duties, fines, taxes and other public funds, unless authorized by statute, such as title 31 U.S.C. 952 (relating to private collection contractors) and title 31 U.S.C. 3718 (relating to private attorney collection services), but not including:

(a) Collection of fees, fines, penalties, costs or other charges from visitors to or patrons of mess halls, post or base exchange concessions, national parks, and similar entities or activities, or from other persons, where the amount to be collected is easily calculated or predetermined and the funds collected can be easily controlled using standard cash management techniques, and

(b) Routine voucher and invoice examination.

18. The control of the treasury accounts.

19. The administration of public trusts.

## Appendix B

The following list is of services and actions that are not considered to be inherently governmental functions. However, they may approach being in that category because of the way in which the contractor performs the contract or the manner in which the Government administers contractor performance. When contracting for such services and actions, agencies should be fully aware of the terms of the contract, contractor performance, and contract administration to ensure that appropriate agency control is preserved.

This is an illustrative listing, and is not intended to promote or discourage the use of the following types of contractor services:

1. Services that involve or relate to budget preparation, including workload modeling,

fact finding, efficiency studies, and should-cost analyses, etc.

2. Services that involve or relate to reorganization and planning activities.

3. Services that involve or relate to analyses, feasibility studies, and strategy options to be used by agency personnel in developing policy.

4. Services that involve or relate to the development of regulations.

5. Services that involve or relate to the evaluation of another contractor's performance.

6. Services in support of acquisition planning.

7. Contractors' providing assistance in contract management (such as where the contractor might influence official evaluations of other contractors).

8. Contractors' providing technical evaluation of contract proposals.

9. Contractors' providing assistance in the development of statements of work.

10. Contractors' providing support in preparing responses to Freedom of Information Act requests.

11. Contractors' working in any situation that permits or might permit them to gain access to confidential business information and/or any other sensitive information (other than situations covered by the Defense Industrial Security Program described in FAR 4.402(b)).

12. Contractors' providing information regarding agency policies or regulations, such as attending conferences or behalf of an agency, conducting community relations campaigns, or conducting agency training courses.

13. Contractors' participating in any situation where it might be assumed that they are agency employees or representatives.

14. Contractors' participating as technical advisors to a source selection board or participating as voting or nonvoting members of a source evaluation board.

15. Contractors' serving as arbitrators or providing alternative methods of dispute resolution.

16. Contractors' constructing buildings or structures intended to be secure from electronic eavesdropping or other penetration by foreign governments.

17. Contractors' providing inspection services.

18. Contractors' providing legal advice and interpretations of regulations and statutes to Government officials.

19. Contractors' providing special non-law enforcement, security activities that do not directly involve criminal investigations, such as prisoner detention or transport and non-military national security details.

[FR Doc. 92-23641 Filed 9-29-92; 8:45 am]

BILLING CODE 3110-01-M

## RESOLUTION TRUST CORPORATION

**Coastal Barrier Improvement Act;  
Property Availability; Kachina Village,  
Coconino County, AZ**

**AGENCY:** Resolution Trust Corporation.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the property known as Kachina Village, located in Coconino County, Arizona, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

**DATES:** Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until December 29, 1992.

**ADDRESSES:** Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Robert Wessel, Resolution Trust Corporation, c/o Great American FSA, 600 B Street, M/C 5480, San Diego, CA 92183, (619) 231-3035, Fax (619) 231-4051.

**SUPPLEMENTARY INFORMATION:** The Kachina Village property is located in the unincorporated area of Kachina Village, south of the City of Flagstaff, Coconino County, Arizona. The site is situated west of Tovar Trail and about 200 feet north of Kachina Trail. The property contains wetlands, has recreational value and is adjacent to the Coconino National Forest. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property consists of approximately 57.5 acres of undeveloped land. Several natural springs and streams run through the property and drain into a wash area. The northeast part of the property is slightly elevated above the rest of the property and is partially forested. There is no developed access to the property.

Property Size: Approximately 57.5 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before December 29, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by December 29 1992 to Mr. Robert Wessel

## FAR Subpart 7.5

## Federal Acquisition Regulation

7.503

(2) Agencies should not rule out the purchase method of equipment acquisition in favor of leasing merely because of the possibility that future technological advances might make the selected equipment less desirable.

(b) *Lease method.* (1) The lease method is appropriate if it is to the Government's advantage under the circumstances. The lease method may also serve as an interim measure when the circumstances—

(i) Require immediate use of equipment to meet program or system goals; but

(ii) Do not currently support acquisition by purchase.

(2) If a lease is justified, a lease with option to purchase is preferable.

(3) Generally, a long term lease should be avoided, but may be appropriate if an option to purchase or other favorable terms are included.

(4) If a lease with option to purchase is used, the contract shall state the purchase price or provide a formula which shows how the purchase price will be established at the time of purchase.

[50 FR 35475, Aug. 30, 1985, as amended at 59 FR 67026, Dec. 28, 1994]

### 7.403 General Services Administration assistance.

(a) When requested by an agency, the General Services Administration (GSA) will assist in lease or purchase decisions by providing information such as—

(1) Pending price adjustments to Federal Supply Schedule contracts;

(2) Recent or imminent technological developments;

(3) New techniques; and

(4) Industry or market trends.

(b) Agencies may request information from the following GSA offices:

(1) Center for Strategic IT Analysis (MKS), Washington, DC 20405, for information on acquisition of information technology.

(2) Federal Supply Service, Office of Acquisition (FC), Washington, DC 20406, for information on other types of equipment.

[48 FR 42124, Sept. 19, 1983, as amended at 54 FR 29280, July 11, 1989; 61 FR 41468, Aug. 8, 1996; 62 FR 40236, July 25, 1997]

### 7.404 Contract clause.

The contracting officer shall insert a clause substantially the same as the clause in 52.207-5, Option to Purchase Equipment, in solicitations and contracts involving a lease with option to purchase.

[59 FR 67026, Dec. 28, 1994]

## Subpart 7.5—Inherently Governmental Functions

SOURCE: 61 FR 2628, Jan. 26, 1996, unless otherwise noted.

### 7.500 Scope of subpart.

The purpose of this subpart is to prescribe policies and procedures to ensure that inherently governmental functions are not performed by contractors. It implements the policies of Office of Federal Procurement Policy (OFPP) Policy Letter 92-1, Inherently Governmental Functions.

### 7.501 [Reserved]

### 7.502 Applicability.

The requirements of this subpart apply to all contracts for services. This subpart does not apply to services obtained through either personnel appointments, advisory committees, or personal services contracts issued under statutory authority.

### 7.503 Policy.

(a) Contracts shall not be used for the performance of inherently governmental functions.

(b) Agency decisions which determine whether a function is or is not an inherently governmental function may be reviewed and modified by appropriate Office of Management and Budget officials.

(c) The following is a list of examples of functions considered to be inherently governmental functions or which shall be treated as such. This list is not all inclusive:

(1) The direct conduct of criminal investigations.

(2) The control of prosecutions and performance of adjudicatory functions other than those relating to arbitration or other methods of alternative dispute resolution.



## 7.503

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(3) The command of military forces, especially the leadership of military personnel who are members of the combat, combat support, or combat service support role.

(4) The conduct of foreign relations and the determination of foreign policy.

(5) The determination of agency policy, such as determining the content and application of regulations, among other things.

(6) The determination of Federal program priorities for budget requests.

(7) The direction and control of Federal employees.

(8) The direction and control of intelligence and counter-intelligence operations.

(9) The selection or non-selection of individuals for Federal Government employment, including the interviewing of individuals for employment.

(10) The approval of position descriptions and performance standards for Federal employees.

(11) The determination of what Government property is to be disposed of and on what terms (although an agency may give contractors authority to dispose of property at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency).

(12) In Federal procurement activities with respect to prime contracts—

(i) Determining what supplies or services are to be acquired by the Government (although an agency may give contractors authority to acquire supplies at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency);

(ii) Participating as a voting member on any source selection boards;

(iii) Approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria;

(iv) Awarding contracts;

(v) Administering contracts (including ordering changes in contract performance or contract quantities, taking action based on evaluations of contractor performance, and accepting or rejecting contractor products or services);

(vi) Terminating contracts;

(vii) Determining whether contract costs are reasonable, allocable, and allowable; and

(viii) Participating as a voting member on performance evaluation boards.

(13) The approval of agency responses to Freedom of Information Act requests (other than routine responses that, because of statute, regulation, or agency policy, do not require the exercise of judgment in determining whether documents are to be released or withheld), and the approval of agency responses to the administrative appeals of denials of Freedom of Information Act requests.

(14) The conduct of Administrative hearings to determine the eligibility of any person for a security clearance, or involving actions that affect matters of personal reputation or eligibility to participate in Government programs.

(15) The approval of Federal licensing actions and inspections.

(16) The determination of budget policy, guidance, and strategy.

(17) The collection, control, and disbursement of fees, royalties, duties, fines, taxes, and other public funds, unless authorized by statute, such as 31 U.S.C. 952 (relating to private collection contractors) and 31 U.S.C. 3718 (relating to private attorney collection services), but not including—

(i) Collection of fees, fines, penalties, costs, or other charges from visitors to or patrons of mess halls, post or base exchange concessions, national parks, and similar entities or activities, or from other persons, where the amount to be collected is easily calculated or predetermined and the funds collected can be easily controlled using standard case management techniques; and

(ii) Routine voucher and invoice examination.

(18) The control of the treasury accounts.

(19) The administration of public trusts.

(20) The drafting of Congressional testimony, responses to Congressional correspondence, or agency responses to audit reports from the Inspector General, the General Accounting Office, or other Federal audit entity.

(d) The following is a list of examples of functions generally not considered



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to be inherently governmental functions. However, certain services and actions that are not considered to be inherently governmental functions may approach being in that category because of the nature of the function, the manner in which the contractor performs the contract, or the manner in which the Government administers contractor performance. This list is not all inclusive:

(1) Services that involve or relate to budget preparation, including workload modeling, fact finding, efficiency studies, and should-cost analyses, etc.

(2) Services that involve or relate to reorganization and planning activities.

(3) Services that involve or relate to analysis, feasibility studies, and strategy options to be used by agency personnel in developing policy.

(4) Services that involve or relate to the development of regulations.

(5) Services that involve or relate to the evaluation of another contractor's performance.

(6) Services in support of acquisition planning.

(7) Contractors providing assistance in contract management (such as where the contractor might influence official evaluations of other contractors).

(8) Contractors providing technical evaluation of contract proposals.

(9) Contractors providing assistance in the development of statements of work.

(10) Contractors providing support in preparing responses to Freedom of Information Act requests.

(11) Contractors working in any situation that permits or might permit them to gain access to confidential business information and/or any other sensitive information (other than situations covered by the National Industrial Security Program described in 4.402(b)).

(12) Contractors providing information regarding agency policies or regulations, such as attending conferences on behalf of an agency, conducting community relations campaigns, or conducting agency training courses.

(13) Contractors participating in any situation where it might be assumed that they are agency employees or representatives.

(14) Contractors participating as technical advisors to a source selection board or participating as voting or nonvoting members of a source evaluation board.

(15) Contractors serving as arbitrators or providing alternative methods of dispute resolution.

(16) Contractors constructing buildings or structures intended to be secure from electronic eavesdropping or other penetration by foreign governments.

(17) Contractors providing inspection services.

(18) Contractors providing legal advice and interpretations of regulations and statutes to Government officials.

(19) Contractors providing special non-law enforcement, security activities that do not directly involve criminal investigations, such as prisoner detention or transport and non-military national security details.

(e) Agency implementation shall include procedures requiring the agency head or designated requirements official to provide the contracting officer, concurrent with transmittal of the statement of work (or any modification thereof), a written determination that none of the functions to be performed are inherently governmental. This assessment should place emphasis on the degree to which conditions and facts restrict the discretionary authority, decision-making responsibility, or accountability of Government officials using contractor services or work products. Disagreements regarding the determination will be resolved in accordance with agency procedures before issuance of a solicitation.

[61 FR 2628, Jan. 26, 1996, as amended at 62 FR 40236, July 25, 1997]

## PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Sec.

8.000 Scope of part.

8.001 General.

8.002 Priorities for use of Government supply sources.

8.003 Use of other Government supply sources.

8.004 Contract clause.

### Subpart 8.1—Excess Personal Property

8.101 [Reserved]

## FAIR Act of 1998

PUBLIC LAW 105-270—OCT. 19, 1998

FEDERAL ACTIVITIES INVENTORY REFORM  
ACT OF 1998

112 STAT. 2382

PUBLIC LAW 105–270—OCT. 19, 1998

Public Law 105–270  
105th Congress

An Act

<p>Oct. 19, 1998 [S. 314]</p>	<p>To provide a process for identifying the functions of the Federal Government that are not inherently governmental functions, and for other purposes.</p>
<p>Federal Activities Inventory Reform Act of 1998. 31 USC 501 note.</p>	<p><i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,</i></p> <p><b>SECTION 1. SHORT TITLE.</b></p> <p>This Act may be cited as the “Federal Activities Inventory Reform Act of 1998”.</p>
<p>Records.</p>	<p><b>SEC. 2. ANNUAL LISTS OF GOVERNMENT ACTIVITIES NOT INHERENTLY GOVERNMENTAL IN NATURE.</b></p>
<p>Deadline.</p>	<p>(a) <b>LISTS REQUIRED.</b>—Not later than the end of the third quarter of each fiscal year, the head of each executive agency shall submit to the Director of the Office of Management and Budget a list of activities performed by Federal Government sources for the executive agency that, in the judgment of the head of the executive agency, are not inherently governmental functions. The entry for an activity on the list shall include the following:</p> <p>(1) The fiscal year for which the activity first appeared on a list prepared under this section.</p> <p>(2) The number of full-time employees (or its equivalent) that are necessary for the performance of the activity by a Federal Government source.</p> <p>(3) The name of a Federal Government employee responsible for the activity from whom additional information about the activity may be obtained.</p> <p>(b) <b>OMB REVIEW AND CONSULTATION.</b>—The Director of the Office of Management and Budget shall review the executive agency’s list for a fiscal year and consult with the head of the executive agency regarding the content of the final list for that fiscal year.</p> <p>(c) <b>PUBLIC AVAILABILITY OF LISTS.</b>—</p> <p>(1) <b>PUBLICATION.</b>—Upon the completion of the review and consultation regarding a list of an executive agency—</p> <p>(A) the head of the executive agency shall promptly transmit a copy of the list to Congress and make the list available to the public; and</p> <p>(B) the Director of the Office of Management and Budget shall promptly publish in the Federal Register a notice that the list is available to the public.</p> <p>(2) <b>CHANGES.</b>—If the list changes after the publication of the notice as a result of the resolution of a challenge under section 3, the head of the executive agency shall promptly—</p> <p>(A) make each such change available to the public and transmit a copy of the change to Congress; and</p>
<p>Federal Register, Publication.</p>	

(B) publish in the Federal Register a notice that the change is available to the public.

Federal Register,  
Publication.

(d) **COMPETITION REQUIRED.**—Within a reasonable time after the date on which a notice of the public availability of a list is published under subsection (c), the head of the executive agency concerned shall review the activities on the list. Each time that the head of the executive agency considers contracting with a private sector source for the performance of such an activity, the head of the executive agency shall use a competitive process to select the source (except as may otherwise be provided in a law other than this Act, an Executive order, regulations, or any executive branch circular setting forth requirements or guidance that is issued by competent executive authority). The Director of the Office of Management and Budget shall issue guidance for the administration of this subsection.

(e) **REALISTIC AND FAIR COST COMPARISONS.**—For the purpose of determining whether to contract with a source in the private sector for the performance of an executive agency activity on the list on the basis of a comparison of the costs of procuring services from such a source with the costs of performing that activity by the executive agency, the head of the executive agency shall ensure that all costs (including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs) are considered and that the costs considered are realistic and fair.

### **SEC. 3. CHALLENGES TO THE LIST.**

(a) **CHALLENGE AUTHORIZED.**—An interested party may submit to an executive agency a challenge of an omission of a particular activity from, or an inclusion of a particular activity on, a list for which a notice of public availability has been published under section 2.

(b) **INTERESTED PARTY DEFINED.**—For the purposes of this section, the term “interested party”, with respect to an activity referred to in subsection (a), means the following:

(1) A private sector source that—

(A) is an actual or prospective offeror for any contract, or other form of agreement, to perform the activity; and

(B) has a direct economic interest in performing the activity that would be adversely affected by a determination not to procure the performance of the activity from a private sector source.

(2) A representative of any business or professional association that includes within its membership private sector sources referred to in paragraph (1).

(3) An officer or employee of an organization within an executive agency that is an actual or prospective offeror to perform the activity.

(4) The head of any labor organization referred to in section 7103(a)(4) of title 5, United States Code, that includes within its membership officers or employees of an organization referred to in paragraph (3).

(c) **TIME FOR SUBMISSION.**—A challenge to a list shall be submitted to the executive agency concerned within 30 days after the publication of the notice of the public availability of the list under section 2.

- Deadline. (d) INITIAL DECISION.—Within 28 days after an executive agency receives a challenge, an official designated by the head of the executive agency shall—
- (1) decide the challenge; and
  - (2) transmit to the party submitting the challenge a written notification of the decision together with a discussion of the rationale for the decision and an explanation of the party's right to appeal under subsection (e).
- Deadline. (e) APPEAL.—
- (1) AUTHORIZATION OF APPEAL.—An interested party may appeal an adverse decision of the official to the head of the executive agency within 10 days after receiving a notification of the decision under subsection (d).
  - (2) DECISION ON APPEAL.—Within 10 days after the head of an executive agency receives an appeal of a decision under paragraph (1), the head of the executive agency shall decide the appeal and transmit to the party submitting the appeal a written notification of the decision together with a discussion of the rationale for the decision.

#### SEC. 4. APPLICABILITY.

- (a) EXECUTIVE AGENCIES COVERED.—Except as provided in subsection (b), this Act applies to the following executive agencies:
- (1) EXECUTIVE DEPARTMENT.—An executive department named in section 101 of title 5, United States Code.
  - (2) MILITARY DEPARTMENT.—A military department named in section 102 of title 5, United States Code.
  - (3) INDEPENDENT ESTABLISHMENT.—An independent establishment, as defined in section 104 of title 5, United States Code.
- (b) EXCEPTIONS.—This Act does not apply to or with respect to the following:
- (1) GENERAL ACCOUNTING OFFICE.—The General Accounting Office.
  - (2) GOVERNMENT CORPORATION.—A Government corporation or a Government controlled corporation, as those terms are defined in section 103 of title 5, United States Code.
  - (3) NONAPPROPRIATED FUNDS INSTRUMENTALITY.—A part of a department or agency if all of the employees of that part of the department or agency are employees referred to in section 2105(c) of title 5, United States Code.
  - (4) CERTAIN DEPOT-LEVEL MAINTENANCE AND REPAIR.—Depot-level maintenance and repair of the Department of Defense (as defined in section 2460 of title 10, United States Code).

#### SEC. 5. DEFINITIONS.

In this Act:

- (1) FEDERAL GOVERNMENT SOURCE.—The term “Federal Government source”, with respect to performance of an activity, means any organization within an executive agency that uses Federal Government employees to perform the activity.
- (2) INHERENTLY GOVERNMENTAL FUNCTION.—
  - (A) DEFINITION.—The term “inherently governmental function” means a function that is so intimately related to the public interest as to require performance by Federal Government employees.

(B) **FUNCTIONS INCLUDED.**—The term includes activities that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as—

(i) to bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(ii) to determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(iii) to significantly affect the life, liberty, or property of private persons;

(iv) to commission, appoint, direct, or control officers or employees of the United States; or

(v) to exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of appropriated and other Federal funds.

(C) **FUNCTIONS EXCLUDED.**—The term does not normally include—

(i) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials; or

(ii) any function that is primarily ministerial and internal in nature (such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services).

**SEC. 6. EFFECTIVE DATE.**

This Act shall take effect on October 1, 1998.

Approved October 19, 1998.

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**LEGISLATIVE HISTORY—S. 314:**

SENATE REPORTS: No. 105-269 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 30, considered and passed Senate.

Oct. 5, considered and passed House.



## 1999 OMB Circular A-76



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

August 4, 1983 (REVISED 1999)

CIRCULAR NO. A-76

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Performance of Commercial Activities

1. Purpose. This Circular establishes Federal policy regarding the performance of commercial activities and implements the statutory requirements of the Federal Activities Inventory Reform Act of 1998, Public Law 105-270. The Supplement to this Circular sets forth the procedures for determining whether commercial activities should be performed under contract with commercial sources or in-house using Government facilities and personnel.

2. Rescission. OMB Circular No. A-76 (Revised), dated March 29, 1979; and Transmittal Memoranda 1 through 14 and 16 through 18.

3. Authority. The Budget and Accounting Act of 1921 (31 U.S.C. 1 *et seq.*), The Office of Federal Procurement Policy Act Amendments of 1979. (41 U.S.C. 401 *et seq.*), and The Federal Activities Inventory Reform Act of 1998. (P. L. 105-270).

4. Background.

a. In the process of governing, the Government should not compete with its citizens. The competitive enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength. In recognition of this principle, it has been and continues to be the general policy of the Government to rely on commercial sources to supply the products and services the Government needs.

b. This national policy was promulgated through Bureau of the Budget Bulletins issued in 1955, 1957 and 1960. OMB Circular No. A-76 was issued in 1966. The Circular was previously revised in 1967, 1979, and 1983. The Supplement (Revised Supplemental Handbook) was previously revised in March 1996 (Transmittal Memorandum 15).

5. Policy. It is the policy of the United States Government to:

a. Achieve Economy and Enhance Productivity. Competition enhances quality, economy, and productivity. Whenever commercial sector performance of a Government operated commercial activity is permissible, in accordance with this Circular and its Supplement, comparison of the cost of contracting and the cost of in-house performance shall be performed to determine who will do the work. When conducting cost comparisons, agencies must ensure that all costs are considered and that these costs are realistic and fair.

b. Retain Governmental Functions In-House. Certain functions are inherently Governmental in nature, being so intimately related to the public interest as to mandate performance

only by Federal employees. These functions are not in competition with the commercial sector. Therefore, these functions shall be performed by Government employees.

c. Rely on the Commercial Sector. The Federal Government shall rely on commercially available sources to provide commercial products and services. In accordance with the provisions of this Circular and its Supplement, the Government shall not start or carry on any activity to provide a commercial product or service if the product or service can be procured more economically from a commercial source.

6. Definitions. For purposes of this Circular:

a. A commercial activity is one which is operated by a Federal executive agency and which provides a product or service that could be obtained from a commercial source. Activities that meet the definition of an inherently Governmental function provided below are not commercial activities. A representative list of commercial activities is provided in Attachment A. A commercial activity also may be part of an organization or a type of work that is separable from other functions or activities and is suitable for performance by contract.

b. A conversion to contract is the changeover of an activity from Government performance to performance under contract by a commercial source.

c. A conversion to in-house is the changeover of an activity from performance under contract to Government performance.

d. A commercial source is a business or other non-Federal activity located in the United States, its territories and possessions, the District of Columbia or the Commonwealth of Puerto Rico, which provides a commercial product or service.

e. An inherently Governmental function is a function which is so intimately related to the public interest as to mandate performance by Government employees. Consistent with the definitions provided in the Federal Activities Inventory Reform Act of 1998 and OFPP Policy Letter 92-1, these functions include those activities which require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Government. Services or products in support of inherently Governmental functions, such as those listed in Attachment A, are commercial activities and are normally subject to this Circular. Inherently Governmental functions normally fall into two categories:

(1) The act of governing; i.e., the discretionary exercise of Government authority. Examples include criminal investigations, prosecutions and other judicial functions; management of Government programs requiring value judgments, as in direction of the national defense; management and direction of the Armed Services; activities performed exclusively by military personnel who are subject to deployment in a combat, combat support or combat service support role; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

(2) Monetary transactions and entitlements, such as tax collection and revenue disbursements; control of the Treasury accounts and money supply; and the administration of public trusts.

f. A cost comparison is the process of developing an estimate of the cost of Government performance of a commercial activity and comparing it, in accordance with the requirements of the Supplement, to the cost to the Government for contract performance of the activity.

g. Directly affected parties are Federal employees and their representative organizations and bidders or offerors on the instant solicitation.

h. Interested parties for purposes of challenging the contents of an agency's Commercial Activities Inventory under the Federal Activities Inventory Reform Act of 1998 are:

(1) A private sector source that (A) is an actual or prospective offeror for any contract or other form of agreement to perform the activity; and (B) has a direct economic interest in performing the activity that would be adversely affected by a determination not to procure the performance of the activity from a private sector source.

(2) A representative of any business or professional association that includes within its membership private sector sources referred to in (1) above.

(3) An officer or employee of an organization within an executive agency that is an actual or prospective offeror to perform the activity.

(4) The head of any labor organization referred to in section 7103(a) (4) of Title 5, United States Code that includes within its membership officers or employees of an organization referred to in (3) above.

## 7. Scope.

a. Unless otherwise provided by law, this Circular and its Supplement shall apply to all executive agencies and shall provide administrative direction to heads of agencies.

b. This Circular and its Supplement apply to printing and binding only in those agencies or departments which are exempted by law from the provisions of Title 44 of the U.S. Code.

c. This Circular and its Supplement shall not:

(1) Be applicable when contrary to law, Executive Orders, or any treaty or international agreement;

(2) Apply to inherently Governmental functions as defined in paragraph 6.e.;

(3) Apply to the Department of Defense in times of a declared war or military mobilization;

(4) Provide authority to enter into contracts;

(5) Authorize contracts which establish an employer-employee relationship between the Government and contractor employees. An employer-employee relationship involves close, continual supervision of individual contractor employees by Government employees, as distinguished from general oversight of contractor operations. However, limited and necessary interaction between Government employees and contractor employees, particularly during the transition period of conversion to contract, does not establish an employer-employee relationship.

(6) Be used to justify conversion to contract solely to avoid personnel ceilings or salary limitations;

(7) Apply to the conduct of research and development. However, severable in-house commercial activities in support of research and development, such as those listed in Attachment A, are normally subject to this Circular and its Supplement; or

(8) Establish and shall not be construed to create any substantive or procedural basis for anyone to challenge any agency action or inaction on the basis that such action or inaction was not in accordance with this Circular, except as specifically set forth in Part 1, Chapter 3, paragraph K of the Supplement, "Appeals of Cost Comparison Decisions" and as set forth in Appendix 2, Paragraph G, consistent with Section 3 of the Federal Activities Inventory Reform Act of 1998.

d. The requirements of the Federal Activities Inventory Reform Act of 1998 apply to the following executive agencies:

- (1) an executive department named in 5 USC 101,
- (2) a military department named in 5 USC 102, and
- (3) an independent establishment as defined in 5 USC 104.

e. The requirements of the Federal Activities Inventory Reform Act of 1998 do not apply to the following entities or activities:

- (1) the General Accounting Office,
- (2) a Government corporation or a Government controlled corporation as defined in 5 USC 103,
- (3) a non-appropriated funds instrumentality if all of its employees are referred to in 5 USC 2105(c), or
- (4) Depot-level maintenance and repair of the Department of Defense as defined in 10 USC 2460.

8. Government Performance of a Commercial Activity. Government performance of a commercial activity is authorized under any of the following conditions:

a. No Satisfactory Commercial Source Available. Either no commercial source is capable of providing the needed product or service, or use of such a source would cause unacceptable delay or disruption of an essential program. Findings shall be supported as follows:

(1) If the finding is that no commercial source is capable of providing the needed product or service, the efforts made to find commercial sources must be documented and made available to the public upon request. These efforts shall include, in addition to consideration of preferential procurement programs (see Part I, Chapter 1, paragraph C of the Supplement) at least three notices describing the requirement in the *Commerce Business Daily* over a 90-day period or, in cases of *bona fide* urgency, two notices over a 30-day period. Specifications and requirements in the solicitation shall not be unduly restrictive and shall not exceed those required of in-house Government personnel or operations.

(2) If the finding is that a commercial source would cause unacceptable delay or disruption of an agency program, a written explanation, approved by the assistant secretary or designee in paragraph 9.a. of the Circular, must show the specific impact on an agency mission in terms of cost and performance. Urgency alone is not adequate reason to continue in-house operation of a commercial activity. Temporary disruption resulting from conversion to contract is not sufficient support for such a finding, nor is the possibility of a strike by contract employees. If the commercial activity has ever been performed by contract, an explanation of how the instant circumstances differ must be documented. These decisions must be made available to the public upon request.

(3) Activities may not be justified for in-house performance solely on the basis that the activity involves or supports a classified program or the activity is required to perform an agency's basic mission.

b. National Defense.

(1) The Secretary of Defense shall establish criteria for determining when Government performance of a commercial activity is required for national defense reasons. Such criteria shall be furnished to OMB, upon request.

(2) Only the Secretary of Defense or his designee has the authority to exempt commercial activities for national defense reasons.

c. Patient Care. Commercial activities performed at hospitals operated by the Government shall be retained in-house if the agency head, in consultation with the agency's chief medical director, determines that in-house performance would be in the best interests of direct patient care.

d. Lower cost. Government performance of a commercial activity is authorized if a cost comparison prepared in accordance with the Supplement demonstrates that the Government is

operating or can operate the activity on an ongoing basis at an estimated lower cost than a qualified commercial source.

9. Action Requirements. To ensure that the provisions of this Circular and its Supplement are followed, each agency head shall:

a. Designate an official at the assistant secretary or equivalent level and officials at a comparable level in major component organizations to have responsibility for implementation of this Circular and its Supplement within the agency.

b. Establish one or more offices as central points of contact to carry out implementation. These offices shall have access to all documents and data pertinent to actions taken under the Circular and its Supplement and will respond in a timely manner to all requests concerning inventories, schedules, reviews, results of cost comparisons and cost comparison data.

c. Be guided by Federal Acquisition Regulation (FAR) Subpart 24.2 (Freedom of Information Act) in considering requests for information.

d. Implement this Circular and its Supplement with a minimum of internal instructions. Cost comparisons shall not be delayed pending issuance of such instructions.

e. Ensure the reviews of all existing in-house commercial activities are completed within a reasonable time in accordance with the Federal Activities Inventory Reform Act of 1998 and the Supplement.

10. Annual Reporting Requirement. As required by the Federal Activities Inventory Reform Act of 1998 and Appendix 2 of the Supplement, no later than June 30 of each year, agencies shall submit to OMB a Commercial Activities Inventory and any supplemental information requested by OMB. After review and consultation by OMB, agencies will transmit a copy of the Commercial Activities Inventory to Congress and make the contents of the Inventory available to the public. Agencies will follow the process provided in the Supplement for interested parties to challenge (and appeal) the contents of the inventory.

11. OMB Responsibility and Contact Point. All questions or inquiries should be submitted to the Office of Management and Budget, Room 6002 NEOB, Washington, DC 20503. Telephone number (202) 395-6104, FAX (202) 395-7230.

12. Effective Date. This Circular and the changes to its Supplement are effective immediately.

## EXAMPLES OF COMMERCIAL ACTIVITIES

## Audiovisual Products and Services

Photography (still, movie, aerial, etc.)  
 Photographic processing (developing, printing, enlarging, etc.)  
 Film and videotape production (script writing, direction, animation, editing, acting, etc.)  
 Microfilming and other microforms  
 Art and graphics services  
 Distribution of audiovisual materials  
 Reproduction and duplication of audiovisual products  
 Audiovisual facility management and operation  
 Maintenance of audiovisual equipment

## Automatic Data Processing

ADP services - batch processing, time-sharing, facility management, etc.  
 Programming and systems analysis, design, development, and simulation  
 Key punching, data entry, transmission, and teleprocessing services  
 Systems engineering and installation  
 Equipment installation, operation, and maintenance

## Food Services

Operation of cafeterias, mess halls, kitchens, bakeries, dairies, and commissaries  
 Vending machines  
 Ice and water

## Health Services

Surgical, medical, dental, and psychiatric care  
 Hospitalization, outpatient, and nursing care  
 Physical examinations  
 Eye and hearing examinations and manufacturing and fitting glasses and hearing aids  
 Medical and dental laboratories  
 Dispensaries  
 Preventive medicine  
 Dietary services  
 Veterinary services

## Industrial Shops and Services

Machine, carpentry, electrical, plumbing, painting, and other shops  
 Industrial gas production and recharging  
 Equipment and instrument fabrication, repair and calibration  
 Plumbing, heating, electrical, and air conditioning services, including repair

Fire protection and prevention services  
 Custodial and janitorial services  
 Refuse collection and processing

## Maintenance, Overhaul, Repair, and Testing

Aircraft and aircraft components  
 Ships, boats, and components  
 Motor vehicles  
 Combat vehicles  
 Railway systems  
 Electronic equipment and systems  
 Weapons and weapon systems  
 Medical and dental equipment  
 Office furniture and equipment  
 Industrial plant equipment  
 Photographic equipment  
 Space systems

## Management Support Services

Advertising and public relations services  
 Financial and payroll services  
 Debt collection

## Manufacturing, Fabrication, Processing, Testing, and Packaging

Ordnance equipment  
 Clothing and fabric products  
 Liquid, gaseous, and chemical products  
 Lumber products  
 Communications and electronics equipment  
 Rubber and plastic products  
 Optical and related products  
 Sheet metal and foundry products  
 Machined products  
 Construction materials  
 Test and instrumentation equipment

## Office and Administrative Services

Library operations  
 Stenographic recording and transcribing  
 Word processing/data entry/typing services  
 Mail/messenger  
 Translation  
 Management information systems, products and distribution  
 Financial auditing and services  
 Compliance auditing  
 Court reporting  
 Material management  
 Supply services

## Other Services

- Laundry and dry cleaning
- Mapping and charting
- Architect and engineer services
- Geological surveys
- Cataloging
- Training -- academic, technical, vocational, and specialized
- Operation of utility systems (power, gas, water steam, and sewage)
- Laboratory testing services

## Printing and Reproduction

- Facility management and operation
- Printing and binding -- where the agency or department is exempted from the provisions of Title 44 of the U.S. Code
- Reproduction, copying, and duplication
- Blueprinting

## Real Property

- Design, engineering, construction, modification, repair, and maintenance of buildings and structures; building mechanical and electrical equipment and systems; elevators; escalators; moving walks
- Construction, alteration, repair, and maintenance of roads and other surfaced areas
- Landscaping, drainage, mowing and care of grounds
- Dredging of waterways

## Security

- Guard and protective services
- Systems engineering, installation, and maintenance of security systems and individual privacy systems
- Forensic laboratories

## Special Studies and Analyses

- Cost benefit analyses
- Statistical analyses
- Scientific data studies
- Regulatory studies
- Defense, education, energy studies
- Legal/litigation studies
- Management studies

## Systems Engineering, Installation, Operation, Maintenance, and Testing

- Communications systems - voice, message, data, radio, wire, microwave, and satellite
- Missile ranges
- Satellite tracking and data acquisition

- Radar detection and tracking
- Television systems - studio and transmission equipment, distribution systems, receivers, antennas, etc.
- Recreational areas
- Bulk storage facilities

## Transportation

- Operation of motor pools
- Bus service
- Vehicle operation and maintenance
- Air, water, and land transportation of people and things
- Trucking and hauling



## 2003 OMB Circular A-76



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

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May 29, 2003<sup>1,2</sup>

**CIRCULAR NO. A-76 (REVISED)**

**TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS**

**SUBJECT: Performance of Commercial Activities**

1. **Purpose.** This circular establishes federal policy for the competition of commercial activities.
2. **Supersession.** This circular supersedes Office of Management and Budget (OMB) Circular No. A-76 (Revised 1999), August 4, 1983; Circular No. A-76 Revised Supplemental Handbook (Revised 2000), March 1996; Office of Federal Procurement Policy Letter 92-1, "Inherently Governmental Functions," September 23, 1992; and OMB Transmittal Memoranda 1 through 25, Performance of Commercial Activities.
3. **Authority.** Reorganization Plan No. 2 of 1970 (31 U.S.C. § 1111); Executive Order 11541; the Office of Federal Procurement Policy Act (41 U.S.C. § 405); and the Federal Activities Inventory Reform (FAIR) Act of 1998 (31 U.S.C. § 501 note).
4. **Policy.** The longstanding policy of the federal government has been to rely on the private sector for needed commercial services. To ensure that the American people receive maximum value for their tax dollars, commercial activities should be subject to the forces of competition. In accordance with this circular, including Attachments A-D, agencies shall:
  - a. Identify all activities performed by government personnel as either commercial or inherently governmental.
  - b. Perform inherently governmental activities with government personnel.
  - c. Use a streamlined or standard competition to determine if government personnel should perform a commercial activity. [See OMB Memorandum M-08-11 (February 20, 2008), number 4, when applying this provision]
  - d. Apply the Federal Acquisition Regulation (FAR), 48 C.F.R. Chapter 1, in conjunction with this circular, for streamlined and standard competitions.
  - e. Comply with procurement integrity, ethics, and standards of conduct rules, including the restrictions of 18 U.S.C. § 208, when performing streamlined and standard competitions.

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<sup>1</sup> This document reflects changes made by OMB Memorandum M-08-13, *Update to Civilian Position Full Fringe Benefit Cost Factor, Federal Pay Raise Assumptions, and Inflation Factors used in OMB Circular No. A-76, "Performance of Commercial Activities"* (March 11, 2008), and a technical correction made by OMB memorandum M-03-20, *Technical Correction to OMB Circular No. A-76, "Performance of Commercial Activities"* (August 15, 2003).

<sup>2</sup> Please see OMB Memoranda M-04-12, *Performance Periods in Public-Private Competitions* (April 30, 2004), M-06-13, *Competitive Sourcing under Section 842(a) of P.L. 109-115* (April 24, 2006), and M-08-11, *Competitive Sourcing Requirements of Division D of Public Law 110-161* (February 20, 2008) when applying the following provisions of OMB Circular A-76: Paragraphs 4.c and 5.d; Attachment B, Paragraphs A.5, C.1.a, C.1.c, D.3.a(7), and D.5.b(3); Attachment C, Paragraphs A.5, A.12, C.3 and Section D.

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**May 29, 2003**

- f. Designate, in writing, an assistant secretary or equivalent level official with responsibility for implementing this circular, hereafter referred to as the competitive sourcing official (CSO). Except as otherwise provided by this circular, the CSO may delegate, in writing, specified responsibilities to senior-level officials in the agency or agency components.
- g. Require full accountability of agency officials designated to implement and comply with this circular by establishing performance standards in annual performance evaluations.
- h. Centralize oversight responsibility to facilitate fairness in streamlined and standard competitions and promote trust in the process. Agencies shall allocate resources to effectively apply a clear, transparent, and consistent competition process based on lessons learned and best practices. Lessons learned and best practices resulting from a streamlined or standard competition process shall be posted on SHARE A-76!
- i. Develop government cost estimates for standard and streamlined competitions in accordance with Attachment C using the COMPARE costing software. Agencies shall not use agency budgetary estimates to develop government cost estimates in a streamlined or standard competition.
- j. Track execution of streamlined and standard competitions in accordance with Attachment B.
- k. Assist adversely affected federal employees in accordance with 5 C.F.R. Parts 330 and 351. The statutory veterans' preference for appointment and retention (5 U.S.C. §§ 1302, 3301, 3302, 3502) applies to actions taken pursuant to this circular.
- l. Not perform work as a contractor or subcontractor to the private sector, unless specific statutory authority exists or the CSO receives prior written OMB approval.

**5. Scope.**

- a. Except as otherwise provided by law, this circular shall apply to executive departments named in 5 U.S.C. § 101 and independent establishments as defined in 5 U.S.C. § 104. These departments and independent establishments are referred to in this circular as “agencies”. Except as otherwise provided by law, this circular shall apply to military departments named in 5 U.S.C. § 102.
- b. As provided by Attachment A, the CSO may exempt a commercial activity performed by government personnel from performance by the private sector.
- c. The CSO (without delegation) shall receive prior written OMB approval to deviate from this circular (e.g., time limit extensions, procedural deviations, or costing variations for a specific streamlined or standard competition, or inventory process deviations). Agencies shall include any OMB approved deviations in the public announcement and solicitation for a streamlined or standard competition. Agencies are encouraged to use this deviation procedure to explore innovative alternatives to standard or streamlined competitions, including public-private partnerships, public-public partnerships, and high performing organizations.
- d. A streamlined or standard competition is not required for private sector performance of a new requirement, private sector performance of a segregable expansion to an existing commercial activity performed by government personnel, or continued private sector performance of a commercial activity. Before government personnel may perform a new requirement, an expansion to an existing commercial activity, or an activity performed by the private sector, a streamlined or standard competition shall be used to determine whether government personnel should perform the

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**May 29, 2003**

commercial activity. [See *OMB Memorandum M-08-11 (February 20, 2008), number 4, when applying this provision*]

- e. The CSO shall identify savings resulting from completed streamlined and standard competitions in accordance with OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*.
  - f. This circular shall not be construed to alter any law, executive order, rule, regulation, treaty, or international agreement.
  - g. Noncompliance with this circular shall not be interpreted to create a substantive or procedural basis to challenge agency action or inaction, except as stated in Attachments A and B.
  - h. The Department of Defense CSO (without delegation) shall determine if this circular applies to the Department of Defense during times of a declared war or military mobilization.
- 6. Effective Date.** This circular is effective upon publication in the *Federal Register* and shall apply to inventories required, and streamlined and standard competitions initiated, after the effective date.
- 7. Transition.** Agencies shall apply the following transition procedures to direct conversions and cost comparisons, including streamlined cost comparisons, initiated but not completed by the effective date of this circular.
- a. Agencies shall convert initiated streamlined cost comparisons and direct conversions to streamlined or standard competitions under this revised circular.
  - b. Agencies shall convert initiated cost comparisons for which solicitations have not been issued prior to the effective date to standard competitions under this revised circular or, at the agency's discretion if permitted by this revised circular, to streamlined competitions.
  - c. The circular in effect prior to this revision shall govern cost comparisons for which solicitations have been issued, unless agencies, at their discretion, convert such cost comparisons to standard competitions under this revised circular, or, if permitted by this revised circular, to streamlined competitions.
  - d. In applying transition procedures, agencies shall not combine the requirements of this revised circular with those in the prior circular.
  - e. When complying with the transition procedures required by this paragraph, agencies shall make a public announcement within 30 days after the effective date of this revised circular pursuant to this transition paragraph. For conversions made at an agency's discretion, agencies shall make public announcement on the date the agency's decision takes effect.

**8. Attachments.**

- Attachment A -- **Inventory Process**
- Attachment B -- **Public-Private Competition**
- Attachment C -- **Calculating Public-Private Competition Costs**
- Attachment D -- **Acronyms and Definitions**

**Mitchell E. Daniels, Jr.**  
**Director**

**INVENTORY PROCESS**

**A. INVENTORY REQUIREMENTS.**

1. **Agency Inventories.** An agency shall prepare two annual inventories that categorize all activities performed by government personnel as either commercial or inherently governmental.
2. **Annual Requirement.** By June 30 of each year, an agency shall submit the following by electronic mail (e-mail) to OMB (a) an inventory of commercial activities performed by government personnel; (b) an inventory of inherently governmental activities performed by government personnel; and (c) an inventory summary report. An agency may provide aggregate data for uniformed services personnel and foreign nationals performing inherently governmental activities. For annual inventories, an agency shall use the format and data requirements found at the OMB web site ([www.OMB.gov](http://www.OMB.gov)).
3. **OMB Review and Consultation.** OMB shall, on an annual basis, review both agency inventories and consult with the agency regarding the content of both agency inventories.
4. **Congressional and Public Notification.** After OMB review and consultation, an agency shall make both inventories available to Congress and the public unless the inventory information is classified or otherwise protected for national security reasons. OMB shall publish a notice of availability in the *Federal Register*.
5. **Inventory Summary Report.** An agency shall submit an annual inventory summary in the format in Figure A1. to identify aggregate data. The total of the two agency inventories shall reasonably equate to an agency's authorized personnel requirements. An agency shall make the annual inventory summary report available to the public unless the inventory information is classified or otherwise protected for national security reasons.

Fiscal Year XXXX Annual Inventory Summary									
AGENCY:	COMMERCIAL ACTIVITY INVENTORY					Inherently Governmental Inventory			
	FAIR Act	Uniformed Services	Foreign Nationals	Other	<u>TOTAL</u>	Inherently Governmental*	Uniformed Services	Foreign Nationals	<u>TOTAL</u>
Agency Component A									
Agency Component B									
<b>AGENCY TOTAL</b>									

\*Minus uniformed services personnel and foreign nationals

**Figure A1.**

**B. CATEGORIZING ACTIVITIES PERFORMED BY GOVERNMENT PERSONNEL AS INHERENTLY GOVERNMENTAL OR COMMERCIAL.**

- 1. Inherently Governmental Activities.** The CSO shall justify, in writing, any designation of government personnel performing inherently governmental activities. The justification shall be made available to OMB and the public upon request. An agency shall base inherently governmental justifications on the following criteria:
  - a.** An inherently governmental activity is an activity that is so intimately related to the public interest as to mandate performance by government personnel. These activities require the exercise of substantial discretion in applying government authority and/or in making decisions for the government. Inherently governmental activities normally fall into two categories: the exercise of sovereign government authority or the establishment of procedures and processes related to the oversight of monetary transactions or entitlements. An inherently governmental activity involves:
    - (1)** Binding the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;
    - (2)** Determining, protecting, and advancing economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;
    - (3)** Significantly affecting the life, liberty, or property of private persons; or
    - (4)** Exerting ultimate control over the acquisition, use, or disposition of United States property (real or personal, tangible or intangible), including establishing policies or procedures for the collection, control, or disbursement of appropriated and other federal funds.
  - b.** While inherently governmental activities require the exercise of substantial discretion, not every exercise of discretion is evidence that an activity is inherently governmental. Rather, the use of discretion shall be deemed inherently governmental if it commits the government to a course of action when two or more alternative courses of action exist and decision making is not already limited or guided by existing policies, procedures, directions, orders, and other guidance that (1) identify specified ranges of acceptable decisions or conduct and (2) subject the discretionary authority to final approval or regular oversight by agency officials.
  - c.** An activity may be provided by contract support (i.e., a private sector source or a public reimbursable source using contract support) where the contractor does not have the authority to decide on the course of action, but is tasked to develop options or implement a course of action, with agency oversight. An agency shall consider the following to avoid transferring inherently governmental authority to a contractor:
    - (1)** Statutory restrictions that define an activity as inherently governmental;
    - (2)** The degree to which official discretion is or would be limited, i.e., whether involvement of the private sector or public reimbursable provider is or would be so extensive that the ability of senior agency management to develop and consider options is or would be inappropriately restricted;

- (3) In claims or entitlement adjudication and related services (a) the finality of any action affecting individual claimants or applicants, and whether or not review of the provider’s action is de novo on appeal of the decision to an agency official; (b) the degree to which a provider may be involved in wide-ranging interpretations of complex, ambiguous case law and other legal authorities, as opposed to being circumscribed by detailed laws, regulations, and procedures; (c) the degree to which matters for decisions may involve recurring fact patterns or unique fact patterns; and (d) the discretion to determine an appropriate award or penalty;
  - (4) The provider’s authority to take action that will significantly and directly affect the life, liberty, or property of individual members of the public, including the likelihood of the provider’s need to resort to force in support of a police or judicial activity; whether the provider is more likely to use force, especially deadly force, and the degree to which the provider may have to exercise force in public or relatively uncontrolled areas. These policies do not prohibit contracting for guard services, convoy security services, pass and identification services, plant protection services, or the operation of prison or detention facilities, without regard to whether the providers of these services are armed or unarmed;
  - (5) The availability of special agency authorities and the appropriateness of their application to the situation at hand, such as the power to deputize private persons; and
  - (6) Whether the activity in question is already being performed by the private sector.
2. **Commercial Activities.** A commercial activity is a recurring service that could be performed by the private sector and is resourced, performed, and controlled by the agency through performance by government personnel, a contract, or a fee-for-service agreement. A commercial activity is not so intimately related to the public interest as to mandate performance by government personnel. Commercial activities may be found within, or throughout, organizations that perform inherently governmental activities or classified work.

**C. REASON CODES FOR COMMERCIAL ACTIVITIES.**

- 1. **Annual Procedures.** An agency shall use reason codes A-F, identified in Figure A2. below, to indicate the rationale for government performance of a commercial activity. Annual supplemental procedures for the use of these reason codes may be found at the OMB web site.

REASON CODES AND DEFINITIONS FOR COMMERCIAL ACTIVITIES INVENTORY	
Codes	DEFINITIONS
A	The commercial activity is not appropriate for private sector performance pursuant to a written determination by the CSO.
B	The commercial activity is suitable for a streamlined or standard competition.
C	The commercial activity is the subject of an in-progress streamlined or standard competition.
D	The commercial activity is performed by government personnel as the result of a standard or streamlined competition (or a cost comparison, streamlined cost comparison, or direct conversion) within the past five years.
E	The commercial activity is pending an agency approved restructuring decision (e.g., closure, realignment).
F	The commercial activity is performed by government personnel due to a statutory prohibition against private sector performance.

**Figure A2.**

- 2. **Reason Code A.** The CSO may use reason code A to exempt commercial activities performed by government personnel from private sector performance. The CSO shall provide sufficient written justification for reason code A exemptions. These written justifications for the use of reason code A shall be available to OMB and the public, upon request.

**D. INVENTORY CHALLENGE PROCESS.** An agency shall implement the following inventory challenge process.

- 1. Designation of Inventory Challenge and Appeal Authorities.** The head of the agency shall designate inventory challenge authorities and inventory appeal authorities as follows:
  - a. Inventory Challenges.** Inventory challenge authorities shall be agency officials at the same level as, or a higher level than, the individual who prepared the inventory. Inventory challenge authorities shall review and respond to challenges of agency inventory decisions.
  - b. Inventory Appeals.** Inventory appeal authorities shall be agency officials who are independent and at a higher level in the agency than inventory challenge authorities, and shall review and respond to appeals of inventory challenge decisions made by inventory challenge authorities.
- 2. Submission of an Inventory Challenge.** After publication of OMB's *Federal Register* notice stating that an agency's inventories are available, an interested party shall have 30 working days to submit a written inventory challenge. The inventory challenge shall be limited to (a) the classification of an activity as inherently governmental or commercial, or (b) the application of reason codes. Function codes shall not be subject to the inventory challenge process. A written inventory challenge shall be submitted to agency inventory challenge authorities and shall specify the agency, agency component, agency organization, function(s), and location(s) for the activities being challenged.
- 3. Inventory Challenge Decision.** Within 28 working days of receiving the inventory challenge, inventory challenge authorities shall (a) validate the commercial or inherently governmental categorization or reason code designation of the activity, in a written inventory challenge decision; and (b) transmit the inventory challenge decision, including the rationale for the decision, to the interested party. Inventory challenge authorities shall include an explanation of the interested party's right to file an appeal in any adverse challenge decision.
- 4. Submission of an Appeal of an Inventory Challenge Decision.** Upon receipt of an adverse inventory challenge decision, an interested party shall have 10 working days to submit a written appeal of this decision to inventory appeal authorities.
- 5. Inventory Appeal Decision.** Within 10 working days of receipt of the appeal, inventory appeal authorities shall issue and transmit a written inventory appeal decision to the interested party. This inventory appeal decision shall include the rationale for the decision.
- 6. Inventory Changes.** When the inventory challenge process results in a change to an agency inventory, the agency shall (a) transmit a copy of the change to OMB and Congress; (b) make these changes available to the public; and (c) publish a notice of public availability in the *Federal Register*.



## **PUBLIC-PRIVATE COMPETITION**

- A. **PRELIMINARY PLANNING.** Before the public announcement (start date) of a streamlined or standard competition, an agency shall complete, at a minimum, the following steps:
1. **Scope.** Determine the activities and full time equivalent (FTE) positions to be competed.
  2. **Grouping.** Conduct preliminary research to determine the appropriate grouping of activities as business units (e.g., consistent with market and industry structures).
  3. **Workload Data and Systems.** Assess the availability of workload data, work units, quantifiable outputs of activities or processes, agency or industry performance standards, and other similar data. Establish data collection systems as necessary.
  4. **Baseline Costs.** Determine the activity's baseline costs as performed by the incumbent service provider.
  5. **Type of Competition.** Determine the use of a streamlined or standard competition.
    - a. An agency shall use a standard competition if, on the start date, a commercial activity is performed by:
      - (1) The agency with an aggregate of more than 65 FTEs; or
      - (2) A private sector or public reimbursable source and the agency tender will include an aggregate of more than 65 FTEs.
    - b. An agency shall use either a streamlined or standard competition if, on the start date, a commercial activity is performed by:
      - (1) The agency with an aggregate of 65 or fewer FTEs and/or any number of military personnel; or
      - (2) A private sector or public reimbursable source and the agency cost estimate (for a streamlined competition) or the agency tender (for a standard competition) will include an aggregate of 65 or fewer FTEs.
  6. **Schedule.** Develop preliminary competition and completion schedules.
  7. **Roles and Responsibilities of Participants.** Determine roles and responsibilities of participants in the process and their availability for the duration of the streamlined or standard competition.
  8. **Competition Officials.** Appoint competition officials. The CSO shall appoint competition officials for each standard competition, and, as appropriate, may appoint competition officials for streamlined competitions. The CSO shall appoint all competition officials, in writing, and shall hold these competition officials accountable for the timely and proper conduct of streamlined or standard competitions through the use of annual performance evaluations.

[See OMB Memorandum M-08-11 (February 20, 2008), number 4, when applying Paragraph A.5.]

- a. **Agency Tender Official (ATO).** The ATO shall (1) be an inherently governmental agency official with decision-making authority; (2) comply with this circular; (3) be independent of the contracting officer (CO), source selection authority (SSA), source selection evaluation board (SSEB), and performance work statement (PWS) team; (4) develop, certify, and represent the agency tender; (5) designate the most efficient organization (MEO) team after public announcement of the standard competition; (6) provide the necessary resources and training to prepare a competitive agency tender; and (7) be a directly interested party. An agency shall ensure that the ATO has access to available resources (e.g., skilled manpower, funding) necessary to develop a competitive agency tender.
- b. **Contracting Officer (CO).** The CO shall (1) be an inherently governmental agency official; (2) comply with both the FAR and this circular; (3) be independent of the ATO, human resource advisor (HRA), and MEO team; and (4) be a member of the PWS team.
- c. **PWS (Performance Work Statement) Team Leader.** The PWS team leader shall (1) be an inherently governmental agency official; (2) comply with both the FAR and this circular; (3) be independent of the ATO, HRA and MEO team; (4) develop the PWS and quality assurance surveillance plan; (5) determine government-furnished property (GFP); (6) assist the CO in developing the solicitation; and (7) assist in implementing the performance decision.
- d. **Human Resource Advisor (HRA).** The HRA shall (1) be an inherently governmental agency official and a human resource expert; (2) comply with this circular; (3) be independent of the CO, SSA, PWS team, and SSEB; (4) participate on the MEO team; and (5) be responsible for the following:
  - (1) **Employee and Labor-Relations Requirements.** The HRA shall, at a minimum, perform the following (a) interface with directly affected employees (and their representatives) from the date of public announcement until full implementation of the performance decision; (b) identify adversely affected employees; (c) accomplish employee placement entitlements in accordance with 5 C.F.R. Part 351 (reduction-in-force procedures); (d) provide post-employment restrictions to employees; (e) determine agency priority considerations for vacant positions and establish a reemployment priority list(s) in accordance with 5 C.F.R. Part 330; and (f) provide the CO with a list of the agency's adversely affected employees, as required by this attachment and FAR 7.305(c) regarding the right of first refusal for a private sector performance decision.
  - (2) **MEO Team Requirements.** The HRA shall assist the ATO and MEO team in developing the agency tender. During development of the agency tender, the HRA shall be responsible for (a) scheduling sufficient time in competition milestones to accomplish potential human resource actions in accordance with 5 C.F.R. Part 351; (b) advising the ATO and MEO team on position classification restrictions; (c) classifying position descriptions, including exemptions based on the Fair Labor Standards Act (d) performing labor market analysis to determine the availability of sufficient labor to staff the MEO and implement the phase-in plan; (e) assisting in the development of the agency cost estimate by providing annual salaries, wages, night differentials, and premium pay; (f) assisting in the development of the timing for the phase-in plan based on MEO requirements; and (g) developing an employee transition plan for the incumbent agency organization early in the standard competition process.

e. **Source Selection Authority (SSA).** The SSA shall (1) be an inherently governmental agency official appointed in accordance with FAR Part 15.303; (2) comply with both the FAR and this circular when performing a streamlined and standard competition; and (3) be independent of the ATO, HRA, and MEO team. The SSA shall not appoint an SSEB until after public announcement.

9. **Incumbent Service Providers.** Inform any incumbent service providers of the date that the public announcement will be made.

## B. PUBLIC ANNOUNCEMENTS.

1. **Start Date (Public Announcement Date).** An agency shall make a formal public announcement (at the local level and via *FedBizOpps.gov*) for each streamlined or standard competition. The public announcement shall include, at the minimum, the agency, agency component, location, type of competition (streamlined or standard), activity being competed, incumbent service providers, number of government personnel performing the activity, name of the CSO, name of the contracting officer, name of the ATO, and projected end date of the competition. The public announcement date is the official start date for a streamlined or standard competition.

2. **End Date (Performance Decision Date).** An agency shall make a formal public announcement (at the local level and via *FedBizOpps.gov*) of the streamlined or standard competition performance decision. The performance decision date is the official end date for a streamlined or standard competition. The end date of a streamlined competition shall be the date that all SLCF certifications are complete, signifying a performance decision. The end date of a standard competition shall be the date that all SCF certifications are complete, signifying a performance decision.

### 3. **Cancellations.**

a. **Cancellation of a Streamlined or Standard Competition.** The CSO (without delegation) may approve, in writing, the cancellation of a streamlined or standard competition. After approval by the CSO, the CO shall publish a cancellation notice that includes rationale for the cancellation at *FedBizOpps.gov* and the HRA shall notify directly affected employees and their representatives of the cancellation. No cancellation is necessary prior to public announcement of a streamlined or standard competition.

b. **Cancellation of a Solicitation.** The CO shall be responsible for canceling a solicitation in accordance with the FAR, and shall publish a cancellation notice at *FedBizOpps.gov*. The HRA shall notify directly affected employees and their representatives of the cancellation. The cancellation of a solicitation does not result in the cancellation of a streamlined or standard competition.

C. STREAMLINED COMPETITION PROCEDURES.

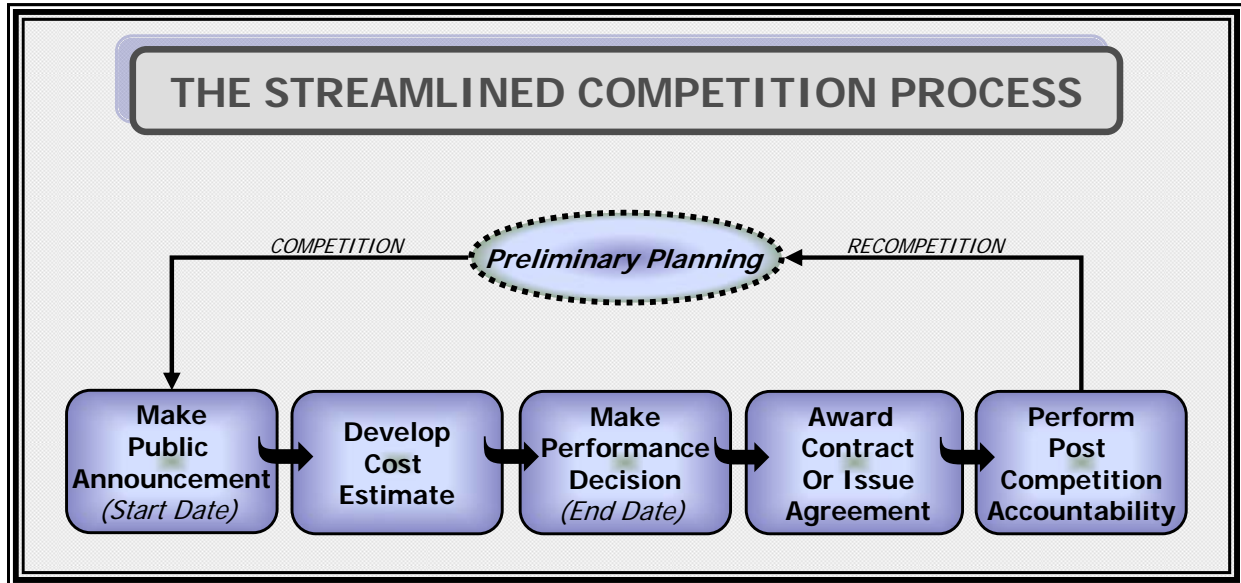


Figure B1.

1. **Streamlined Competition Form (SLCF).** After public announcement, an agency shall calculate, compare, and certify costs based upon the scope and requirements of the activity to determine and document a cost-effective performance decision by completing the SLCF as follows:
  - a. **Cost of Agency Performance.** An agency shall calculate and certify the cost of performing the activity with government personnel in accordance with Attachment C for a minimum of three performance periods by completing SLCF Lines 1, 2, 3 (limited to awarded contracts supporting agency performance of the activity), 4, and 6. An agency may base the agency cost estimate on the incumbent activity; however, an agency is encouraged to develop a more efficient organization, which may be an MEO. [See OMB Memoranda M-08-11 (February 20, 2008), number 3, and M-06-13 (April 24, 2006) when applying this provision.]
  - b. **Cost of Private Sector/Public Reimbursable Performance.** An agency shall determine an estimated contract price for performing the activity with a private sector source, using documented market research or soliciting cost proposals in accordance with the FAR. An agency may also determine an estimated cost for performing the activity with a public reimbursable source by calculating (or requesting that a public reimbursable source calculate) SLCF Lines 1a, 2a, 3a (limited to awarded contracts), 4a, and 6a. An agency shall enter and certify an estimated contract price or public reimbursable cost on SLCF Line 7 in accordance with Attachment C for a minimum of three performance periods.
  - c. **Adjusted Cost Estimate.** An agency shall calculate and certify the adjusted costs for SLCF Lines 8, 12, 13, and 17 to determine and certify a cost effective source as reflected on SLCF Line 18 in accordance with Attachment C. An agency shall not calculate any other SLCF lines for a streamlined competition. [See OMB Memoranda M-08-11 (February 20, 2008),



**D. STANDARD COMPETITION PROCEDURES.**

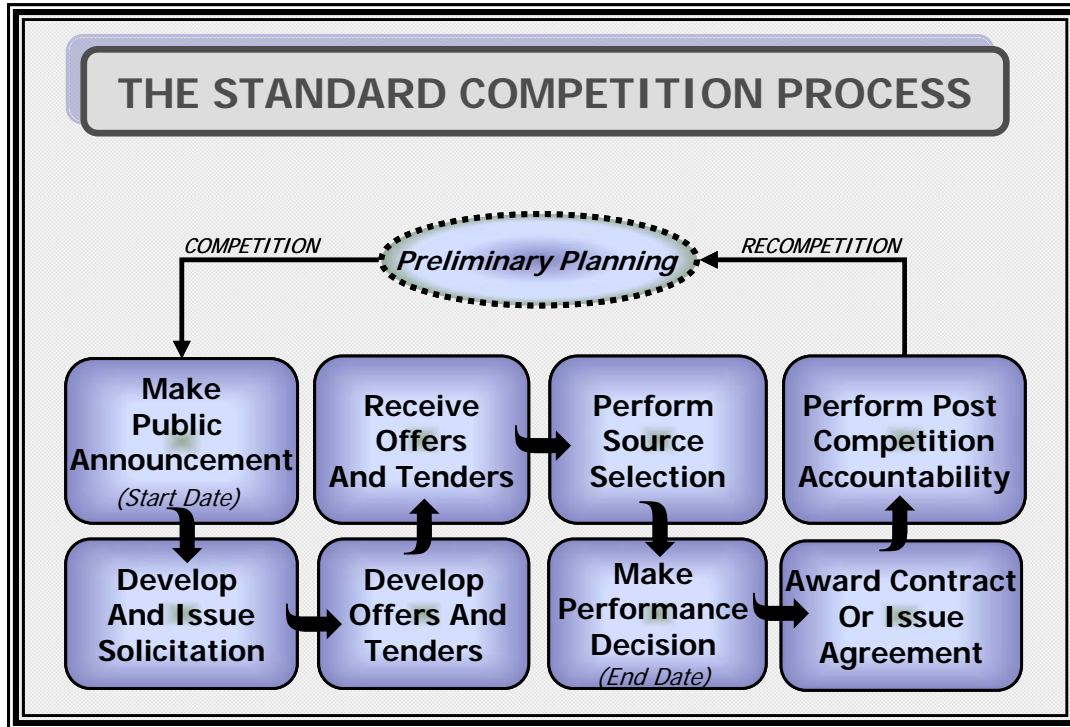


Figure B2.

1. **Time Limit.** A standard competition shall not exceed 12 months from public announcement (start date) to performance decision (end date) unless the CSO (without delegation) grants a time limit waiver. Before the public announcement of each standard competition, the CSO may grant a time limit waiver, in writing, allowing a specific standard competition to exceed the 12 month time limit by no more than 6 months, for a maximum of 18 months from public announcement (start date) to performance decision (end date). The CSO may only grant a time limit waiver if the CSO (a) expects the standard competition to be particularly complex; (b) signs the time limit waiver before public announcement; and (c) provides a copy of the time limit waiver to the Deputy Director for Management, OMB, before public announcement. If an agency exceeds these time limits, including any extension that is the subject of the CSO's waiver, the CSO (without delegation) shall notify the Deputy Director for Management, OMB, in writing.
2. **Team Designations, Responsibilities, and Restrictions.**
  - a. **Performance Work Statement (PWS) Team.** After public announcement, the PWS team leader shall appoint a PWS team comprised of technical and functional experts. The PWS team shall comply with the FAR and this circular, and assist the PWS team leader with (1) developing the PWS including supporting workload data, performance standards, and any information relating to the activity being competed; (2) determining GFP; (3) assisting in the CO's development of the solicitation; (4) developing a quality assurance surveillance plan and, as required, updating this plan based on the performance decision; and (7) implementing the performance decision. The PWS team leader shall make all final management decisions regarding the PWS, GFP, and the quality assurance surveillance plan. Other individuals with

expertise in management analysis, work measurement, value engineering (see OMB Circular A-131), industrial engineering, cost analysis, procurement, and the technical aspects of the activity may also assist this team. Directly affected government personnel (and their representatives) may participate on the PWS team; however, to avoid any appearance of a conflict of interest, members of the PWS team (including, but not limited to, advisors and consultants) shall not be members of the MEO team.

- b. Most Efficient Organization (MEO) Team.** After public announcement, the ATO shall appoint an MEO team comprised of technical and functional experts. The MEO team shall comply with this circular and assist the ATO in developing the agency tender. The ATO shall make all final management decisions regarding the agency tender. Other individuals with expertise in management analysis, position classification, work measurement, value engineering (see OMB Circular A-131), industrial engineering, cost analysis, procurement, and the technical aspects of the activity may also assist this team. Directly affected government personnel (and their representatives) may participate on the MEO team; however, to avoid any appearance of a conflict of interest, members of the MEO team (including, but not limited to, the ATO, HRA, advisors and consultants) shall not be members of the PWS team.
- c. Source Selection Evaluation Board (SSEB).** After public announcement of a standard competition that will be a negotiated procurement, the SSA shall appoint an evaluation team (referred to as the SSEB) in accordance FAR Subpart 15.303. The SSA shall ensure that the SSEB complies with the source selection requirements of the FAR and this attachment. PWS team members who are not directly affected government personnel may participate on the SSEB. Directly affected personnel (and their representatives) and any individual (including, but not limited to, the ATO, HRA, MEO team members, advisors, and consultants) with knowledge of the agency tender (including the MEO and agency cost estimate) shall not participate in any manner on the SSEB (e.g., as members or advisors).

### 3. The Solicitation and Quality Assurance Surveillance Plan.

- a. Solicitation.**<sup>3</sup> An agency shall not issue a solicitation that places any prospective provider at an unfair competitive advantage. When developing and issuing a solicitation for a standard competition, the CO shall comply with the FAR and the following:

  - (1) Review and Release of Information.** An agency is encouraged to post a draft of the PWS or solicitation for public review and comment, including review and comment by directly affected employees and representatives of directly affected employees. All releases of the PWS and solicitation, including drafts, shall be by the CO. Information that is developed by the ATO or MEO team shall be considered procurement sensitive. With the exception of information related to the performance or productivity of the incumbent agency organization, historical data or other existing information that is available to the ATO or MEO team shall be made available to all prospective providers.
  - (2) FAR Provisions.** The CO, in consultation with the PWS team, shall determine the acquisition strategy in accordance with FAR Part 7, which may include the use of FAR

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<sup>3</sup> See OMB Memorandum M-08-11 (February 20, 2008), number 1 and Attachment B, number 2, when preparing solicitations for public-private competitions involving more than ten FTEs.

Parts 6, 14, 15, or 36. When the agency is the incumbent service provider, the CO shall comply with FAR 7.305(c) regarding the right of first refusal. The CO shall comply with FAR Subpart 22.10 to obtain the applicable wage determinations from the Department of Labor.

- (3) **Acquisition Process and Source Selection Provisions.** The CO shall identify in the solicitation whether the acquisition procedures will be sealed bid or negotiated procedures. If negotiated procedures will be used, the CO shall identify in the solicitation the type of source selection process (i.e., lowest price technically acceptable, phased evaluation, tradeoff).

  - (a) **Evaluation Factors.** All evaluation factors shall be clearly identified in the solicitation. To the extent practicable, evaluation factors shall be limited to commonly used factors (e.g., a demonstrated understanding of the government's requirements, technical approach, management capabilities, personnel qualifications, manufacturing plan, facilities and equipment). No solicitation shall include evaluation factors that could provide an unfair advantage for or inherently benefit a prospective provider, public or private.
  - (b) **Tradeoff Source Selection Solicitation Provisions.** For tradeoff source selections, the solicitation shall identify the specific weight given evaluation factors and sub-factors, including cost or price. The specific weight given to cost or price shall be at least equal to all other evaluation factors combined unless quantifiable performance measures can be used to assess value and can be independently evaluated. The quality of competition will be enhanced by using, to the extent practicable, evaluation factors and sub-factors susceptible to objective measurement or evaluation. To encourage prospective providers to submit offers and tenders that fall within budgetary constraints, an agency may include a not-to-exceed cost clause in the solicitation.
- (4) **Solicitation Provisions Unique to the Agency Tender.** A solicitation shall state that the agency tender is not required to include (a) a labor strike plan; (b) a small business strategy; (c) a subcontracting plan goal; (d) participation of small disadvantaged businesses; (e) licensing or other certifications; and (f) past performance information (unless the agency tender is based on an MEO that has been implemented in accordance with this circular or a previous OMB Circular A-76).
- (5) **Solicitation Closing Date.** The date for delivery of offers and tenders shall be the same.
- (6) **Compliance Matrix.** To decrease the complexity of performing source selections, the CO may include a cross-reference compliance matrix in section L of the solicitation (see Figure B3. below). A compliance matrix should clearly identify proposal reference information as it relates to the PWS, contract line item numbers (CLIN), solicitation sections L and M, proposal volume and section, and, if appropriate, contract data requirements list (CDRL) references. This matrix should be modified to account for proposed performance standards that differ from the requirements in a solicitation.



<i>Example Compliance Matrix</i>						
<i>This matrix is included in the solicitation with the following sections completed.</i>						<i>Prospective Providers complete the section below.</i>
DESCRIPTION	CLIN	CDRL	PWS	SECTION L	SECTION M	PROPOSAL VOLUME AND PARAGRAPH #
Administrative Support		(optional)	1.1	4.3	F1, 1.5.1	
Records Management			1.1.1	4.3.1	F1, SF1	
Forms and Publications			1.1.2	4.3.2	F1, 1.5.1.2	
Operations & Maintenance			1.2	4.4	F2 1.5.2	
Equipment Records			1.2.1.1	4.4.2	F2, SF2	
Maintenance Analysis			1.2.2	4.4.3	SF3 1.5.2.3	
Data Base Management			1.2.2.1	4.4.4	SF4, 1.5.2.4	
Price				5.0	1.5.3	
Performance Risk Assessment				7.0	1.5.4	

**Figure B3.**

- (7) **Performance Periods.** An agency shall use a minimum of three full years of performance, excluding the phase-in period, in a standard competition. An agency shall not use performance periods for the agency tender that differ from performance periods for private sector offers and public reimbursable tenders. The CSO shall obtain prior written approval from OMB to use performance periods that exceed five years (excluding the phase-in period). [See OMB Memorandum M-04-12 (April 30, 2004) when applying this provision.]
- (8) **Government-Furnished Property (GFP).** The PWS team shall be responsible for determining whether the agency will make government property available to all prospective providers. Agency determinations to provide or not provide GFP shall be justified, in writing, and approved by the CSO. Consistent with FAR 45.102 and FAR Subpart 45.3, solicitations may offer the use of existing government facilities and equipment and may make such use mandatory. The determination to provide government property shall not be used to influence the outcome of the competition. The ATO, MEO team, and any individual assisting in the development of the agency tender, shall not be involved in the determination to provide GFP.
- (9) **Common Costs.** The CO shall identify common costs in the solicitation.
- (10) **Performance Bond.** If an agency requires a private sector source to include a performance bond, the CO shall obtain prior written approval from the CSO. The CO shall include in the solicitation a separate CLIN for the cost of the performance bond. The CO shall exclude the cost of the performance bond from the contract price before entering the contract price on SCF Line 7.
- (11) **Incentive Fee.** In a solicitation for an incentive fee contract, the CO shall require the private sector offeror to propose a target cost and target profit or fee. The CO shall include the target cost and target profit or fee on SCF Line 7.
- (12) **Award Fee.** For solicitations with an award fee for all prospective providers, including the agency tender, the CSO shall determine if procedures are in place permitting an agency tender to receive such an award fee.

- (13) **Phase-in Plan.** The CO shall include in the solicitation a separate CLIN for a phase-in plan. Private sector, public reimbursable and agency sources shall propose a phase-in plan to replace the incumbent service provider. The CO shall designate the phase-in period as the first performance period (see Attachment C). The CLIN is limited to the phase-in costs associated with phase-in actions as documented in the phase-in plan. Phase-in plans shall include details to minimize disruption and start-up requirements. The phase-in plan shall consider recruiting, hiring, training, security limitations, and any other special considerations of the prospective providers to reflect a phase-in period of realistic length and requirements.
- (14) **Quality Control Plan.** The CO shall include in the solicitation a requirement for prospective providers to include a quality control plan in offers and tenders.
- b. **Quality Assurance Surveillance Plan.** The PWS team shall develop the quality assurance surveillance plan, which identifies the methods the government will use to measure the performance of the service provider against the requirements of the PWS.
- c. **Competition File.** An agency shall retain the documents created for the standard competition. This competition file shall be included in the government contract files in accordance with FAR Subpart 4.8, regardless of the performance decision.
4. **The Agency Tender, Private Sector Offers, and Public Reimbursable Tenders.**
- a. **Agency Tender.** The agency tender is the agency's response to the solicitation.
- (1) **Developing the Agency Tender.** The ATO shall develop an agency tender that responds to the requirements of the solicitation, including section L (Instructions, Conditions, and Notices to Offerors or Respondents) and section M (Evaluation Factors for Award). In addition to the requirements of the solicitation, the agency tender shall include the following (a) an MEO; (b) a certified agency cost estimate developed in accordance with Attachment C (the agency's cost proposal); (c) the MEO's quality control plan; (d) the MEO's phase-in plan; and (e) copies of any existing, awarded MEO subcontracts (with the private sector providers' proprietary information redacted). The ATO shall provide the certified agency tender in a sealed package to the CO by the solicitation closing date. If the solicitation states that prospective providers may propose alternate performance standards that differ from the solicitation's performance standards, the ATO may propose alternate performance standards in the agency tender.
- (a) **Most Efficient Organization (MEO).** The MEO is an agency's staffing plan as identified in the agency tender. The MEO is not usually a representation of the incumbent organization, but is the product of management analyses that include, but are not limited to, activity based costing, business case analysis, consolidation, functionality assessment, industrial engineering, market research, productivity assessment, reengineering, reinvention, utilization studies, and value engineering. The HRA shall develop and classify new position descriptions based on the MEO, but the agency shall not hire employees to staff these positions unless the agency is the selected provider. An MEO may be comprised of either (1) government personnel or (2) a mix of government personnel and MEO subcontracts (see Attachment D). Agencies shall not include new MEO subcontracts that would

result in the direct conversion of work performed by government employees. Other elements of the MEO include an organization chart reflecting the MEO; position descriptions classified by the HRA for positions projected to be in the MEO; a description of the organization that will execute the quality control plan; MEO equipment, supplies, material, and facilities; and specific details of MEO subcontracts.

- (b) **Agency Cost Estimate.** The ATO shall develop and certify the agency cost estimate (the agency's cost proposal) in accordance with Attachment C, using the COMPARE costing software. The ATO shall not make changes to the agency cost estimate except as provided in paragraph, "Changes to the Agency Tender," below.
  - (c) **Quality Control Plan.** The ATO shall include a quality control plan in the agency tender, as required by the solicitation. The quality control plan shall, at a minimum, include (1) an MEO self-inspection plan; (2) MEO internal staffing (which shall be included in the agency cost estimate for personnel costs on SCF Line 1); and (3) procedures that the MEO will use to meet the quality, quantity, timeliness, responsiveness, customer satisfaction, and other requirements of the solicitation.
  - (d) **Phase-in Plan.** The ATO shall include a phase-in plan in the agency tender, as required by the solicitation, to replace the incumbent service provider with the MEO, even if the agency is the incumbent service provider. The ATO shall include phase-in costs for the agency tender on SCF Lines 1-6.
- (2) **Submission of the Agency Tender.** The ATO shall deliver the agency tender to the CO in a sealed package by the solicitation closing date. If the ATO does not anticipate submitting the agency tender to the CO by the solicitation closing date, the ATO shall notify the CO as soon as possible before the solicitation closing date. The CO, in consultation with the CSO, shall determine if amending the solicitation closing date is in the best interest of the government.
  - (3) **Changes to the Agency Tender.** After the solicitation closing date, only the ATO may make changes to the agency tender, and such changes shall only be in response to the following (a) a solicitation amendment issued in accordance with the FAR; (b) the CO's request for final proposal revisions to offers and tenders in accordance with FAR 15.307; (c) official changes to the standard cost factors identified in Attachment C; (d) version upgrades to the COMPARE costing software issued by the Department of Defense; or (e) resolution of a contest challenging a performance decision as provided by this attachment. The CO shall retain documentation regarding any changes to the agency tender as part of the competition file and in a form suitable for audit.
  - (4) **Procurement Sensitivity.** After resolution of a contest (see paragraph on "Release of the Certified SCF and Tenders" in this attachment), or the expiration of the time for filing a contest, an agency tender shall be made available to the public, upon request. If an agency tender includes any subcontracts, the agency shall not release proprietary information contained in these MEO subcontracts.

b. **Private Sector Offers.** Private sector offers respond as required by the solicitation.

- c. Public Reimbursable Tenders.** When responding to another agency's solicitation, a public reimbursable source shall develop a public reimbursable tender that responds to the requirements of the solicitation, including section L (Instructions, Conditions, and Notices to Offerors or Respondents) and section M (Evaluation Factors for Award). In addition to the requirements of the solicitation, the public reimbursable tender shall include the following (1) a certified cost estimate developed in accordance with Attachment C (the public reimbursable source's cost proposal); (2) a quality control plan, (3) a phase-in plan, and (4) copies of any existing, awarded contracts that are included in the tender (with the private sector provider's proprietary information redacted). A public reimbursable tender may be comprised of either (1) government personnel or (2) a mix of government personnel and existing, awarded contracts. Submission of, and changes to, a public reimbursable tender, as well as the procurement sensitivity of the public reimbursable tender, shall be subject to the corresponding provisions of this attachment applicable to the agency tender (see above).
- d. No Satisfactory Private Sector or Public Reimbursable Source.** If an agency attempts to perform a standard competition, but does not receive private sector offers or public reimbursable tenders, determines that all offers and public reimbursable tenders are non-responsive, or determines that prospective providers are not responsible, the agency shall take the following actions:
- (1) Determine Reasons.** The CO shall consult with private sector sources to identify (a) restrictive, vague, confusing, or misleading portions of the solicitation; (b) the reasons provided by sources for not submitting responses; and (c) possible revisions to the solicitation to enhance competition. The CO shall, in writing, describe the results of these consultations and propose a course of action to the CSO.
  - (2) Required Action.** The CSO shall evaluate the CO's written documentation and make a written determination to either (a) revise the solicitation or (b) implement the agency tender. If revising a solicitation would result in exceeding the established time limit for the standard competition, the CSO (without delegation) shall consult with the Deputy Director for Management, OMB. The CO's written documentation, as well as the CSO's decision to either revise the solicitation or implement the agency tender, shall be retained as part of the competition file.
    - (a) Revise the Solicitation.** Before revising or reissuing the solicitation, the CO shall return the sealed agency tender to the ATO. The CO shall then revise and reissue the solicitation.
    - (b) Implement the Agency Tender.** If the CSO decides to implement the agency tender, the CO shall proceed to evaluate the agency tender as required by this attachment and the solicitation. The agency shall complete the SCF, leaving Line 7 blank, omit the costs on lines 8-12 and annotate "agency" on Line 18. The SSA shall state, in the certification on the SCF, that the CSO implemented the agency tender because (1) the agency received no offers or tenders in response to the solicitation; (2) no offers or tenders received were responsive; or (3) no prospective providers were responsible. The SSA and CO shall sign the SCF to certify the performance decision and retain the SCF and agency tender with the competition file. The agency shall make a public announcement of the performance decision (at the local level and via *FedBizOpps.gov*). The CO shall make the SCF (including the documentation of no satisfactory private sector source) available to the public, upon

request. The CO shall notify the ATO of the performance decision and the HRA shall notify directly affected employees (and their representatives).

5. **The Source Selection Process and Performance Decision.** An agency shall select one of the procedures described below to conduct a standard competition and shall not employ any other procedure in conducting the standard competition.
  - a. **Sealed Bid Acquisition.** An agency shall conduct a sealed bid acquisition in accordance with FAR Subparts 14.1 through 14.4 and this attachment. On the solicitation closing date, the CO shall open the agency tender, private sector bids, and public reimbursable tenders. The CO shall enter the price of the apparent lowest priced private sector bid or public reimbursable tender on SCF Line 7, to complete the SCF calculations. The CO shall then evaluate private sector bids for responsiveness and responsibility in accordance with the FAR and determine if SCF Lines 8-18 have been prepared in accordance with Attachment C. The CO shall certify the SCF in accordance with Attachment C. The CO makes the performance decision by certifying the SCF.
  - b. **Negotiated Acquisition.**
    - (1) **Lowest Price Technically Acceptable Source Selection.** An agency shall conduct a lowest price technically acceptable source selection in accordance with FAR 15.101-2 and this attachment. During the source selection process, the CO shall open and evaluate all offers and tenders (including the agency tender) to determine technical acceptability. The performance decision shall be based on the lowest cost of all offers and tenders determined to be technically acceptable. The CO shall conduct price analysis and cost realism as required by this attachment. The CO may conduct exchanges, in accordance with FAR Subpart 15.306 and this attachment, to determine the technical acceptability of each offer and tender. The CO shall enter the lowest contract price or public reimbursable cost on SCF Line 7 to complete the SCF calculations. The CO shall sign the SCF, and the SSA shall certify the SCF, in accordance with Attachment C. The SSA makes the performance decision by certifying the SCF.
    - (2) **Phased Evaluation Source Selection Process.** An agency shall conduct a phased evaluation source selection in accordance with FAR Part 15 and this attachment. In the phased evaluation process, an agency shall evaluate technical capability in phase one and cost in phase two. The performance decision shall be based on the lowest cost of all technically acceptable offers and tenders from all offerors, public reimbursable sources, and the ATO. The solicitation shall require the submission of complete offers and tenders, including separate technical proposals and cost proposals/estimates, by the solicitation closing date. The solicitation shall permit submission of alternate performance standards that differ from the solicitation's performance standards. To differentiate between the alternate standards and the solicitation's standards, the solicitation shall require that offers and tenders include a compliance matrix specifying (a) the alternate performance standards; (b) an explanation of how the alternate standards differ from the solicitation standards; (c) the cost of meeting each alternate standard; (d) the cost difference between the alternate and solicitation standard; (e) a cost-benefit analysis explaining the rationale for each alternate standard; and (f) proposed language to include alternate performance standards in an amended solicitation. If the agency receives no alternate performance standards, or does not accept any of the alternate

standards, then the SSA shall determine a performance decision based on the solicitation's performance standards.

- (a) **Phase One.** In phase one, the CO shall open and evaluate the technical proposals (submitted by private sector offerors, public reimbursable sources, and the ATO). The CO shall not open or evaluate agency or public reimbursable cost estimates or private sector price proposals during phase one. The CO may conduct exchanges, in accordance with FAR Subpart 15.306 and this attachment, to determine the technical acceptability of each offer and tender. If an agency receives offers and tenders that include alternate performance standards, the CO shall (1) evaluate each alternate performance; (2) consider the discrete cost or price difference associated with the alternate standard; (3) determine, in consultation with the requiring activity, whether an alternate standard is necessary and, if so, within the agency's budget limitations; and (4) document, in writing, the evaluation of each alternate performance standard. If the SSA accepts an alternate performance standard, the CO shall issue an amendment to the solicitation to (1) identify the specific change to the solicitation's performance standard, without conveying proprietary information about technical approaches or solutions to meet the new performance standard; and (2) request the resubmission of offers and tenders in response to the amended solicitation. Upon receiving revisions to offers and tenders, the CO may conduct exchanges, in accordance with FAR Subpart 15.306 and this attachment, to determine the technical acceptability of each offer and tender.
- (b) **Phase Two.** In phase two, the CO shall perform price analysis and cost realism of private sector cost proposals, public reimbursable cost estimates, and the agency cost estimate, in accordance with this attachment, on all offers and tenders determined to be technically acceptable at the conclusion of phase one. The CO then shall enter the lowest contract price or public reimbursable cost on SCF Line 7 to complete the SCF calculations. The SSA shall certify the SCF and the CO shall sign the SCF in accordance with Attachment C. The SSA shall make the performance decision by certifying the SCF, which is the performance decision document.
- (3) **Tradeoff Source Selection Process.** [See OMB Memoranda M-08-11 (February 20, 2008), number 3, and M-06-13 (April 24, 2006) when applying this provision.] A tradeoff source selection may be appropriate in a standard competition when an agency wishes to consider award to other than the lowest priced source. An agency may use the tradeoff processes under FAR Subpart 15.101-1 in a standard competition of (a) information technology activities (as defined in Attachment D); (b) commercial activities performed by a private sector source; (c) new requirements; or (d) segregable expansions. An agency also may use a tradeoff source selection process for a specific standard competition if prior to the public announcement of the competition, the CSO (without delegation) (a) approves, in writing, the use of the tradeoff source selection process; and (b) notifies OMB of the approval by forwarding a copy of the written approval. An agency shall not use a tradeoff source selection process for activities currently performed by government personnel except as provided in this paragraph. When an agency uses a tradeoff source selection process in a standard competition, an agency shall comply with FAR Part 15 unless otherwise noted in this attachment. Under a tradeoff source selection process, an agency may select an offer or tender that is not the lowest priced offer or tender only if the decision is within the agency's budgetary

limitation. An agency shall not use a tradeoff source selection to justify increases in the agency's budgetary authorization. Prospective providers may propose alternate performance standards that differ from the solicitation's performance standards. The CO shall conduct price analysis and cost realism as required by this attachment. The CO may conduct exchanges, in accordance with FAR Subpart 15.306 and this attachment. The CO's rationale for tradeoffs shall be (a) documented, in writing; (b) attached to the SCF; and (c) retained with the competition file for the standard competition. The CO shall enter the contract price and public reimbursable cost estimate, for each offer and tender determined to be technically acceptable, on SCF Line 7. The CO then shall sign the SCF. The SSA may decide to award to the low-cost provider, or other than the low-cost provider, as follows:

- (a) **Low Cost Performance Decision.** For a decision to award to the low-cost provider, the SSA shall certify the SCF in accordance with Attachment C. The SSA makes the performance decision by certifying the SCF, which is the performance decision document.
- (b) **Other Than Low Cost Performance Decision.** For a decision to award to other than the low-cost provider, the SSA shall certify the SCF, in accordance with Attachment C, and shall document the following on the SCF (1) a summary of the source selection decision document; (2) a narrative explanation of the tradeoffs performed; and (3) a rationale for the decision to award to other than the low-cost provider. The SSA makes the performance decision by certifying the SCF. The SCF, combined with the source selection decision document, is the performance decision document.

**c. Special Considerations.**

- (1) **Evaluation of Private Sector Offers, Public Reimbursable Tenders, and Agency Tender.** The CO shall not evaluate the private sector offers separately from the agency tender. The CO, SSA, and SSEB shall not (a) convey, require, make, direct, or request adjustments to a tender or offer that would identify any proprietary or procurement sensitive information from another offer or tender; or (b) require, direct, or make specific changes to an offer or tender, including the approach and staffing requirements (e.g., adding a specific number of employee positions to the MEO). The CO shall ensure that oral presentations do not provide an unfair advantage for or inherently benefit a prospective provider, public or private.
- (2) **Exchanges with Private Sector, Public Reimbursable, and Agency Sources.** If the CO conducts exchanges with private sector offerors, public reimbursable sources, and the ATO, during the course of the standard competition, those exchanges shall be in accordance with FAR 15.306, with the following exceptions. For an agency tender, the CO shall correspond with the ATO, in writing, and shall maintain records of all such correspondence as part of the competition file. The CO and ATO shall include clear, sufficient, and unambiguous information in the correspondence to adequately convey concerns, responses, or information regarding the agency tender.
- (3) **Deficiencies in an Offer or Tender.** If the CO perceives that a private sector offer, public reimbursable tender, or agency tender is materially deficient, the CO shall ensure that the ATO, private sector offeror, or the public reimbursable tender official receives a deficiency notice. The CO shall afford the ATO, the private sector offeror, or the public

reimbursable tender official a specific number of days to address the material deficiency and, if necessary, to revise and recertify the tender or offer. If the ATO is unable to correct the material deficiency, the CSO shall determine if a commitment of additional resources will enable the ATO to correct the material deficiency within the specified number of days. If the CSO determines that the ATO cannot correct the material deficiency with a reasonable commitment of additional resources, the CSO may advise the SSA to exclude the agency tender from the standard competition. If the CO determines that a private sector offeror or public reimbursable tender official has not corrected a material deficiency, the SSA may exclude the private sector offer or public reimbursable tender from the standard competition. If the agency tender is excluded from the standard competition, an agency shall calculate the SCF as required by Attachment C and the SSA shall make the performance decision based upon the source selection decision document and shall document the reason for elimination of the agency tender on the SCF.

**(4) Price Analysis and Cost Realism of Private Sector Cost Proposals, Public Reimbursable Cost Estimates and Agency Cost Estimates.**

- (a) General.** Regardless of the contract type stated in the solicitation, the CO shall perform price analysis and cost realism (as defined in FAR Part 2) on all private sector cost proposals, public reimbursable cost estimates (SCF Lines 1a-6a), and the agency cost estimate (SCF Lines 1-6). Cost analysis (in accordance with FAR Part 15) is not required for a standard competition but may be performed at the discretion of the SSA.
- (b) Agency and Public Reimbursable Cost Estimates.** The CO shall ensure that the agency and public reimbursable cost estimates (1) are calculated in accordance with Attachment C; (2) are based on the standard cost factors in effect on the performance decision date; and (3) use the version of the COMPARE costing software that is in effect on the performance decision date.
- (c) Conversion Differential.** All standard competitions shall include the conversion differential. The CO shall ensure that the conversion differential is calculated in accordance with Attachment C and reflected on SCF Line 14. The conversion differential is a cost that is the lesser of 10 percent of the MEO's personnel-related costs (reflected on SCF Line 1) or \$10 million over all the performance periods stated in the solicitation. This conversion differential is added to the cost of performance by a non-incumbent source. If the incumbent provider is a private sector or public reimbursable source, the conversion differential is added to the cost of agency performance. If the agency is the incumbent provider, the conversion differential is added to the cost of private sector or public reimbursable performance. The conversion differential precludes conversions based on marginal estimated savings, and captures non-quantifiable costs related to a conversion, such as disruption and decreased productivity.
- (d) SCF Overview.** As part of the requirement to conduct price analysis and cost realism, the CO shall ensure that the SCF has been prepared in accordance with Attachment C and that the required signatures and certifications are on the SCF. Figure B4. provides an overview of the detailed guidance for developing the agency and public reimbursable cost estimates in Attachment C.



<b>Summary of the Standard Competition Form (SCF)</b>	
<b>COST OF AGENCY PERFORMANCE</b>	
SCF Line 1: <b>Personnel Costs.</b>	Agency labor costs for direct and indirect labor necessary to meet the requirements in the solicitation.
SCF Line 2: <b>Material and Supply Costs.</b>	Agency cost of materials and supplies such as office supplies, including handling and inflation.
SCF Line 3: <b>Other Specifically Attributable Costs.</b>	Other agency costs such as the cost of capital, depreciation capital assets, rent, utilities, insurance, and MEO subcontracts.
SCF Line 4: <b>Overhead Costs.</b>	Twelve percent of agency personnel costs reflected on SCF Line 1.
SCF Line 5: <b>Additional Costs.</b>	Agency costs not otherwise accounted for on SCF Lines 1-4, such as phase-in costs and one-time conversion costs for an expansion, new requirement, or conversion from a private sector or public reimbursable provider to agency performance.
SCF Line 6: <b>Total Cost of Agency Performance.</b>	The sum of SCF Lines 1-5.
<b>COST OF PUBLIC REIMBURSABLE PERFORMANCE</b>	
The guidance for a public reimbursable source to complete SCF Lines 1a-6a is the same as the guidance to complete SCF Lines 1-6.	
<b>ADJUSTED COST OF PRIVATE SECTOR OR PUBLIC REIMBURSABLE PERFORMANCE</b>	
SCF Line 7: <b>Contract Price or Public Reimbursable Cost Estimate.</b>	The contract price (based on the type of acquisition, source selection process, and contract type required by the solicitation), or the public reimbursable cost on SCF Line 6a.
SCF Line 8: <b>Contact Administration Costs.</b>	Costs for administering the contract.
SCF Line 9: <b>Additional Costs.</b>	Costs incurred by the agency that are added to the private sector or public reimbursable provider's price/cost.
SCF Line 10: <b>One-time Conversion Costs.</b>	Costs based on 5% of Line 1, incurred by the agency as a result of awarding a contract.
SCF Line 11: <b>Gain on Assets.</b>	Revenue generated from the sale/transfer of agency assets when converting from agency performance.
SCF Line 12: <b>Federal Income Tax Adjustment.</b>	Revenue for the government when a private sector provider pays federal income tax.
SCF Line 13: <b>Total Adjusted Cost of Private Sector or Public Reimbursable Performance.</b>	The sum of Lines 7-12.
<b>COST OF PERFORMANCE DECISION CALCULATIONS</b>	
SCF Line 14: <b>Conversion Differential.</b>	The lesser of 10% of agency labor costs or \$10 M is added to the non-incumbent provider.
SCF Line 15: <b>Adjusted Total Cost of Agency Performance.</b>	If a private sector or public reimbursable source is the incumbent provider, the conversion differential is added to the cost of agency performance (SCF Line 6) and the sum is the "adjusted total cost of agency performance" on SCF Line 15.
SCF Line 16: <b>Adjusted Total Cost of Private Sector or Public Reimbursable Performance.</b>	If the agency is the incumbent provider, the conversion differential is added to SCF Line 13 and the sum is the "adjusted total cost of private sector or public reimbursable performance" on SCF Line 16.
SCF Line 17: <b>Cost Difference.</b>	SCF Line 15 is subtracted from SCF Line 16 to reflect the "cost difference" on SCF Line 17. A positive number indicates performance decision for agency performance and a negative number indicates a performance decision for a private sector or public reimbursable provider.
SCF Line 18: <b>Low-Cost Provider.</b>	The low-cost provider based on the calculations on the SCF.

**Figure B4.**

**6. Performance Decision in a Standard Competition.**

- a. Certification.** To certify a performance decision in a standard competition, the SSA and CO shall sign the SCF.
- b. End Date.** The end date of a standard competition shall be the date that all SCF certifications are complete, signifying a performance decision. An agency shall not make any changes (including corrections) to the SCF, agency tender, or public reimbursable tender after this date, except in response to a contest under paragraph F of this Attachment.
- c. Public Announcement of the Performance Decision.** An agency shall make a formal public announcement (at the local level and via *FedBizOpps.gov*) of the performance decision. In the announcement of a performance decision for a sealed bid acquisition, the agency shall include the information made public at bid opening, under FAR Subpart 14.4. In the announcement of a performance decision for a negotiated acquisition, the agency shall

include the information regarding offers and tenders identified in FAR 15.503(b). If an agency tender includes any MEO subcontracts, the agency shall not release proprietary information contained in these subcontracts.

- d. Debriefing.** The SSA shall ensure that the CO offers a debriefing to all private sector offerors, public reimbursable sources, the ATO, and directly affected government personnel (and their representatives), in accordance with FAR 15.503.
- e. Release of the Certified SCF and Tenders.** An agency shall release the certified SCF, agency tender, and public reimbursable tenders, only as provided in this paragraph. Until resolution of any contest under paragraph F. of this Attachment, or expiration of the time for filing a contest, only legal agents for directly interested parties shall have access to the certified SCF, agency tender, and public reimbursable tenders. The agency shall require, as a condition of access, that a legal agent of a directly interested party sign a non-disclosure agreement. The agreement shall provide that a signatory may share the information covered by the agreement only with other signatories, and only for purposes of challenging the performance decision. Upon resolution of a contest challenging a performance decision (i.e., when the agency renders a written decision in compliance with FAR Subpart 33.103, as required by paragraph F.1.b. of this Attachment), or expiration of the time for filing such a contest, the certified SCF, agency tender, and public reimbursable tenders, shall be available to the public, upon request. Proprietary information of private sector providers of subcontracts included in agency or public reimbursable tenders shall not be released.
- f. Implementing a Performance Decision.** An agency shall implement the performance decision resulting from a standard competition as follows:

  - (1) Private Sector Provider.**

    - (a) Awarding the Contract.** For a performance decision favoring a private sector source, the CO shall award a contract in accordance with the FAR.
    - (b) Right of First Refusal.** When the agency is the incumbent service provider, the CO shall comply with FAR 7.305(c) regarding the right of first refusal. The HRA shall provide the CO with a list of adversely affected employees as soon as possible after the performance decision is made.
  - (2) Public Reimbursable Provider.** For a performance decision favoring a public reimbursable source, the CO shall develop a fee-for-service agreement with the public reimbursable source. The CO shall incorporate appropriate portions of the solicitation and public reimbursable tender into the fee-for-service agreement and distribute the agreement to the appropriate individuals.
  - (3) Agency Provider.** For a performance decision favoring the agency, the CO shall establish an MEO letter of obligation with an official responsible for performance of the MEO. The CO shall incorporate appropriate portions of the solicitation and the agency tender into the MEO letter of obligation and distribute the letter to appropriate individuals including the ATO.

**E. POST COMPETITION ACCOUNTABILITY FOR STREAMLINED AND STANDARD COMPETITIONS.**

- 1. Best Practices and Lessons Learned.** Agencies shall post best practices and lessons learned resulting from a streamlined or standard competition process on SHARE A-76! at <http://sharea76.fedworx.org/sharea76/Home.aspx>. An agency shall maintain the accuracy and currency of their agency's information, including links, on SHARE A-76!
- 2. Execution Tracking of Streamlined and Standard Competitions.** Agencies shall maintain a database to track the execution of agency streamlined and standard competitions. Agencies shall maintain a database that (1) assigns a unique tracking number to each streamlined and standard competition, (2) includes data fields as defined on the OMB web site at [www.omb.gov](http://www.omb.gov), (3) tracks each streamlined and standard competition as events occur (real-time) from the date of public announcement through either completion of the last performance period or cancellation of the competition, and (4) retains historical records of streamlined and standard competitions after the last performance period has been completed.
- 3. Competitive Sourcing Quarterly Report.** An agency shall submit a Competitive Sourcing Quarterly Report to OMB, by the end of each fiscal quarter (December, March, June, September), that includes the following (1) in-progress streamlined and standard competitions (i.e., competitions with start dates and pending performance decisions); and (2) completed streamlined and standard competitions (i.e., competitions with performance decisions). The required format for these reports can be found on the OMB web site at [www.omb.gov](http://www.omb.gov).
- 4. Monitoring Performance.** Regardless of the selected service provider, after implementing a performance decision, an agency shall (1) monitor performance for all performance periods stated in the solicitation; (2) implement the quality assurance surveillance plan; (3) retain the solicitation and any other documentation from the streamlined or standard competition as part of the competition file; (4) maintain the currency of the contract file, consistent with FAR Subpart 4.8, for contracts, MEO letters of obligation, and fee-for-service agreements; (5) record the actual cost of performance by performance period; and (6) monitor, collect, and report performance information, consistent with FAR Subpart 42.15, for purposes of past performance evaluation in a follow-on streamlined or standard competition. To record the actual cost of performance for a specific performance period, the agency shall adjust actual costs for scope, inflation, and wage rate adjustments made during a specific performance period. The agency shall compare the actual costs to the costs recorded on SCF Lines 6 and 7 when the performance decision was made.
- 5. Option Years of Performance and Follow-on Competition.**
  - a. Option Years of Performance.** The CO shall make option year exercise determinations for agency, public reimbursable, and private sector performance decisions in accordance with FAR 17.207. Consistent with the FAR, the CO shall not approve performance periods that exceed the total number of years specified in the solicitation used in the standard competition.
  - b. Follow-on Competition.** For agency or public reimbursable performance decisions, an agency shall complete another streamlined or standard competition of the activity by the end of the last performance period on the SCF or SLCF unless a specific exemption is granted by the CSO (without delegation) before the end of the last performance period. The CSO may extend the performance period for a high performing organization if the CSO (a) determines that continued cost savings justifies the extension; (b) documents these cost savings through

the use of a COMPARE generated SCF or SLCF; (c) limits the extension to no more than 3 years after the last performance period; and (d) makes a formal announcement of the extension via *FedBizOpps.gov*. For private sector performance decisions, the CO shall comply with the FAR for follow-on competition.

## 6. Terminations.

### a. Terminations Based on Failure to Perform.

- (1) **Notification.** Consistent with FAR Part 49, the CO shall notify a service provider (i.e., private sector contractor, public reimbursable provider, or MEO) of poor performance through cure notices and show cause notices. The CO shall inform the head of the requiring activity of such notices.
- (2) **Termination.** If the CO determines that a service provider (i.e., private sector contractor, public reimbursable provider, or MEO) has failed to perform to the extent that a termination for default is justified, the CO shall issue a notice of termination, consistent with FAR Part 49. Upon terminating an MEO letter of obligation, an agency shall change the inventory coding to reflect that the activity is no longer performed by an MEO and shall perform either a streamlined or standard competition.
- (3) **Temporary Remedies.** If the CO terminates a contract, fee-for-service agreement, or MEO letter of obligation for the service provider's failure to perform, an agency may use interim contracts, public reimbursable sources, or government personnel on an emergency basis. An agency shall not allow these temporary remedies to be used for longer than one year from the date of termination.

- b. Terminations Based on Reasons Other than Failure to Perform.** If an agency determines that performance by a service provider (i.e., private sector contractor, public reimbursable, or MEO) is to be terminated for reasons other than failure to perform, the CSO (without delegation) shall approve such terminations, in writing, and provide a copy to OMB before the termination. Examples of these terminations include, but are not limited to, elimination of an agency requirement through divestiture, privatization, reorganization, restructuring, national defense, or homeland security.

## F. CONTESTS.

1. **Standard Competitions.** A directly interested party (see Attachment D) may contest any of the following actions taken in connection with a standard competition: (1) a solicitation; (2) the cancellation of a solicitation; (3) a determination to exclude a tender or offer from a standard competition; (4) a performance decision, including, but not limited to, compliance with the costing provisions of this circular and other elements in an agency's evaluation of offers and tenders; or (5) a termination or cancellation of a contract or letter of obligation if the challenge contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the performance decision. The pursuit of a contest by a directly interested party and the resolution of such contest by the agency shall be governed by the procedures of FAR Subpart 33.103.
2. **Streamlined Competitions.** No party may contest any aspect of a streamlined competition.

## CALCULATING PUBLIC-PRIVATE COMPETITION COSTS

### A. OVERVIEW.

1. **Public-Private Competition Costs.** To reflect the full cost of performance by the government, agencies and public reimbursable sources shall calculate cost estimates in accordance with this attachment for public-private competitions. An agency shall not deviate from this attachment except as provided by paragraph 5.c. of this circular. A private sector source shall propose a price or estimated cost in accordance with Attachment B and the FAR.
2. **COMPARE.** Agencies shall use COMPARE (the costing software that incorporates the costing procedures of this circular) in conjunction with this Attachment to develop cost estimates and generate the SCF or SLCF. The COMPARE version in effect as of the performance decision date shall be used when determining a performance decision.
  - a. **COMPARE Maintenance.** The Department of Defense shall maintain the currency and accuracy of COMPARE, COMPARE User's Guide, and COMPARE tables (e.g., inflation cost factors, tax rates, useful life and disposal values, cost of capital cost factors, OPM wage rates) with OMB oversight. The Department of Defense shall maintain a COMPARE version control log for all changes to the costing software and shall coordinate COMPARE version changes with OMB prior to release. An agency shall submit requests for COMPARE changes to the Department of Defense and OMB. The Department of Defense shall evaluate the requested COMPARE changes and review the impact of the change with OMB. OMB shall approve version changes to COMPARE.
  - b. **COMPARE Calculations.** Many of the calculations required by this attachment are embedded directly into the COMPARE software code. These COMPARE calculations are dependent upon accurate cost data that agencies shall determine and manually enter into COMPARE. For example, when cost data for the various costing requirements are manually entered, COMPARE will then automatically calculate costs such as basic pay, fringe benefits, insurance, inflation, FTEs, cost of capital, depreciation, minor item replacement, overhead, severance pay, and federal taxes.
    - (1) **Standard Competitions.** Agencies shall calculate and manually enter the required cost data for SCF Lines 1, 2, 3, 5, 9, and 11. COMPARE then automatically computes SCF Lines 4, 6, 8, and 10. After the CO enters the required data for SCF Lines 7 and 12, COMPARE automatically computes SCF Lines 12, 13, 14, 15, 16, 17 and 18 and no further manual calculations are required for the SCF. After all costs have been entered into COMPARE the SCF is automatically generated for signature and certification of the performance decision. Public reimbursable cost estimates shall be calculated and manually entered based on the required cost data for SCF Lines 1a, 2a, 3a, and 5a. COMPARE then automatically computes SCF Lines 4a and 6a.
    - (2) **Streamlined Competitions.** Agencies shall calculate and manually enter the required data for SLCF Lines 1, 2, 3, 7 and 12. COMPARE then automatically computes SLCF Lines 4, 6, 8, 12, 13, 17 and 18 and no further manual calculations are required for the SLCF. After all costs have been entered into COMPARE the

SLCF is automatically generated for signature and certification of the performance decision. For public reimbursable cost estimates, agencies shall calculate and manually enter the required cost data for SLCF Lines 1a, 2a, and 3a. COMPARE then automatically calculates SLCF Lines 4a and 6a.

3. **Competitions Between Private Sector and Public Reimbursable Sources.** A public reimbursable source may only respond to a solicitation by submitting a public reimbursable tender that is developed in accordance with Attachment B. The public reimbursable tender includes a cost estimate that shall be calculated in accordance with this attachment and entered on SCF Lines 1a-6a. The CO shall determine the cost adjustments to be included on SCF Line 8 (Contract Administration) and SCF Line 12 (Federal Income Tax Adjustment). The CO shall ensure no costs are entered on SCF Lines 9, 10, 11, and 14.
4. **Excluded Costs.** Agency and public reimbursable sources shall not include the following in cost estimates (a) retained rate of basic pay for civilian employees (5 C.F.R. Part 536); (b) costs for conducting the streamlined or standard competitions; and (c) agency separation incentive programs such as Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Pay (VSIP), which are programs used to preclude involuntary civilian separations resulting from reductions in force (RIF).
5. **Conversion Differential.** In a standard competition, an agency shall determine the conversion differential, in accordance with paragraph D of this attachment. The conversion differential is added to a non-incumbent's cost of performance and is the lesser of 10 percent of the MEO's personnel-related costs (SCF Line 1) or \$10 million over all performance periods stated in the solicitation. (See Attachment B, Conversion Differential.) Agencies shall not calculate the conversion differential in a cost estimate for a streamlined competition. [See OMB Memoranda M-08-11 (February 20, 2008), number 3, and M-06-13 (April 24, 2006) when applying this provision.]
6. **Performance Periods.** An agency or a public reimbursable source shall reflect the same performance periods required by the solicitation on the SCF.
7. **Rounding Rule.** An agency or a public reimbursable source shall round all line entries on the SCF/SLCF to the nearest dollar.
8. **Phase-in Costs.** An agency or public reimbursable source shall reflect phase-in costs that are associated with the specific phase-in actions and are documented in the phase-in plan. Agency and public reimbursable sources shall calculate the phase-in costs associated with the change from the incumbent provider on SCF Lines 1-5 or SCF Lines 1a-5a, as appropriate.
9. **Inflation.** OMB issues a transmittal memorandum in the Federal Register to identify changes to the federal pay raise assumptions and inflation factors (based on the President's annual budget). These annual pay raise assumptions and inflation factors shall be used in an agency or a public reimbursable cost estimate for pay and non-pay categories of cost as follows: (a) through the end of the **last** performance period for pay and non-pay categories of cost that are not subject to an economic price adjustment, and (b) through the end of the **first** performance period for pay and non-pay categories of cost that are subject to an economic price adjustment. COMPARE automatically computes inflation on a daily basis, which is calculated using 365.25 days per year to account for leap years.

- 10. Standard Cost Factors.** Agencies and public reimbursable sources shall use the standard A-76 costing factors identified at Figure C1. to calculate cost estimates. Figure C1. identifies the types of and sources for standard costing factors as well as specific costing factors in effect at the time of publication of this circular. Updates to these cost factors will be posted on the OMB web site at [www.OMB.gov](http://www.OMB.gov). When a standard cost factor changes, the Department of Defense shall update the tables in COMPARE and post the table update on SHARE A-76! Prior to posting a table update, the Department of Defense shall test the change to the software, and review the change with OMB. An agency shall not deviate from the cost factors required by this attachment except as provided by paragraph 5.c. of this circular, in which case the agency shall notify the Department of Defense of the change, fund any resulting modifications to COMPARE to accommodate the agency-specific cost factor, and maintain the currency of the agency-specific cost factor. When preparing cost estimates, agency and public reimbursable sources shall (a) use the standard cost factors that are in effect as of the solicitation closing date; and (b) apply known, projected changes to these standard cost factors, if the agency or public reimbursable source will incur these costs before the end of the first performance period. If a standard cost factor changes before the performance decision date, the CO shall ensure the agency and public reimbursable cost estimates reflect the standard cost factors that are in effect on the performance decision date.
- 11. Standard Competition Form (SCF).** Agencies and public reimbursable sources shall use the SCF at Figure C2. for a standard competition. The ATO, public reimbursable source, CO, and SSA shall sign the certification statements as reflected on the SCF in Figure C2.

  - a. Agency Cost Estimate.** Based on the agency tender, the solicitation, and Attachment B, the ATO shall calculate and certify the agency cost estimate on SCF Lines 1-6, and calculate SCF Lines 8-17.
  - b. Public Reimbursable Cost Estimate.** Based on the public reimbursable tender, the solicitation, and Attachment B, a public reimbursable source shall calculate and certify the public reimbursable cost estimate on SCF Lines 1a-6a.
  - c. Negotiated Acquisition.** For a negotiated acquisition, the CO shall determine, through price analysis and cost realism as required by Attachment B, if the agency cost estimate (SCF Lines 1-6) and a public reimbursable cost estimate (SCF 1a-6a) are calculated in accordance with this attachment. The SSA ensures the performance decision is based on evaluating offers and tenders in accordance with Attachment B, and certifies either a low-cost performance decision as supported by SCF Line 17 or an other-than-low-cost performance decision as supported by the source selection decision documentation.
  - d. Sealed Bid Acquisition.** For sealed bid and negotiated acquisitions, the CO shall determine (as required by Attachment B) if the costs entered on SCF Lines 8-18 are accurate and calculated in accordance with this attachment. Agencies and public reimbursable sources shall reflect cost estimates using the SCF in Figure C2.
- 12. Streamlined Competition Form (SLCF).** When performing a streamlined competition, an agency shall calculate and certify SLCF Lines 1, 2, 3, 4, 6, 7, 8, 12, 13, 17, and 18 in accordance with Attachments B and C. The cost estimate for a public reimbursable source shall be calculated and certified on SLCF Lines 1a, 2a, 3a, 4a, and 6a. Agencies shall reflect cost estimates using the SLCF in Figure C3. The certification statements as reflected on the SLCF in Figure C3, shall be signed by different individuals, as required by Attachment B. [See OMB Memorandum M-08-11 (February 20, 2008), numbers 1 (with Attachment B, number 3) and 3, when applying this provision.]

Figure C1.

Table of Standard A-76 Costing Factors

Title	Originating Source	Category of Cost	Factor <sup>1</sup>
Casualty Insurance Cost Factor	OMB Transmittal Memoranda	Non-pay	0.5%
Civilian Position Full Fringe Benefit Cost Factor	OMB Transmittal Memoranda	Pay	36.25%
Contract Administration Cost Factors and Allowable Grades	OMB Circular A-76	Pay	Figure C6.
Conversion Differential	OMB Circular A-76	Non-pay	10% or \$10 million
Cost of Capital Cost Factors	OMB Circular A-94, <i>Discount Rates to be Used in Evaluating Time-Distributed Costs and Benefits (Appendix C)</i>	Non-pay	Depends Upon Capital Asset
Insurance and Health Benefit Cost Factor	OMB Transmittal Memoranda	Pay	7.0%
Federal Insurance Contribution Act (FICA) Cost Factor <sup>2</sup>	Social Security Administration	Pay	7.65%
Federal Wage System (FWS) Pay Schedules	Civilian Personnel Management Service Wage and Salary Division	Pay	Multiple Wages
Foreign Country Operations & Maintenance Inflation Cost Factors	Local Determination	Non-pay	Depends Upon Location
Fuels Inflation Cost Factors	Office of the Under Secretary of Defense (Comptroller), <i>National Defense Budget Estimates for the FYxx Budget (Green Book)</i>	Non-pay	Depends Upon Fiscal Year
Full-Time, Part-Time & Temporary Annual Productive Hours for Civilian Positions	OMB Circular A-76	Not Applicable	1,776 Hours
General Schedule (GS) Pay Schedules	OPM Office of Compensation Administration	Pay	Multiple Salaries
Intermittent Annual Productive Hours for Civilian Positions	OMB Circular A-76	Not Applicable	2,007 Hours
Labor Inflation Cost Factors for Civilian Positions	OMB Transmittal Memoranda	Pay	Depends Upon Fiscal Year
Labor Inflation Cost Factors for Military/Uniformed Services Positions	OMB Transmittal Memoranda	Pay	Dependent Upon Fiscal Year
Medicare Benefit Cost Factor	Social Security Administration	Pay	1.45%
Military/Uniformed Services Composite Pay Rates	<b>Military Departments:</b> Office of the Under Secretary of Defense (Comptroller) <i>FYxx Department of Defense Reimbursable Rates Tab K (All Services)</i> <b>Other Uniformed Services:</b> <i>Dependent Upon Agency Comptroller Determination</i>	Pay	Depends Upon Uniformed Service and Fiscal Year
Miscellaneous Fringe Benefit Cost Factor	OMB Transmittal Memoranda	Pay	1.7%
Non-Appropriated Fund Pay Schedules	Civilian Personnel Management Service Wage and Salary Division	Pay	Multiple Wages
Old Age and Survivors Death Insurance Maximum Taxable Earnings (salary limit)	Social Security Administration	Pay	\$87,000
Old Age and Survivors Death Insurance Cost Factor	Social Security Administration	Pay	6.2%
Operations & Maintenance Inflation Cost Factors	Office of Management and Budget Transmittal Memoranda	Non-pay	Depends Upon Fiscal Year
Overhead Factor	OMB Circular A-76	Pay and Non-pay	12%
Personnel Liability Insurance Cost Factor	OMB Transmittal Memoranda	Pay	0.7%
Other One-Time Conversion Cost Factor	OMB Circular A-76	Non-pay	1%
Severance Pay One-Time Conversion Cost Factor	OMB Circular A-76	Pay	4%
Special Class Retirement Cost Factor (Law Enforcement & Fire Protection)	OMB Transmittal Memoranda	Pay	40.4%
Special Class Retirement Cost Factor (Air Traffic Control)	OMB Transmittal Memoranda	Pay	38.5%
Standard Civilian Retirement Benefit Cost Factor	OMB Transmittal Memoranda	Pay	26.1%
Tax Rates	Internal Revenue Service Statistics of Income Division <i>Statistics of Income Corporation Sourcebook and North American Industry Classification System</i>	Non-pay	Depends Upon Industry Grouping in Source Document
Useful Life and Disposal Values	OMB Transmittal Memoranda	Non-pay	Depends Upon the Capital Asset

<sup>1</sup> The factors listed in this column are factors in effect on February 2008. Agencies should refer to the COMPARE Web site at [www.compareA76.com](http://www.compareA76.com) for the updated COMPARE master tables and other updated information.

<sup>2</sup> For social security (i.e., Old Age and Survivors Death Insurance and Medicare).



**Figure C2.**

STANDARD COMPETITION FORM						
Agency:		Agency Component:		Competition Number:		Competition Title:
Solicitation Closing Date:				Competition Location:		
Solicitation Number:						
Line #	Line Title	1st Performance Period (Phase-in Period)	2nd Performance Period	3rd Performance Period	4th Performance Period	Total
<b>COST OF AGENCY PERFORMANCE</b>						
1.	Personnel Costs	\$000	\$000	\$000	\$000	\$000
2.	Material and Supply Costs	\$000	\$000	\$000	\$000	\$000
3.	Other Specifically Attributable Costs	\$000	\$000	\$000	\$000	\$000
4.	Overhead Costs	\$000	\$000	\$000	\$000	\$000
5.	Additional	\$000	\$000	\$000	\$000	\$000
6.	<b>Total Cost of Agency Performance</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
<p><b>AGENCY TENDER CERTIFICATION:</b> I certify, to the best of my knowledge, that this agency tender (1) meets the requirements of the solicitation; (2) reflects a most efficient organization (MEO) that is fully capable of performing the requirements of the solicitation; (3) includes an agency cost estimate that is accurate and calculated in accordance with OMB Circular A-76; and (4) has the approval of the agency, allowing for implementation of the organizational structure, the personnel requirements, capital investments, and budgetary requirements.</p>						
Agency Tender Official's Signature:				Date:		
Printed Full Name:		Title:		Agency (Component):		Phone #:
<b>COST OF PUBLIC REIMBURSABLE PERFORMANCE</b>						
1a.	Personnel Costs	\$000	\$000	\$000	\$000	\$000
2a.	Material and Supply Costs	\$000	\$000	\$000	\$000	\$000
3a.	Other Specifically Attributable Costs	\$000	\$000	\$000	\$000	\$000
4a.	Overhead Costs	\$000	\$000	\$000	\$000	\$000
5a.	Additional Costs	\$000	\$000	\$000	\$000	\$000
6a.	<b>Total Cost of Public Reimbursable Performance</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
<p><b>PUBLIC REIMBURSABLE TENDER CERTIFICATION:</b> I certify, to the best of my knowledge, that this public reimbursable tender (1) meets the requirements of the solicitation; (2) reflects an organization that is fully capable of performing the requirements of the solicitation; (3) includes a cost estimate that is accurate and calculated in accordance with OMB Circular A-76; and (4) has the approval of my agency, allowing for implementation of the organizational structure, the personnel requirements, capital investments, and budgetary requirements.</p>						
Official's Signature:				Date:		
Printed Full Name:		Title:		Agency (Component):		Phone #:
<b>ADJUSTED COST OF PRIVATE SECTOR OR PUBLIC REIMBURSABLE PERFORMANCE</b>						
7.	Private Sector Price or Public Reimbursable Cost Estimate	\$000	\$000	\$000	\$000	\$000
8.	Contract Administration Costs	\$000	\$000	\$000	\$000	\$000
9.	Additional Costs	\$000	\$000	\$000	\$000	\$000
10.	One-Time Conversion Costs	\$000	\$000	\$000	\$000	\$000
11.	Gain From Disposal or Transfer of Assets	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)
12.	Federal Income Tax Adjustment	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)
13.	<b>Total Adjusted Cost of Private Sector or Public Reimbursable Performance</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
<b>DECISION CALCULATIONS</b>						
14.	Conversion Differential					\$000
15.	Adjusted Total Cost of Agency Performance					\$000
16.	Adjusted Total Cost of Private Sector or Public Reimbursable Performance					\$000
17.	Cost Difference (Enter: Line 16 - Line 15)					\$000
18.	LOW-COST PROVIDER	<input type="checkbox"/> Agency Provider		<input type="checkbox"/> Private Sector Provider		<input type="checkbox"/> Public Reimbursable Provider
<b>PERFORMANCE DECISION</b>						
<b>SEALED BID ACQUISITION</b>						
<p><b>CONTRACTING OFFICER'S CERTIFICATION:</b> I certify that, to the best of my knowledge (1) the agency tender meets the requirements of the solicitation; (2) the private sector offer meets the requirements of the solicitation, the offeror is responsible, and the contract price is reasonable [include only if a contract price is entered on Line 7], or the public reimbursable tender meets the requirements of the solicitation [include only if a public reimbursable cost estimate is entered on both SCF Line 6a and 7]; and (3) the costs on SCF Lines 8-18 are accurate and calculated in accordance with OMB Circular A-76, and (4) the performance decision is a low-cost decision supported by SCF Line 17.</p>						
Contracting Officer's Signature:				Date:		
Printed Full Name:		Title:		Agency (Component):		Phone #:
<b>NEGOTIATED ACQUISITION</b>						
<p><b>CONTRACTING OFFICER'S CERTIFICATION:</b> I certify that price analysis and cost realism (as defined in FAR Part 2) was performed on all offers and tenders; and that, to the best of my knowledge (1) the agency tender meets the requirements of the solicitation; (2) the agency cost estimate reflected on SCF Lines 1-6 is accurate and calculated in accordance with OMB Circular A-76; (3) the private sector offer meets the requirements of the solicitation, the offeror is responsible, and the contract price is reasonable [include only when a contract price(s) is entered on Line 7] and/or the public reimbursable tender meets the requirements of the solicitation and the cost estimate reflected on SCF Lines 1a-6a is accurate and calculated in accordance with OMB Circular A-76 [include only when a public reimbursable cost estimate is entered on SCF Line 6a]; and (4) the costs on SCF Lines 8-18 are accurate and calculated in accordance with OMB Circular A-76.</p>						
Contracting Officer's Signature:				Date:		
Printed Full Name:		Title:		Agency (Component):		Phone #:
<b>SOURCE SELECTION AUTHORITY'S CERTIFICATION:</b>						
<p><b>FOR A LOW-COST PERFORMANCE DECISION:</b> I certify that the performance decision on SCF Line 18 is (1) based on evaluating offers and tenders in accordance with Attachment B to OMB Circular A-76, and (2) a low-cost performance decision supported by SCF Line 17.</p>						
Source Selection Authority's Signature:				Date:		
Printed Full Name:		Title:		Agency (Component):		Phone #:
<p><b>FOR AN OTHER-THAN-LOW-COST PERFORMANCE DECISION:</b> I certify that the performance decision on this SCF is (1) based on evaluating offers and tenders in accordance with Attachment B to OMB Circular A-76, and (2) an other-than-low-cost performance decision is supported by my source selection decision document as summarized below.</p>						
Summary of Source Selection Decision Document::				Date:		
Narrative of Trade-offs Performed:				Date:		
<b>Rationale for an Other-Than-Low-Cost Provider:</b>						
Source Selection Authority's Signature:				Date:		
Printed Full Name:		Title:		Agency (Component):		Phone #:

**Figure C3.**

STREAMLINED COMPETITION FORM						
Agency:		Agency Component:		Competition Number:		Competition Title:
Solicitation Closing Date (if applicable):			Competition Location:			
Solicitation Number (if applicable):						
Line #	Line Title	1st Performance Period (Phase-in Period) (if applicable)	2nd Performance Period	3rd Performance Period	4th Performance Period	Total
<b>ESTIMATED COST OF AGENCY PERFORMANCE</b>						
1.	Personnel Costs	\$000	\$000	\$000	\$000	\$000
2.	Material and Supply Costs	\$000	\$000	\$000	\$000	\$000
3.	Other Specifically Attributable Costs	\$000	\$000	\$000	\$000	\$000
4.	Overhead Costs	\$000	\$000	\$000	\$000	\$000
6.	<b>Total Cost of Agency Performance</b>	\$000	\$000	\$000	\$000	\$000
<b>AGENCY TENDER CERTIFICATION:</b> I certify, to the best of my knowledge, that this agency cost estimate on SLCF Lines 1, 2, 3, 4, and 6 is (1) based on the scope and requirements of the activity being competed, and (2) is calculated in accordance with OMB Circular A-76.						
Agency Official's Signature:			Date:			
Printed Full Name:		Title:		Agency (Component):		Phone #:
<b>ESTIMATED COST OF PUBLIC REIMBURSABLE PERFORMANCE</b>						
1a.	Personnel Costs	\$000	\$000	\$000	\$000	\$000
2a.	Material and Supply Costs	\$000	\$000	\$000	\$000	\$000
3a.	Other Specifically Attributable Costs	\$000	\$000	\$000	\$000	\$000
4a.	Overhead Costs	\$000	\$000	\$000	\$000	\$000
6a.	<b>Total Cost of Public Reimbursable Performance</b>	\$000	\$000	\$000	\$000	\$000
<b>PUBLIC REIMBURSABLE TENDER CERTIFICATION:</b> I certify, to the best of my knowledge, that the cost estimate on SLCF Line 7 is based on (1) calculating SLCF Lines 1a, 2a, 3a, 4a, and 6a in accordance with OMB Circular A-76; and (2) the scope and requirements of the activity being competed.						
Agency Official's Signature:			Date:			
Printed Full Name:		Title:		Agency (Component):		Phone #:
<b>ESTIMATED COST OF PRIVATE SECTOR OR PUBLIC REIMBURSABLE PERFORMANCE</b>						
7.	Private Sector Price or Public Reimbursable Cost Estimate	\$000	\$000	\$000	\$000	\$000
<b>CERTIFICATION OF ESTIMATED COST OF PRIVATE SECTOR PERFORMANCE:</b> I certify, to the best of my knowledge, that the cost estimate on SLCF Line 7 is based on (1) documented market research or soliciting cost proposals in accordance with the FAR [OR a public reimbursable source estimate as reflected on SLCF Line 6a]; and (2) the scope and requirements of the activity being competed.						
Agency Official's Signature:			Date:			
Printed Full Name:		Title:		Agency (Component):		Phone #:
<b>ADJUSTED COST OF PRIVATE SECTOR OR PUBLIC REIMBURSABLE PERFORMANCE</b>						
8.	Contract Administration Costs	\$000	\$000	\$000	\$000	\$000
12.	Federal Income Tax Adjustment	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)
13.	<b>Total Adjusted Cost of Private Sector or Public Reimbursable Performance</b>	\$000	\$000	\$000	\$000	\$000
<b>DECISION CALCULATIONS</b>						
17.	Cost Difference (Enter: Line 13 - Line 6)					\$000
18.	LOW-COST PROVIDER	<input type="checkbox"/> Agency Provider		<input type="checkbox"/> Private Sector Provider		<input type="checkbox"/> Public Reimbursable Provider
<b>PERFORMANCE DECISION</b>						
<b>CERTIFICATION OF ADJUSTED COSTS:</b> I certify that to the best of my knowledge, the costs on SLCF Lines 8, 12, 13, and 17 are accurate and calculated in accordance with OMB Circular A-76; and that the performance decision reflected on SLCF Line 18 is cost effective.						
Agency Official's Signature:			Date:			
Printed Full Name:		Title:		Agency (Component):		Phone #:

**B. COST OF AGENCY PERFORMANCE (SCF/SLCF LINES 1-6).**  
**COST OF PUBLIC REIMBURSABLE PERFORMANCE (SCF/SLCF LINES 1a-6a).**

1. **Scope.** Unless otherwise provided, agency cost estimates and public reimbursable cost estimates shall be calculated in accordance with paragraph B of this attachment.
2. **Personnel Costs (SCF/SLCF Line 1/1a).** Personnel costs for an agency cost estimate shall be entered on SCF Line 1 for a standard competition or SLCF Line 1 for a streamlined competition. Personnel costs in a public reimbursable cost estimate shall be entered on SCF Line 1a for a standard competition or SLCF Line 1a for a streamlined competition. Agency and public reimbursable sources shall include sufficient written documentation of all personnel costs included in cost estimates for the CO to conduct price analysis and cost realism as required by Attachment B. Personnel costs for agency and public reimbursable cost estimates shall be calculated as provided below. Agencies shall determine and manually input the cost data for this SCF/SLCF line into COMPARE. COMPARE automatically computes Line 1 and Line 1a totals based upon user inputs.
  - a. **Labor Costs.** Agency and public reimbursable sources shall calculate all labor costs to reflect the staffing (e.g., MEO) necessary to meet the solicitation requirements and include these costs in cost estimates. These labor costs include, but are not limited to, direct labor; labor for supervision and management related support to the tender (e.g., MEO) such as labor for quality control, labor for MEO administration and inspection based on the MEO letter of obligation, labor for contract administration and surveillance for MEO subcontract, and indirect labor. An agency shall determine direct labor costs based on the government personnel costs for labor that will be dedicated to the MEO. To calculate direct labor, an agency shall identify the specific MEO staffing, wage/grade classifications, salaries, wages and other entitlements such as fringe benefits, overseas allowances, uniform allowances and overtime and other local personnel costs expended to perform the MEO. Direct labor includes resources dedicated to performing the requirements of the solicitation and labor for supervision and management related support to the tender (e.g., MEO) such as labor for quality control.
  - b. **Prorated Labor.** Agency and public reimbursable sources shall prorate the cost of government personnel who will not be 100 percent dedicated to the organization in the tender (e.g., MEO) based on the amount of dedicated time the agency expects these civilian positions to provide to the organization (e.g., MEO). For example, if a GS-13 position spends 20 percent of their time performing management oversight of an activity being competed, the prorated cost is entered on SCF Line 1 as 0.20 FTE in the grade of GS-13, step 5. Agencies and public reimbursable sources shall calculate prorated labor in cost estimates and enter these costs on SCF Line 1 or Line 1a, as appropriate.
  - c. **Administration and Inspection Costs for an MEO Letter of Obligation.** The agency cost estimate shall include labor costs for MEO administration and inspection. These costs include, but are not limited to, monitoring performance and compliance with the MEO letter of obligation for all performance periods. A public reimbursable cost estimate shall not include these administration costs since they are accounted for on SCF/SLCF Line 8.
  - d. **Full-Time Equivalents (FTE).** Based on workload requirements, agency and public reimbursable sources shall determine the productive work hours for the organization in the tender (e.g., MEO) and then convert these productive hours into FTE positions. After the

FTE determination, an agency shall establish the staffing for the organization in the tender (e.g., MEO), which includes the number of positions and grades necessary to meet the FTE requirements. For example, if an agency determines that 35.789 FTEs of direct labor will be necessary to meet the workload requirements, the agency will then convert the 35.789 FTE requirement into the number of positions and corresponding grades necessary to fill these requirements, resulting in a staffing level of 36 positions for the organization in the agency tender. The agency then calculates the cost of the 36 positions and enters the cost on Line 1 or Line 1a, as appropriate. In this example, the work associated with the 0.789 FTEs was converted into a whole position based on a specific staffing approach; however, another agency might elect to use intermittent or part-time positions to accomplish the 0.789 FTE requirement. After these FTE calculations and staffing determinations, agency and public reimbursable sources shall determine and add the staffing for indirect labor to the organization in the tender to support the direct labor (man-year) requirements.

- (1) **FTE Rounding.** An agency shall round FTE calculations to three decimal places (for example: 0.000 FTEs).
  - (2) **Full-time, Part-time, Temporary, and Seasonal FTEs.** An agency shall determine the required number of FTEs by identifying the total hours required, by skill and grade, and then divide by 1,776 annual productive hours. The productive hours shall exclude annual leave, sick leave, administrative leave, training, and other nonproductive hours.
  - (3) **Intermittent FTEs.** An agency shall determine the required number of FTEs by identifying the total hours required, by skill and grade, and then divide by 2,007 annual productive hours.
- e. **Civilian Position Pay and Wages.**
- (1) **Calculation.** Agency and public reimbursable sources shall calculate civilian pay and wages for cost estimates using (a) local pay salaries and wages at a rate of step 5 for GS, and step 4 for FWS, positions; (b) the mid-grade, or mid-band and mid-step level for pay-banded or demonstration project positions; (c) the locality pay for the location, or each location in a multi-location competition; and (d) the length of time in grade for each grade in a developmental series, as determined by the HRA.
  - (2) **Pay Rate Changes.** Agency and public reimbursable sources shall implement pay rate changes in cost estimates when the pay rate changes become “known.” The specific point at which these pay rate changes become “known” is after the President signs the executive order approving the pay rate changes and the executive order is made available to the public. The cost of a pay rate change is incurred by the government based upon the effective date of the pay tables, regardless of whether the President signs the treasury/postal authorization bill for a given fiscal year. Therefore, agency and public reimbursable sources shall incorporate pay rate changes in cost estimates if (a) the effective date of the new pay table is prior to or the same day as the first day of the phase-in period; and (b) the signed Presidential executive order approving the pay rate changes is available to the public. If an agency or public reimbursable source has prepared a cost estimate but a performance decision is pending, the agency or public reimbursable source shall update the cost estimate to reflect these “known” pay rate changes prior to the performance decision being made.

- f. Civilian Position Fringe Benefits and Federal Insurance Contribution Act (FICA).** Agency and public reimbursable sources shall calculate civilian fringe benefits and FICA based upon the basic pay for each position in the cost estimate. Basic pay for GS positions is the position's annual salary plus any applicable "other civilian position pay entitlements" (see "Other Civilian Pay Entitlements" paragraph below). Basic pay for FWS positions is the position's annual wages including shift differential pay and environmental pay plus any applicable "other civilian pay entitlements" (see "Other Civilian Pay Entitlements" paragraph below). Agency and public reimbursable sources shall multiply basic pay by the following government-wide standard factors. COMPARE automatically computes the costs for these entries.

**(1) Full-time and Part-time Permanent Civilian Positions.** Full-time and part-time permanent civilian positions receive the civilian position full fringe benefit cost factor of 36.25 percent of the position's basic pay. The 36.25 percent civilian position full fringe benefit cost factor is the sum of the standard civilian position retirement benefit cost factor (26.1 percent), insurance and health benefit cost factor (7.0 percent), Medicare benefit cost factor (1.45 percent), and miscellaneous fringe benefit cost factor (1.7 percent).

**(a) Retirement Benefit Cost Factors.** The standard civilian retirement benefit cost factor represents the cost of the weighted Civil Service Retirement System/Federal Employees Retirement System to the government, based upon the full dynamic normal cost of the retirement systems, the normal cost of accruing retiree health benefits based on average participation rates, social security, and Thrift Savings Plan contributions. The standard civilian retirement benefit cost factor for civilian positions is 26.1 percent of the position's basic pay (21.0 percent retirement pension plus 5.1 percent for retiree health). The retirement cost factors for special class civilian positions are: 38.5 percent of basic pay for air traffic controllers (33.4 percent retirement pension plus 5.1 percent for retiree health) and 40.4 percent of basic pay for law enforcement and fire protection (35.3 percent retirement pension plus 5.1 percent for retiree health).

**(b) Insurance and Health Benefit Cost Factor.** The insurance and health benefit cost factor for civilian positions, based on actual cost, is 7.0 percent of the position's basic pay (0.2 percent for life insurance benefits and 6.8 percent for health benefits).

**(c) Medicare Benefit Cost Factor.** On the publication date of this circular, the Medicare benefit cost factor is 1.45 percent of the civilian position's basic pay.

**(d) Miscellaneous Fringe Benefit Cost Factor.** As of the publication date of this circular, the miscellaneous fringe benefits cost factor for civilian positions (workmen's compensation, bonuses, awards, and unemployment programs) is 1.7 percent of the position's basic pay. Based on the OPM civilian award policy, there are two general categories for civilian awards. Category one is for special acts (e.g., cash awards, bonuses) that are over and above a civilian employee's expected annual performance, and category two is for awards that are based on a civilian employee's annual performance rating (e.g., cash awards, bonuses, quality step increases). Category one civilian awards are not included in the 1.7 percent miscellaneous fringe benefit factor (these costs are entered under "Other Civilian Pay"). Category two civilian awards are included in the 1.7 percent miscellaneous fringe benefit factor.

- (2) **Temporary and Intermittent Civilian Positions.** The full benefit factor is not applied to temporary and intermittent civilian positions. Agencies and public reimbursable sources shall apply the FICA cost factor to civilian positions not covered by Civil Servant Retirement System or Federal Employee Retirement System (typically intermittent and temporary civilian positions). On the publication date of this circular, the FICA cost factor is 7.65 percent of salaries or wages subject to federal income tax. The FICA cost factor equates to 6.2 percent for Old Age and Survivors Death Insurance benefits and 1.45 percent for Medicare benefits. There is an annual maximum earnings limitation of \$87,000 for the Old Age and Survivors Death Insurance benefit portion of the FICA tax.
- (3) **Seasonal Civilian Positions.** Seasonal civilian positions are employed on a recurring basis for less than 12 months each year. Agencies and public reimbursable sources shall calculate the cost of a seasonal position based on 1,776 annual productive hours, and determine the number of seasonal civilian positions as a seasonal full-time or seasonal part-time position based on the number of annual hours the civilians will be scheduled to work. Agencies and public reimbursable sources shall then calculate permanent seasonal civilian positions using the civilian position full fringe benefit cost factor, and temporary seasonal civilian positions using the FICA cost factor.
- g. **Other Civilian Pay.** Agency and public reimbursable sources shall calculate other civilian pay for each position in the cost estimate, when applicable. Other civilian pay includes pay that is subject only to FICA taxes. Examples of this type of pay include, but are not limited to, premium pay, night differential pay for GS positions, overtime pay, holiday pay, category one civilian awards, civilian bonuses, and uniform allowances.
- h. **Other Civilian Pay Entitlements.** Agency and public reimbursable sources shall calculate other civilian pay entitlements for each civilian position in the cost estimate, when applicable. Agency and public reimbursable sources shall identify these entitlements and use current cost factors for each entitlement identified in cost estimates. In a standard competition, the HRA shall identify these entitlements and obtain the current cost factors for each entitlement identified in the agency cost estimate. Examples of these entitlements include, but are not limited to, night differential pay for FWS positions, environmental differential pay and premium pay (for civilian fire fighters and law enforcement officers). Agencies shall determine and manually input the cost data for this cost entry into COMPARE.
- i. **Non-Foreign Area Civilian Employee Cost-Of-Living Allowance.** Agency and public reimbursable sources shall calculate cost-of-living allowances for each position in the cost estimate, when applicable. A cost-of-living allowance is applied to any civilian employee position that will physically perform work in the following locations: Alaska, Hawaii, Guam, Puerto Rico, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Agencies shall determine and manually input the cost data for this cost entry into COMPARE.
- j. **Administration and Surveillance for MEO Subcontracts.** If a mix of government positions and subcontracts is included in a tender, agency and public reimbursable sources shall calculate the cost of labor for the administration and surveillance of these subcontracts and enter the cost on Line 1 or 1a, as appropriate. An agency shall enter the actual costs of MEO subcontracts and fee-for-service agreements, as well as the cost of government-

furnished material, equipment, facilities, and services for these subcontracts, on Line 3 or Line 3a, as appropriate. A public reimbursable source shall enter the actual costs of subcontracts and fee-for-service agreements, as well as the cost of public reimbursable furnished material, equipment, facilities, and services for these subcontracts, on Line 3a. Agencies shall determine and manually input the cost data for this cost entry into COMPARE.

**k. Labor Escalation.** Inflation for wages and salaries of civilian positions and private sector service positions (often referred to as “labor escalation”) is included in private sector cost proposals, agency cost estimates, and public reimbursable cost estimates based on the solicitation requirements for economic price adjustment for labor inflation. An economic price adjustment for services and construction labor is determined by the Service Contract Act (SCA), the Davis-Bacon Act and FAR Part 22. To calculate inflation for civilian positions in cost estimates, agency and public reimbursable sources shall comply with the following guidance, which is consistent with the requirements in FAR Part 22 for submission of private sector offers. COMPARE automatically computes the applicable inflation costs based on the user input selections in accordance with the following:

- (1) If a solicitation **does not include** either FAR clause 52.222-43 or 52.222-44, an agency shall apply inflation to all civilian positions for all performance periods through the end of the last performance period stated in the solicitation.
- (2) If a solicitation **does include** either FAR clause 52.222-43 or 52.222-44, agency and public reimbursable sources shall inflate labor costs in cost estimates as follows: (a) For civilian positions that are subject to an economic price adjustment (i.e., the position description states the position is nonexempt under the Fair Labor Standards Act, inflation is applied only through the end of the first period of full performance; or (b) For civilian positions that are not subject to an economic price adjustment (i.e., the position description states the position is exempt under the Fair Labor Standards Act inflation) is applied for all performance periods through the end of the last performance period stated in the solicitation.
- (3) SCA and the Davis-Bacon Act do not apply to civilian positions; however, the Fair Labor Standards Act can be applied to civilian positions consistent with SCA since both the Fair Labor Standards Act and SCA use the same definitions for employees that perform services. On the basis of these common definitions, and since the private sector uses the SCA and the Davis-Bacon Act (as prescribed in FAR Part 22) to determine which private sector positions are subject to an economic price adjustment, agencies and public reimbursable sources shall use the Fair Labor Standards Act to determine which civilian positions are subject to an economic price adjustment in cost estimates. The determination of whether a civilian position is exempt or nonexempt under the Fair Labor Standards Act is required by OPM when civilian position descriptions are classified. Therefore, when an official civilian position description is classified as exempt under the Fair Labor Standards Act, the civilian position is not subject to an economic price adjustment and labor costs are inflated for all performance periods through the end of the last performance period stated in the solicitation. When a position description is classified as nonexempt under the Fair Labor Standards Act, the civilian position is subject to an economic price adjustment but **only** if the solicitation includes FAR clause 52.222-43 or FAR 52.222-44; in that case, labor costs for non-exempt positions are inflated through the end of the first period of full performance.

- i. Labor Inflation Cost Factors.** As provided in paragraph A of this Attachment, an annual OMB Transmittal Memorandum identifies the federal pay raise assumptions and inflation cost factors (i.e., pay increases expressed in percentages) for civilian positions. This transmittal memorandum provides an update to the pay inflation cost factors used to estimate projected civilian pay costs and to specify the year in which these labor inflation cost factors become effective. Agency and public reimbursable sources shall apply the labor inflation cost factors (specified in the annual OMB transmittal memorandum) on the day immediately following the end of the effective period of the GS or FWS pay schedules used in the agency cost estimate.
  - (1) General Schedule (GS).** Since GS pay schedules are effective on the first day of the first full pay period beginning on or after January 1 of each year, agency and public reimbursable sources shall apply the labor inflation cost factors in January of each year following the end of the effective period for the pay schedule used in cost estimates for GS positions. For example, if the GS pay schedule in use is effective on January 12, 2003, the 2004 pay inflation factor is applied on January 12, 2004. The labor inflation cost factor for each year provided in the transmittal memorandum is applied on January 12 of each subsequent year of performance included in the cost estimate as required by the performance periods stated in the solicitation.
  - (2) Federal Wage System (FWS).** FWS pay schedules are effective for a 12-month period, and differ from GS pay schedules in that effective dates for FWS pay schedules (a) occur during any month of the year and (b) vary by location. For FWS positions, agency and public reimbursable sources shall apply the labor inflation cost factors at the end of the effective period of the FWS pay schedule used in the cost estimates. Agency and public reimbursable sources shall apply FWS labor inflation cost factors to FWS pay as follows:
    - (a) January to September Effective Dates.** For FWS pay schedules with effective dates from January 1 through September 30, agency and public reimbursable sources shall use the labor inflation cost factor that corresponds to the year of the end date of the effective period for the FWS pay schedule. For example, if an FWS pay schedule is effective from April 20, 2003 to April 19, 2004, the 2004 labor inflation cost factor is used on April 20, 2004. On April 20 of each subsequent year, the labor inflation cost factor that corresponds to each subsequent year is used.
    - (b) October to December Effective Dates.** For FWS pay schedules with effective dates from October 1 through December 31, agency and public reimbursable sources shall use the labor inflation cost factor that corresponds to the year following the end date of the effective period for the FWS pay schedule. For example, if an FWS pay schedule is effective from October 20, 2003 to October 19, 2004, the 2005 labor inflation cost factor is used on October 20, 2004. On October 20 of each subsequent year, the labor inflation cost factor that corresponds to each subsequent year is used.
- m. Uniformed Services Labor.** Agency and public reimbursable sources may include uniformed services labor in tenders, only under the following conditions: (a) uniformed services positions in the tender (e.g., MEO) shall not exceed the number of pre-competition uniformed services positions performing the activity and (b) civilian employee positions shall not be converted to uniformed services positions. If uniformed services labor is used in a tender, the agency or public reimbursable source shall develop



productive hours for the uniformed services positions that include annual leave, sick leave, administrative leave, training, and other nonproductive hours. Agency and public reimbursable sources shall calculate the cost of uniformed services positions using the military/uniformed services composite pay rate, apply the labor inflation cost factor, and enter this cost data for Line 1 or Line 1a calculations, as appropriate. COMPARE automatically computes the Line 1 or Line 1a entry based on the user inputs.

- 3. Material and Supply Costs (SCF/SLCF Line 2/2a).** Material and supply costs in an agency cost estimate shall be entered on SCF Line 2 for a standard competition or SLCF Line 2 for a streamlined competition. Material and supply costs in a public reimbursable cost estimate shall be entered on SCF Line 2a for a standard competition or SLCF Line 2a for a streamlined competition. Agency and public reimbursable sources shall include sufficient written documentation of all material and supply costs included in cost estimates for the CO to conduct price analysis and cost realism as required by Attachment B. Agencies and public reimbursable cost estimates shall calculate material and supply costs as follows. Agencies shall determine and manually input the cost data for this SCF/SLCF line into COMPARE.

  - a. General.** Material and supply costs are incurred in each performance period for goods such as raw materials, parts, subassemblies, components, fuel, and office supplies. Agency and public reimbursable sources shall adjust historical or engineering estimates of material and supply use, and cost data, to reflect the solicitation requirements in cost estimates. An agency shall calculate material and supply costs and include these costs in the agency cost estimate **only** if the materials and supplies are required for the agency tender but are not provided to all prospective providers as GFP in the solicitation. The CO includes instructions for material and supply costs in the solicitation (FAR 51.101). Agency and public reimbursable sources shall comply with the solicitation instructions for calculating the cost of materials and supplies in cost estimates and enter the costs on Line 2 or 2a, as appropriate. For material and supplies not provided as GFP but needed to meet the requirements of the solicitation, a public reimbursable source shall calculate the cost of materials and supplies in accordance with this paragraph, reflect these costs in the cost estimate, and enter the costs on Line 2a.
  - b. Cost Ceiling.** If the solicitation includes a material and supply cost ceiling, agency and public reimbursable sources shall include this ceiling cost in cost estimates and enter the cost on Line 2 or Line 2a, as appropriate. If a solicitation does not include a material and supply cost ceiling, agency and public reimbursable sources shall calculate the full cost of materials and supplies, including inflation if required, and enter these costs on Line 2 or 2a, as appropriate.
  - c. Material Related Costs.** Agency and public reimbursable sources shall list required material by the quantity needed, unit price, inflation for out-years, and enter the total cost in cost estimates on Line 2 or Line 2a, as appropriate. Material costs include, but are not limited to, material, transport, handling, availability, delay costs, and established allowances for normal scrap, spoilage, overruns and defective work. Agency and public reimbursable sources may make a single entry for miscellaneous items such as office supplies in cost estimates.
  - d. Inflation.** Agency and public reimbursable sources shall calculate an estimate for material and supply costs in cost estimates for all performance periods, including adjustments for non-pay inflation identified in the annual update of non-pay inflation factors issued by an OMB Transmittal Memorandum. Agency and public reimbursable sources shall calculate unit prices to the end of the first period of full performance and inflate and/or prorate the cost of

materials and supplies in the cost estimate in accordance with instructions in the solicitation. Agency and public reimbursable sources shall review section B (Supplies or Services and Prices) and any special clauses in section H (Special Contract Requirements) of the solicitation to determine if an economic price adjustment applies to materials and supplies. If materials and supplies listed in section B are subject to an economic price adjustment, agency and public reimbursable sources shall inflate these costs through the end of the first period of full performance in cost estimates. If materials and supplies listed in section B are not subject to an economic price adjustment, agency and public reimbursable sources shall inflate these costs by applying the applicable inflation factors (if any) for all performance periods through the end of the last performance period stated in the solicitation. If fuel costs are entered on Line 2 or Line 2a, the fuels (non-pay) inflation cost factor shall be used to apply inflation to the fuel costs.

4. **Other Specifically Attributable Costs (SCF/SLCF Line 3/3a).** Other specifically attributable costs in an agency cost estimate shall be entered on SCF Line 3 for a standard competition or SLCF Line 3 for a streamlined competition. Other specifically attributable costs in a public reimbursable cost estimate shall be entered on SCF Line 3a for a standard competition or SLCF Line 3a for a streamlined competition. Agency and public reimbursable sources shall include sufficient written documentation for all other specifically attributable costs included in cost estimates for the CO to conduct price analysis and cost realism as required by Attachment B. Agencies and public reimbursable cost estimates shall calculate other specifically attributable costs as follows:
  - a. **Depreciation.** Agency and public reimbursable sources shall use the Useful Life and Disposal Value Table to calculate residual value, and The Federal Accounting Standards for Property, Plant and Equipment (both documents are posted on the OMB website) to establish depreciation schedules, rates of depreciation, and other related guidance. If a capital asset is (1) fully depreciated; (2) used in the tender; and (3) not provided to all prospective providers as GFP in the solicitation, agency and public reimbursable sources shall extend the life of the capital asset for all performance periods through the end of the last performance period stated in the solicitation or until replacement. Agency and public reimbursable sources shall calculate the depreciation using the extended life and original acquisition cost. If a capital asset involves a capital improvement, agency and public reimbursable sources shall calculate the cost of the capital improvement as a separate asset in cost estimates and enter this cost on Line 3 or 3a, as appropriate. The cost of capital improvements shall be entered as a separate asset entry because capital improvement costs are depreciated from the date of the capital improvement, not from the original acquisition date. The total depreciable acquisition cost is the sum of the capital asset's acquisition, transportation, and installation costs minus the capital asset's residual value. COMPARE automatically computes the costs required for this entry based upon the cost data entered for this line.
    - (1) **Minor Items.** Minor items are individual assets costing less than \$25,000. Agency and public reimbursable sources shall not depreciate minor items in cost estimates.
    - (2) **Capital Assets.** Capital assets are major items costing \$25,000 or more. An agency shall depreciate capital assets not provided to all prospective providers as GFP in the solicitation and enter the depreciation cost on Line 3 or 3a, as appropriate. If a capital asset is (a) to be jointly used in the agency tender (e.g., MEO) and another agency activity that is not included in the streamlined or standard competition, and (b) not provided to all prospective providers as GFP in the solicitation, an agency shall prorate

the cost of this joint usage of the capital asset on Line 3. For capital assets not provided as GFP but needed to meet the requirements of the solicitation, a public reimbursable source shall calculate depreciation costs for major items in the cost estimate and enter the cost on Line 3a beginning with the first performance period the major item is required and all subsequent performance periods stated in the solicitation. COMPARE automatically computes the costs required for this entry based upon the cost data entered for this line.

**(3) Calculation Method.** Agency and public reimbursable sources shall calculate depreciation using straight line accounting methods and enter this depreciation on Line 3 or Line 3a, as appropriate, as annual depreciation for each performance period stated in the solicitation. If a major item was acquired through transfer, seizure or forfeiture, an industry specific standard or engineering appraisal may be used to establish the market or "acquisition" value of the asset. COMPARE automatically computes the costs required for this entry based upon the cost data entered for this line.

**b. Facilities.** If facilities are not provided to all prospective providers as GFP in the solicitation, an agency shall use the useful life expectancies listed by type of facility in Figure C4. to estimate the cost of facilities in the agency cost estimate and enter this cost on Line 3 or 3a, as appropriate. If the useful life has been exceeded, an agency shall use an engineering projection of anticipated remaining useful life. An agency shall prorate these costs in the agency cost estimate by a unit of measure that varies directly with consumption (e.g., floor space, type of facility, number of telephones). An agency shall base estimates of expenses to be incurred for the first period of full performance on recent experience, appropriately adjusted for anticipated requirements. An agency shall use engineering estimates when historical data is not available. If an asset such as a facility has a capital improvement (such as renovation), an agency shall calculate the cost of the capital improvement (renovation costs) as a separate asset in the agency cost estimate. The cost of capital improvements is calculated as a separate asset because the capital improvement costs (renovation costs) are depreciated from the date of the capital improvement (renovation) not the original acquisition or construction date. An agency shall include costs for facilities and equipment used in the agency tender, but not provided to all prospective providers as GFP in the solicitation, on Line 3. For facilities not provided as GFP but needed to meet the requirements of the solicitation, a public reimbursable source shall calculate facilities costs in accordance with this paragraph, reflect these costs in the cost estimate, and enter the costs on Line 3a. COMPARE automatically computes the costs required for this entry based upon the cost data entered for this line.

Table of Facility Useful Life Expectancies	
Facility Category	Useful Life
Permanent	75 years
Semi-Permanent	50 years
Temporary	25 years

**Figure C4.**

**c. Cost of Capital.** An agency shall only calculate the cost of capital for capital assets included in the agency cost estimate if the item is (1) not provided to all prospective providers as GFP in the solicitation, and (2) scheduled for purchase within any of the performance periods stated in the solicitation. An Agency shall enter the appropriate cost of capital costs on Line

3. To estimate the annual cost of capital, an agency shall first identify the total depreciable acquisition cost of new purchased capital assets or the market value of capital assets acquired by transfer, forfeiture or seizure. An agency shall base the total depreciable acquisition cost on the value of the capital asset, plus transportation costs (if not already included in the purchase price) and installation costs to place the capital asset in operation minus any applicable residual value. An agency shall compute the cost of capital by applying the applicable nominal rate (cost of capital factors) provided by OMB Circular A-94, *Guidelines for Discount Rates for Benefit-Cost Analysis of Federal Programs*, to the determined total depreciable acquisition cost of the purchased capital assets or to the market value of capital assets acquired by transfer, forfeiture or seizure. If a major item is to be jointly used between the tender (e.g., MEO) and another agency activity that is not included in the streamlined or standard competition, an agency shall prorate the capital asset's cost of capital on Line 3 based on the percentage used by the agency. For capital assets not provided to all prospective providers as GFP in the solicitation, but needed to meet the requirements of the solicitation, a public reimbursable source shall calculate the cost of capital in accordance with this paragraph, reflect this cost in the cost estimate, and enter the costs on Line 3a. COMPARE automatically computes the costs required for this entry based upon the cost data entered for this line.

- d. Rent.** If rented or leased assets are used in the agency tender but are not provided to all prospective providers as GFP in the solicitation, an agency shall calculate rental and lease costs in the agency cost estimate and enter the cost on Line 3. Rent is incurred for, but not limited to, the use, operation and maintenance of land, building space, plant and machinery. An agency shall calculate rental or lease costs that are associated with the agency tender on an allocated basis for all performance periods for which the costs will be incurred. For rent not provided as GFP but needed to meet the requirements of the solicitation, a public reimbursable source shall calculate rental and/or lease costs in accordance with this paragraph, reflect these costs in the cost estimate, and enter the costs on Line 3a. Agencies shall determine and manually input the cost data for this cost entry into COMPARE.
- e. Utilities.** If utilities are provided for the agency tender but are not provided for all prospective providers as GFP in the solicitation, an agency shall calculate and enter the cost of utilities on Line 3. Utility costs include, but are not limited to, electricity, telephone, water, and sewage services. An agency shall calculate the amount of these utility costs on an allocated or a metered basis for all performance periods for which costs will be incurred. For utilities not provided as GFP but needed to meet the requirements of the solicitation, a public reimbursable source shall calculate costs for utilities in accordance with this paragraph, reflect these costs in the cost estimate, and enter the costs on Line 3a. Agencies shall determine and manually input the cost data for this cost entry into COMPARE.
- f. Insurance.**
- (1) Casualty Insurance.** Agency and public reimbursable sources shall calculate casualty insurance premiums in cost estimates and enter these costs on Line 3 or Line 3a as appropriate for all materials and supplies, minor items, and capital assets that are not provided to all prospective providers as GFP in the solicitation, or if the solicitation includes terms that specify that property losses may be assessed to private sector sources. Agency and public reimbursable sources shall calculate casualty insurance premiums for capital assets by multiplying the net book value of each capital asset as of the beginning of each performance period that the agency will use the capital asset by

0.005 (the casualty insurance cost factor). Agency and public reimbursable sources shall calculate casualty insurance premiums for minor items not provided to all prospective providers by multiplying the annual cost, inflated as appropriate, of each minor item by 0.005 (the casualty insurance cost factor). Agency and public reimbursable sources shall calculate casualty insurance premiums for materials and supplies by multiplying a one-month average value of material and supplies by 0.005 (the casualty insurance cost factor) times a one-month average value of material and supplies. Agency and public reimbursable sources shall calculate casualty insurance premiums for each performance period that they will use the capital assets, minor items, materials, and supplies. COMPARE automatically calculates this entry if the items are not government furnished. Agencies shall determine and manually input the cost data into COMPARE for solicitations that specify that property losses may be assessed to private sector sources.

- (2) **Government Furnished Property (GFP) Casualty Insurance.** While the FAR includes many GFP clauses that may be included in a solicitation, the following table provides an extract of FAR GFP clauses that a solicitation is likely to contain for a standard competition. The GFP clause, included in the solicitation, determines whether casualty insurance costs for GFP should be included on Line 3 or Line 3a, as appropriate. For solicitations that include both firm-fixed-price and cost reimbursement CLINs in section B, the solicitation identifies the GFP clause that applies to a specific CLIN. For example, the solicitation may apply FAR clause 52.245-5 to the material and supply ceiling cost, indicating that insurance is not required for the material and supply dollars. The same solicitation may designate FAR clause 52.245-2 to GFP vehicles, indicating that the vehicles require casualty insurance. When vehicles leased from the General Services Administration are used in the agency tender but are not provided to all prospective providers as GFP in the solicitation, an agency shall include the cost of casualty insurance on Line 3 if the General Services Administration lease terms make the lessee liable for vehicle damage. Based upon the FAR provisions included in the solicitation, agencies may be required to determine and manually input the cost data into COMPARE.

GFP CLAUSES AND CASUALTY INSURANCE REQUIREMENTS				
FAR Reference	Liability Assigned to Private Sector and Public Reimbursable Sources	Is GFP Casualty Insurance Required in the Agency Cost Estimate?		
		Materials	Capital Assets	Minor Items
52.245-2	Yes	Yes	Yes	Yes
52.245-2 Alt I	No	No	No	No
52.245-4	Yes	Yes	Yes	Yes
52.245-5	No	No	No	No

**Figure C5.**

- (3) **Liability Insurance.** Agency and public reimbursable sources shall calculate the cost of personnel liability insurance in cost estimates and enter the cost on Line 3 or Line 3a, as appropriate. Agency and public reimbursable sources shall calculate the cost of personnel liability insurance by multiplying the total personnel-related costs on Line 1 (or Line 1a, as appropriate) by 0.007 (the personnel liability insurance cost factor). Agency and public reimbursable sources shall calculate the cost of additional liability insurance (not associated with personnel liability) that is assigned to the private sector in the solicitation by multiplying the estimated liability ceiling identified in the solicitation by 0.007 (the personnel liability insurance cost factor). If the solicitation requires

additional liability insurance to cover certain high-risk activities (e.g., environmental, air traffic control, child care, ammunition handling, air cargo, nuclear fuel handling), agency and public reimbursable sources shall calculate the cost of this additional liability insurance in cost estimates and enter this cost on Line 3 or Line 3a, as appropriate. COMPARE automatically calculates this entry.

- g. Travel.** Agency and public reimbursable sources shall calculate the costs for travel not provided as government furnished to all prospective providers in the solicitation and enter these costs on Line 3 or Line 3a, as appropriate. Agency and public reimbursable sources shall calculate the projected cost of travel that will be expended by agency or public reimbursable sources and identified in tenders unless the solicitation includes a ceiling cost for travel reimbursement or states that travel is government-furnished for all prospective providers. If the solicitation includes a cost ceiling for travel, agency and public reimbursable sources shall include the cost ceiling in cost estimates and enter the cost on Line 3 or Line 3a, as appropriate. Unless a cost ceiling is provided, agency and public reimbursable sources shall inflate travel costs for all performance periods through the end of the last performance period stated in the solicitation or as required by the economic price adjustment clause in the solicitation. Agencies shall determine and manually input the cost data for this cost entry into COMPARE.
- h. MEO Subcontracts.** Agency and public reimbursable sources shall include the cost of each subcontract included in a tender but not made available to all prospective providers in the solicitation as a subcontract in cost estimates and enter the costs on Line 3 or Line 3a, as appropriate. Agency and public reimbursable sources shall calculate the total cost of a subcontract by including the following in cost estimates (1) the contract price for each contract, or cost estimate for each fee-for-service agreement; (2) the cost of any related government-furnished material, equipment, facilities, and services not provided to all prospective providers as GFP in the solicitation; (3) inflation for all performance periods through the end of the last performance period stated in the solicitation, as appropriate; and (4) the offset for federal income tax for each subcontract with the tax rate applicable to each subcontract (see paragraph C12. in this attachment). Agencies shall determine and manually input the cost data for this cost entry into COMPARE. COMPARE automatically computes the applicable inflation and federal income tax offset.
- (1) Nonrecurring Workload.** Agency and public reimbursable sources may calculate overtime and surge or other types of nonrecurring workload as an MEO subcontract cost, if the services are purchased using either a government purchase card or a task order under an existing contract. When purchasing services with a government purchase card or task order under an existing contract, agencies and public reimbursable sources shall calculate the cost of the purchased services in the cost estimate and include (a) the offset for federal income tax for each subcontract with the tax rate applicable to each subcontract (see the “Federal Income Tax Adjustment” paragraph in this attachment), and (b) inflation for all performance periods through the end of the last performance period stated in the solicitation, as appropriate.
- (2) Administration and Surveillance of Subcontracts.** Agencies and public reimbursable sources shall calculate the cost of labor for (a) the administration and surveillance for each subcontract (for both recurring and nonrecurring workload); and (b) administration of the government purchase card program.

- i. Maintenance and Repair Costs.** Agency and public reimbursable sources shall calculate the cost of maintenance and repair, if applicable, for capital assets and minor items to account for the cost of routine maintenance on buildings and for equipment and enter these costs on Line 3 or 3a, as appropriate. These costs do not include capital improvements that add value to a capital asset, which are calculated in depreciation costs. Agency and public reimbursable sources shall calculate maintenance and repair costs (1) for capital assets and minor items that are not provided to all prospective providers as GFP in the solicitation, and (2) for capital assets or minor items that are provided to all prospective service providers as GFP in the solicitation but maintenance, replacement, or repair are not provided as GFP in the solicitation. Agencies shall determine and manually input the cost data for this cost entry into COMPARE.
- j. Other Costs.** Agencies and public reimbursable sources shall include costs that do not fit the other Line 3 or Line 3a categories of cost in the “other costs” category of Line 3 or Line 3a. Examples of “other costs” include, but are not limited to, purchased services for packaging and crating (if not already included in the cost of material and supplies), transportation costs; royalties, overhead projectors, office equipment, tools, chairs, desks, and cabinets.

  - (1) Minor Items.** As part of “other costs,” agencies shall include 10 percent of the replacement cost of minor items not provided to all prospective providers as GFP in the solicitation, for each performance period included in the solicitation. If the minor item is (a) to be jointly used by the agency tender (e.g., MEO) and another agency activity that is not included in the streamlined or standard competition, and (b) not provided to all prospective providers as GFP in the solicitation, an agency shall prorate the cost of this joint usage of a minor item on Line 3 based upon 10 percent of the purchase price. For minor items not provided as GFP but needed to meet the requirements of the solicitation, a public reimbursable source shall calculate 10 percent of the replacement value of the minor items in the cost estimate and enter the cost on Line 3a, beginning with the first performance period the public reimbursable source expects to replace the minor item and for all subsequent performance periods stated in the solicitation. For minor items, and any necessary replacements, that are provided as GFP in the solicitation, agencies and public reimbursable sources shall not include costs. When minor items are provided as GFP and prospective providers are responsible for replacement, agencies and public reimbursable sources shall include 10 percent of the replacement cost of the minor items in cost estimates, beginning with the first performance period where replacement of the minor item is required and all subsequent performance periods stated in the solicitation. Agencies and public reimbursable sources shall include costs for casualty insurance of minor items that are not GFP, including instances where the replacement of the minor items is the responsibility of prospective providers. Agencies shall determine and manually input the cost data for this SCF/SLCF line into COMPARE. COMPARE automatically computes the 10 percent minor item replacement cost.
  - (2) Award Fee.** Before a solicitation may include an award fee for an agency source (in addition to other prospective providers), the CSO shall determine if an agency source may receive such an award fee. If the award fee arrangements are approved by the CSO and the solicitation states that the award fee will be available for all prospective providers, the agency shall include the award fee in the cost estimate and enter the fee on Line 3 as “other costs.” A public reimbursable source shall include the award fee in the cost estimate and enter the fee on Line 3a as “other costs.” Agency and public reimbursable sources shall not inflate the cost of the award fee in cost estimates. Agency

and public reimbursable sources shall not inflate the cost of the award fee in cost estimates. Agencies shall determine and manually input the cost data for this cost entry into COMPARE.

- (3) **Training Costs.** Agency and public reimbursable sources shall calculate training costs for training not made available as government furnished to all prospective providers in the solicitation and enter these costs on Line 3 or 3a, as appropriate. Agency and public reimbursable sources shall calculate training costs, including travel costs, for recurring and/or specialized training necessary to maintain required licensing or certification. Agencies shall determine and manually input the cost data for this cost entry into COMPARE.
5. **Overhead (SCF/SLCF Line 4/4a).** Agency and public reimbursable sources shall enter overhead in cost estimates on Line 4 or 4a, as appropriate. An agency shall include overhead for a standard or streamlined competition by overhead for each performance period by multiplying the SCF Line 1 civilian position costs, including fringe benefits, by 12 percent (the overhead factor). A public reimbursable cost estimate shall include overhead for a streamlined or standard competition by calculating overhead for each performance period by multiplying the SCF Line 1a civilian position costs, including fringe benefits, by 12 percent (the overhead factor). Agency and public reimbursable sources shall not calculate overhead for uniformed services labor costs. COMPARE automatically calculates this SCF/SLCF line.
6. **Additional Costs (SCF Line 5/5a).** This SCF line includes costs not otherwise represented or accounted for on Lines 1-4 or Lines 1a-4a. An agency shall enter additional costs on SCF Line 5. A public reimbursable source shall enter additional costs on SCF Line 5a. Additional costs include, but are not limited to, costs resulting from unusual or special circumstances. When these costs are included the source shall provide additional documentation to explain the underlying assumptions and methods of computation. Agency and public reimbursable sources shall include sufficient written documentation of all additional costs included in cost estimates for the CO to conduct price analysis and cost realism as required by Attachment B. Agencies and public reimbursable sources shall not use Line 5 or Line 5a in a streamlined competition. Agencies shall determine and manually input the cost data for this SCF/SLCF line into COMPARE.
- a. **Expansions of Existing Activities, New Requirements, or Conversions From Private Sector to Agency Performance.** An agency shall enter the one-time additional costs of an expansion, new requirement or conversion from a private sector or public reimbursable source to agency performance on Line 5. An agency shall not include any new investment by the agency in facilities and equipment as one-time costs. An agency shall include the costs incurred when acquiring facilities or equipment and installing the equipment in the capitalized cost. Government facilities and equipment shall not normally be expanded to accommodate new or expanded agency requirements if cost-effective private sector or public reimbursable facilities and equipment are available. If the agency tender is dependent upon the agency's purchase or construction of new facilities or other capital asset purchases, the standard competition should be delayed until the approval to purchase or construct such items is obtained.
- b. **Medical Physical Exams.** Agency and public reimbursable sources shall calculate the costs associated with the civilian safety and health requirements of 29 C.F.R., including medical physical examinations, and enter these costs on Line 5 or 5a, as appropriate. The cost of



performing medical physical exams is not included in the 12 percent overhead factor. These medical physical exams are a direct cost to all prospective providers.

7. **Total Cost of Agency Performance (SCF/SLCF Line 6/6a).** The total agency cost estimate calculated on Line 6 is the sum of Lines 1-5. The total public reimbursable cost estimate calculated on Line 6a is the sum of Lines 1a-5a. COMPARE automatically calculates this SCF/SLCF line.

**C. ADJUSTED COST OF PRIVATE SECTOR OR PUBLIC REIMBURSABLE PERFORMANCE (SCF/SLCF LINES 7-13).**

1. **Contract Price or Public Reimbursable Cost Estimate (SCF/SLCF Line 7).** In a standard competition, the CO shall enter the private sector contract price(s), or public reimbursable cost estimate(s) on SCF Line 7, as appropriate. In a streamlined competition, the agency shall enter an estimated contract price or public reimbursable cost estimate on SLCF Line 7.
  - a. **Contract Price.** If a contract price(s) is entered on Line 7, the CO shall comply with the source selection process requirements in Attachment B and shall determine the contract price based on the contract type stated in the solicitation.
    - (1) **Sealed Bid Acquisition.** The CO shall enter the firm fixed price of the low responsible, responsive private sector offeror on Line 7.
    - (2) **Negotiated Acquisition.**
      - (a) **Firm Fixed Price Contract.** The CO shall enter the negotiated contract price on SCF Line 7.
      - (b) **Firm Fixed Price Incentive Fee Contract.** The CO shall enter the target cost and target profit on SCF Line 7.
      - (c) **Cost-Reimbursement Contracts (FAR 16.3).**
        1. **Cost Plus Incentive Fee Contract.** The CO shall enter the negotiated estimated cost plus incentive fee.
        2. **Cost Plus Award Fee Contract.** The CO shall enter the negotiated estimated cost plus award fee.
        3. **Cost Plus Fixed Fee Contract.** The CO shall enter the negotiated estimated cost plus fixed fee.
        4. **Cost Sharing Contract.** The CO shall enter the negotiated estimate.
  - b. **Public Reimbursable Cost Estimate.** If a cost estimate is submitted by a public reimbursable source(s), the CO shall make the following calculations to determine the cost to enter on SCF/SLCF Line 7 (1) calculate the federal tax adjustment for any private sector contract price(s); (2) subtract this federal tax calculation from the private sector contract price(s); (3) compare these adjusted private sector contract price(s), with all public reimbursable cost estimate(s) to determine the lowest cost provider; and (4) enter the lowest

- cost on SCF/SLCF Line 7. The CO shall enter the cost estimate submitted by a tax exempt organization on SCF/SLCF Line 7 only if the calculations required by this paragraph indicate the tax exempt organization is the lowest cost provider. The CO shall document these calculations as part of the SCF supporting documentation.
- c. Tax-Exempt Organization.** If a cost estimate is submitted by a tax-exempt organization(s), the CO shall make the following calculations to determine the cost to enter on SCF/SLCF Line 7 (1) calculate the federal tax adjustment for any non-tax-exempt contract price(s); (2) subtract this federal tax calculation from non-tax-exempt contract price(s); (3) compare these adjusted private sector contract price(s), with any tax-exempt organization(s) cost estimates and any public reimbursable cost estimate(s) to determine the lowest cost provider; and (4) enter the lowest cost on SCF Line 7. The CO shall enter the cost estimate submitted by a tax exempt organization on SCF/SLCF Line 7 only if the calculations required by this paragraph indicate the tax exempt organization is the lowest cost provider. The CO shall document these calculations as part of the SCF supporting documentation.
- d. Performance Bond.** When a solicitation requires private sector sources to provide a performance bond, the CO shall exclude the cost from the private sector source's contract price on SCF Line 7. The solicitation bid structure should facilitate the elimination of this cost (see Attachment B).
- 2. Contract Administration Costs (SCF/SLCF Line 8).** An agency shall calculate and enter contract administration costs on Line 8 using the Contract Administration Cost Factors and Allowable Grades in Figure C6. based on the total MEO staffing (total Line 1 FTEs plus an estimate of labor for MEO subcontracts). These contract administration cost factors account for a full range of labor and non-labor requirements for contract administration. Contract administration costs include the costs associated with reviewing compliance with the terms of the contract, processing payments, negotiating change orders, and monitoring the closeout of contract operations. An agency shall not include the cost of surveillance performed by quality assurance evaluators, as required by the quality assurance surveillance plan, on SCF Line 8, since these are common costs regardless of the source of the selected service provider (i.e., agency, public reimbursable, private sector). Agencies shall inflate contract administration costs using the Labor Inflation Cost Factors for Civilian Positions in Figure C1. COMPARE automatically computes the costs required for this SCF/SLCF line based on the factors in Figure C6. and agencies shall not include any other contract administration costs.

<b>Contract Administration Factors and Allowable Grades</b>					
MEO STAFFING*	CONTRACT ADMINISTRATION FTE	GRADES			
		GS-12	GS-11	GS-9	GS-6
10 or less	.5	1	0	0	0
11 – 20	1	1	0	0	0
21 – 50	2	1	1	0	0
51 – 75	3	1	1	1	0
76 – 100	4	1	1	1	1
101 – 120	5	1	1	2	1
121 – 150	6	1	2	2	1
151 – 200	7	1	2	2	2
201 – 250	8	2	2	2	2
251 – 300	9	2	2	3	2
301 – 350	10	2	3	3	2
351 – 450	11	2	3	4	2
451 and above	2.5% of agency MEO staffing	Distribution automatically calculated by <i>COMPARE</i>			

**Figure C6.**

3. **Additional Costs (SCF Line 9).** [See OMB Memorandum M-08-11 (February 20, 2008), number 1 (with Attachment B, number 3) when applying this provision.] SCF Line 9 shall include any additional costs to the agency, such as transportation or purchased services, resulting from unusual or special circumstances. An agency shall document these additional costs to describe the nature of the cost item, and indicate the reason the additional cost will not be incurred if the activity is performed by the agency source. When performance of an activity is converted from agency performance to either a private sector or public reimbursable source and the agency elects to retain existing equipment and facilities on standby, solely for the purpose of maintaining an agency performance capability, an agency shall not add these standby costs to the cost of the private sector or public reimbursable performance on SCF Line 9. An agency source shall include sufficient written documentation of all additional costs included in cost estimates for the CO to conduct price analysis and cost realism as required by Attachment B. Agencies shall not calculate Line 9 in a streamlined competition. Agencies shall determine and manually input the cost data for this SCF/SLCF line into COMPARE.
  - a. **Nonprofit Agency Fees.** When a Javits-Wagner-O'Day participating nonprofit agency (as defined by FAR Part 8), such as NISH or the National Institute for the Blind, participates in a standard competition, the CO shall include the 4 percent fee paid to the Committee for Purchase from People Who Are Blind, NISH, or National Institute for the Blind on SCF Line 9. The CO shall determine if the 4 percent is included in or excluded from the contract price. If the 4 percent is included in the contract price, the CO shall enter the contract price on SCF Line 7 and shall not enter the 4 percent on SCF Line 9. If the 4 percent is excluded from the contract price, the CO shall enter the contract price on SCF Line 7 and shall enter the 4 percent fee on SCF Line 9.
  - b. **Incentive Fees.** When an Indian Tribe competes as a private sector source in a standard competition, or is a subcontractor to a competing private sector source, and the Indian Incentive Program described in FAR Part 26 is authorized, the CO shall include the 5 percent incentive fee identified in FAR Part 26 on SCF Line 9.
4. **One-time Conversion Costs (SCF Line 10).** When an agency converts an activity performed by government personnel to a private sector or public reimbursable source, one-time conversion

costs may be incurred by the agency. An agency source shall include sufficient written documentation of all one-time conversion costs included in cost estimates for the CO to conduct price analysis and cost realism as required by Attachment B. Agencies shall not calculate Line 10 in a streamlined competition. Agencies shall calculate one-time conversion costs for severance costs and other costs as provided below and shall not calculate any other one-time conversions costs. COMPARE automatically calculates this SCF/SLCF line.

- a. Severance Costs.** An agency shall calculate one-time conversion costs for severance pay at 4 percent (the Severance Pay One-time Conversion Cost Factor) of SCF Line 1 basic pay, adjusted for inflation, for the first period of full performance (not the phase-in period) stated in the solicitation. If the first period of full performance is less than one full year, an agency shall annualize the basic pay only for the purpose of determining one full year of severance pay one-time conversion costs.
  - b. Other Costs.** An agency shall calculate other one-time conversion costs as 1 percent (the Other Pay One-time Conversion Cost Factor) of SCF Line 1 basic pay, adjusted for inflation, for the first period of full performance stated in the solicitation (not the phase-in period). Agencies shall not calculate any other one-time conversion costs except this 1 percent. This “other cost” accounts for all other one-time conversion costs such as relocation and retraining. If the first period of full performance (not the phase-in period) is less than one full year, an agency shall annualize the basic pay only for the purpose of determining one full year of other pay one-time conversion costs.
  - c. Annualize Basic Pay.** To annualize basic pay, divide the total inflated basic pay reflected in the first period of full performance on SCF Line 1 by the number of days in the second performance period and then multiply the result by 365.25 days (which accounts for leap year).
- 5. Gain on Assets (SCF Line 11).** An agency shall calculate the estimated gain on assets on SCF Line 11, with supporting documentation to justify the type and calculation of asset disposal or transfer. The SCF Line 11 entry is the gain from the sale or transfer of government assets at the net book value of the asset as of the start date of the first performance period. An agency shall calculate this gain to account for government material or equipment included in the agency tender when this material or equipment (a) is not provided to all prospective providers as GFP in the solicitation and (b) is not needed by the agency if the standard competition results in either a private sector or public reimbursable performance decision. This gain on assets generates revenue for the government; therefore, the cost reduces the total cost of private sector or public reimbursable performance. An agency shall only enter a negative number or zero on SCF Line 11 to represent a gain on assets. An agency source shall include sufficient written documentation of all gain on assets costs included in cost estimates for the CO to conduct price analysis and cost realism as required by Attachment B. Agencies shall not calculate Line 11 in a streamlined competition. COMPARE automatically calculates this SCF/SLCF line after the agency manually selects the period in which the capital asset is disposed of or transferred.
- 6. Federal Income Tax Adjustment (SCF/SLCF Line 12).** The cost entered on Line 12 represents revenue generated for the government that is subtracted from the total cost of private sector performance. An agency shall only enter these costs as a negative number, unless the private sector source is a tax-exempt organization. When entering the contract price, the CO shall determine and enter the appropriate industry code from the Tax Rate Table, which is based on the North American Industry Classification System, to calculate Line 12. An agency shall use the Tax

Rate Table on the OMB website to calculate Line 12 for each performance period stated in the solicitation. An agency shall enter on Line 12 the net increase of federal income tax that is expected if a performance decision results in a conversion from agency performance to private sector performance. The Internal Revenue Service provides the Tax Rate Table by types of industry and appropriate tax rates in relation to business receipts. The industry groupings are based on the North American Industry Classification System. COMPARE automatically calculates this SCF/SLCF line based on the tax rate table entry input by an agency.

<b>GAIN ON CAPITAL ASSETS (SAMPLE CALCULATION)</b>			
(A) Capital Asset	(B) Original Acquisition Cost	(C) Accumulated Depreciation	(D) Net Book Value (B minus C)
Capital Equipment = Bus	\$30,000	\$24,900	\$5,100
Capital Facility = Cafeteria	\$625,000	\$502,000	\$123,000
Column	Instructions		
A. Capital Asset	Identify the name of each specific capital asset		
B. Original Acquisition Cost	Enter the original acquisition cost of the asset, plus transportation and installation costs if not included in the purchase price, plus any capital improvement costs made to that asset		
C. Accumulated Depreciation	Enter the accumulated depreciation for the asset		
D. Net Book Value	Enter the net book value at the date of the first performance period. This is the gain on asset cost entered on the SCF. The cost of disposal or transfer is not included in the net book value		

**Figure C.7**

**7. Total Adjusted Cost of Private Sector or Public Reimbursable Performance (SCF/SLCF Line 13).** In a standard competition, the cost on Line 13 represents the total cost to the government of private sector performance (or public reimbursable performance if a public reimbursable cost estimate is entered on SCF Line 7), which is the sum of SCF Lines 7, 8, 9, 10, 11, and 12. In a streamlined competition, the cost on Line 13 represents the total cost to the government of private sector performance (or public reimbursable performance if a public reimbursable cost estimate is entered on SLCF Line 7), which is the sum of SLCF Lines 7, 8, 9, and 12. COMPARE automatically calculates this SCF/SLCF line.

**D. CONVERSION DIFFERENTIAL (SCF LINE 14).** [See OMB Memoranda M-08-11 (February 20, 2008), number 3, and M-06-13 (April 24, 2006) when applying this provision.] An agency shall calculate the conversion differential by multiplying SCF Line 1 personnel costs for all performance periods by 10 percent. If the calculated conversion differential is less than \$10 million, the agency shall enter the calculated conversion differential on Line 14. If the calculated conversion differential is greater than or equal to \$10 million, the agency shall enter \$10 million on Line 14. Agencies shall not calculate Line 14 in a streamlined competition. COMPARE automatically calculates this SCF/SLCF line.

**1. Expansions, New Requirements, or Conversions From Contract To Agency Performance.** An agency shall add the conversion differential to SCF Line 6 of the agency cost estimate when an agency is performing a standard competition and the potential exists for (a) a conversion from a private sector provider (contract performance) to agency performance with government personnel; (b) agency performance of a new requirement with government personnel; or (c) agency performance with government personnel of an expansion of requirements for an existing commercial activity. Since agency performance of a new requirement or an expansion of an existing commercial activity is justified based upon a standard competition, an agency shall calculate the conversion differential as if the private sector source is the incumbent provider for a

new requirement or an expansion of an existing commercial activity. For a standard competition of an expansion, the conversion differential is distributed to agency, private sector, and public reimbursable sources based on the percentage of SCF Line 1 attributed to the expansion workload, as follows:

- a. Standard Competition of a Segregable Expansion.** For a standard competition of the segregable 30 percent of an expansion, an agency shall add all of SCF Line 14 (conversion differential) to the total cost of agency performance reflected on SCF Line 6 to generate the adjusted total cost of agency performance on SCF Line 15.
  - b. Standard Competition of Activity and Expansion.** For a standard competition of an entire expansion of a commercial activity (i.e., the existing commercial activity performed by government positions plus the 30+ percent expansion), an agency shall (1) multiply the conversion differential on SCF Line 14 by the percentage of government position costs on SCF Line 1 that represents the expansion of recurring workload; (2) add the result to the total cost of agency performance reflected on SCF Line 6; and (3) enter the adjusted total cost of agency performance on SCF Line 15. The agency shall (1) multiply the percentage of SCF Line 1 (personnel) costs that represents the agency work currently performed by SCF Line 14 (conversion differential); (2) add the result to the total cost of private sector or public reimbursable performance on SCF Line 13; and (3) enter the total adjusted cost of private sector or public reimbursable performance on SCF Line 16. The agency shall divide the total SCF Line 1 costs assigned to the expanded work for all performance periods by the total SCF Line 1 costs for all performance periods to generate the percentage of agency position costs for the expanded work. To generate the percentage of agency position costs for the work performed by the agency, the agency shall divide the total SCF Line 1 costs assigned to the work performed by the agency for all performance periods by the total SCF Line 1 costs for all performance periods.
- 2. Partial Conversion From Private Sector to Agency Performance.** For a standard competition of a commercial activity where the incumbent providers are a combination of private sector and agency sources, and the agency tender converts the portion of the work performed by the private sector performance to agency performance using government positions, the agency shall apportion the conversion differential to each source based upon the percentage of work performed by each incumbent source at the time of public announcement. Therefore, an agency shall calculate the conversion differential as follows: (a) calculate the conversion differential for the agency tender, (b) calculate the value of the conversion differential for the work performed by the private sector that will be converted to agency performance using government positions, and (c) enter the difference on SCF Line 14. If the agency tender includes an MEO subcontract, the agency shall not calculate any conversion differential for the MEO subcontract on the SCF.
- E. ADJUSTED TOTAL COST OF AGENCY PERFORMANCE (SCF LINE 15).** If a standard competition is conducted to determine whether a commercial activity should be converted from private sector or public reimbursable performance to agency performance, the agency shall add the conversion differential from SCF Line 14 to SCF Line 6 and enter the sum on SCF Line 15. The total amount for all performance periods on SCF Line 13 is then replicated on SCF Line 16. Agencies shall not calculate Line 15 in a streamlined competition. COMPARE automatically calculates this SCF/SLCF line.

- F. ADJUSTED TOTAL COST OF PRIVATE SECTOR OR PUBLIC REIMBURSABLE PERFORMANCE (SCF LINE 16).** If a standard competition is conducted to determine whether an activity should be converted from agency performance to private sector or public reimbursable performance, the agency shall add the conversion differential from SCF Line 14 to SCF Line 13 and enter the sum on SCF Line 16. The total amount for all performance periods on SCF Line 6 is then replicated on SCF Line 15. Agencies shall not calculate Line 16 in a streamlined competition. COMPARE automatically calculates this SCF/SLCF line.
- G. THE COST DIFFERENCE (SCF/SLCF LINE 17).** In a standard competition, the agency shall calculate the cost difference by subtracting SCF Line 15 from SCF Line 16 and shall enter the sum on SCF Line 17. In a streamlined competition, the agency shall calculate the cost difference by subtracting SLCF Line 13 from SLCF Line 6 and shall enter the sum on SLCF Line 17. COMPARE automatically calculates this SCF/SLCF line.
- H. LOW-COST PROVIDER (SCF/SLCF LINE 18).** For a low-cost decision in a standard competition, a positive number on Line 17 indicates a decision for agency performance by government personnel, and a negative number indicates a decision for a private sector or public reimbursable performance. For either a low-cost decision or an other-than-low-cost decision in a standard competition, the SSA's decision is indicated by an "x" on SCF Line 18. For an other-than-low-cost decision, the SSA shall document the reasons for such a decision in accordance with Attachment B. For a streamlined competition, the cost difference entered on SLCF Line 17 indicates the low cost performance decision. COMPARE automatically calculates this SCF/SLCF line.

**ACRONYMS AND DEFINITIONS**

**A. ACRONYMS.**

<b>Acronym</b>	<b>Clear Text</b>
ATO	Agency Tender Official
CDRL	Contract Data Requirements List
C.F.R.	Code of Federal Regulations
CLIN	Contract Line Item Number
CO	Contracting Officer
CSO	Competitive Sourcing Official
FAIR	Federal Activities Inventory Reform
FAR	Federal Acquisition Regulation
FICA	Federal Insurance Contribution Act
FTE	Full-time Equivalent
FWS	Federal Wage System
GAO	General Accounting Office
GFP	Government-Furnished Property
GS	General Schedule
HRA	Human Resource Advisor
MEO	Most Efficient Organization
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PWS	Performance Work Statement
SCA	Service Contract Act
SCF	Standard Competition Form
SLCF	Streamlined Competition Form
SSA	Source Selection Authority
SSEB	Source Selection Evaluation Board
U.S.C.	United States Code
VERA	Voluntary Early Retirement Authority
VSIP	Voluntary Separation Incentive Pay

**B. DEFINITIONS.** Agencies shall use these definitions to implement and comply with this circular and the Attachments.

**Activity.** A specific task or grouping of tasks that provides a specialized capability, service or product based on a recurring government requirement. Depending on the grouping of tasks, an activity may be an entire function or may be a part of a function. An activity may be inherently governmental or commercial in nature.

**Adversely Affected Employees.** Federal civilian employees serving competitive or excepted service appointments in Tenure Groups I, II, or III, who are identified for release from their competitive level by an agency, in accordance with 5 C.F.R. Part 351 and 5 U.S.C. Chapter 35, as a direct result of a performance decision resulting from a streamlined or standard competition.



**Agency Cost Estimate.** The part of the agency tender in a standard competition that includes the agency's cost proposal and represents the full cost of agency performance of the commercial activity, based on the requirements in the solicitation and the costing policy in Attachment C. The agency cost estimate for a streamlined competition is developed in accordance with Attachments B and C.

**Agency Performance.** Performance of a commercial or inherently governmental activity with government personnel. Often referred to as "in-house performance."

**Agency Source.** A service provider staffed by government personnel.

**Agency Tender.** The agency management plan submitted in response to a solicitation for a standard competition. The agency tender includes an MEO, agency cost estimate, MEO quality control plan, MEO phase-in plan, and copies of any MEO subcontracts (with the private sector providers' proprietary information redacted). The agency tender is prepared in accordance with Attachment B and the solicitation requirements.

**Agency Tender Official (ATO).** An inherently governmental agency official with decision-making authority who is responsible for the agency tender and represents the agency tender during source selection.

**Annualize.** The calculation method to convert a cost to an annual basis. The calculation converts a cost for a performance period that is less than one full year into an annual cost to correctly reflect the cost in a government cost estimate. This calculation is performed by first dividing the cost in the performance period by the number of days in the performance period to determine the corresponding daily cost and then multiplying the daily cost by 365.25 days to determine the annualized cost. To account for leap years, 365.25 is the average number of days in a year.

**Basic Pay.** Basic pay for GS employees is a position's annual salary plus any other applicable civilian employee pay entitlements. Basic pay for FWS employees is a position's annual wages including shift differential pay and environmental pay, plus any other applicable civilian employee pay entitlements. Examples of other civilian employee pay entitlements include, but are not limited to, night differential pay for FWS employees, environmental differential pay, and premium pay (for civilian employee fire fighters and law enforcement officers).

**Capital Improvement.** An expenditure for a physical improvement to an existing capital asset such as additions and major alterations that are intended to improve performance or increase useful life.

**Civilian Employee.** An individual who works for a federal agency on an appointment without time limitation who is paid from appropriated funds, which includes working capital funds. A foreign national employee, temporary employee, term employee, non-appropriated fund employee, or uniformed personnel is not included in this definition.

**Commercial Activity.** A recurring service that could be performed by the private sector. This recurring service is an agency requirement that is funded and controlled through a contract, fee-for-service agreement, or performance by government personnel. Commercial activities may be found within, or throughout, organizations that perform inherently governmental activities or classified work.

**Common Costs.** Specific costs identified in the solicitation that will be incurred by the government regardless of the provider (private sector, public reimbursable, or agency). Common costs are sometimes

referred to as wash costs. Examples of common costs include government-furnished property, security clearances, and joint inventories.

**COMPARE.** The windows-based A-76 costing software that incorporates the costing procedures of this circular. Agencies must use COMPARE to calculate and document the costs on the SLCF for a streamlined competition or the SCF for a standard competition. The software is available through the SHARE A-76! web site at <http://sharea76.fedworx.org/sharea76/Home.aspx>.

**COMPARE Version Control Log.** The document that describes each of the changes made in a particular version of the COMPARE software. This document includes a brief description of the change, the area of the software program affected by the change, and the impact the change has on the SCF/SLCF and/or documentation.

**COMPARE User's Guide.** A detailed guidebook for actual users of COMPARE that includes an in-depth explanation of the use and features of the COMPARE software program.

**COMPARE Tables.** A specific set of master tables incorporated into the COMPARE costing software that includes all of the approved standard cost factors and rates used to calculate the SCF/SLCF costs.

**Competition.** A formal evaluation of sources to provide a commercial activity that uses pre-established rules (e.g., the FAR, this circular). Competitions between private sector sources are performed in accordance with the FAR. Competitions between agency, private sector, and public reimbursable sources are performed in accordance with the FAR and this circular. The term "competition," as used in this circular includes streamlined and standard competitions performed in accordance with this circular, and FAR-based competitions for agency-performed activities, contracted services, new requirements, expansions of existing work, and activities performed under fee-for-service agreement. The term also includes cost comparisons, streamlined cost comparisons, and direct conversions performed under previous versions of OMB Circular A-76.

**Competition File.** The documents used in a standard competition in addition to the government contract files required by FAR Subpart 4.8. Agencies maintain this file regardless of the source selected to perform the activity.

**Competition Officials.** The agency officials appointed before a standard competition is announced. These individuals perform key roles and have essential responsibilities for the successful completion of the standard competition. Competition officials are the agency tender official, contracting officer, source selection authority, human resource advisor, and PWS team leader.

**Competitive Sourcing Official (CSO).** An inherently governmental agency official responsible for the implementation of this circular within the agency.

**Component.** An organizational grouping within an agency, such as a bureau, center, military service, or field activity.

**Contracting Officer (CO).** An inherently governmental agency official who participates on the PWS team, and is responsible for the issuance of the solicitation and the source selection evaluation methodology. The CO awards the contract and issues the MEO letter of obligation or fee-for-service agreement resulting from a streamlined or standard competition. The CO and the SSA may be the same individual.

**Conversion From Contract.** A change in the performance of a commercial activity from a private sector provider to agency performance.

**Conversion To Contract.** A change in the performance of a commercial activity from agency performance to a private sector provider.

**Depreciation.** The decline in the value of a capital asset. Depreciation represents a cost of ownership and the consumption of an asset's useful life.

**Direct Labor.** Manpower resources dedicated to performing the requirements of the solicitation and labor for supervision and management related support to the tender (e.g., MEO) such as labor for quality control.

**Directly Affected Employees.** Civilian employees whose work is being competed in a streamlined or standard competition.

**Directly Affected Government Personnel.** Government personnel whose work is being competed in a streamlined or standard competition.

**Directly Interested Party.** The 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.

**Divestiture.** An agency's decision to eliminate a government requirement for a commercial activity. No service contract or fee-for-service agreement exists between the agency and the private sector after a divestiture. By divesting of a commercial activity, an agency elects not to control the activity and cedes ownership and control of the activity's associated assets (e.g., equipment, facilities, property) and resources (agency manpower and budgeting for the activity). The agency has no role in the financial support, management, regulation, or oversight of a divested activity. Moving, transferring, or converting a commercial activity from government performance to private sector or public reimbursable performance is not a divestiture.

**Employee Transition Plan.** A written plan developed by the HRA for the potential transition of the agency's civilian employees to an MEO, or to private sector or public reimbursable performance. This plan is developed early in the streamlined or standard competition process, based on the incumbent government organization, to identify projected employee impacts and the time needed to accommodate such impacts, depending on the potential outcomes of the competition. The employee transition plan differs from a phase-in plan, which is developed by prospective providers responding to a solicitation.

**End Date.** The end date for a streamlined or standard competition is the date that all SCF certifications are completed, signifying an agency's performance decision.

**Expansion.** An increase in the operating cost of an existing commercial activity based on modernization, replacement, upgrade, or increased workload. An expansion of an existing commercial activity is an increase of 30 percent or more in the activity's operating costs (including the cost of FTEs) or total capital investment.

**FedBizOpps.gov.** The website where the government electronically advertises solicitations or requirements.

**Fee-for-Service Agreement.** A formal agreement between agencies, in which one agency provides a service (a commercial activity) for a fee paid by another agency. The agency providing the service is referred to in this circular as a public reimbursable source.

**First Period of Full Performance.** The performance period following the phase-in period when the service provider becomes fully responsible for performing the activity. The first performance period is used to implement the new service provider's phase-in plan; therefore, full performance of the service provider does not occur until the second performance period, which may be referred to as the base period, full performance, or the first period of full performance. This first period of full performance may be less than or more than 12 months. The first period of full performance is the second performance period (the performance period immediately following phase-in period) regardless of the second performance period's length.

**Foreign National Employee.** An employee that is not a United States citizen who is employed by the United States Government and works outside the United States, its territories or possessions, under a system in which an Executive Agency is the official employer of the foreign national employee and assumes responsibility for all administration and management functions associated with the employee's employment.

**Full-Time Equivalent (FTE).** The staffing of Federal civilian employee positions, expressed in terms of annual productive work hours (1,776) rather than annual available hours that includes non-productive hours (2,080 hours). FTEs may reflect civilian positions that are not necessarily staffed at the time of public announcement and staffing of FTE positions may fluctuate during a streamlined or standard competition. The staffing and threshold FTE requirements stated in this circular reflect the workload performed by these FTE positions, not the workload performed by actual government personnel. FTEs do not include military personnel, uniformed services, or contract support.

**Function Code.** The numerical code used to categorize an agency's commercial and inherently governmental activities for inventory reporting purposes.

**Government Furnished Property (GFP).** Facilities, equipment, material, supplies, or other services provided by the government for use by all prospective providers in the solicitation. Costs for GFP included in a solicitation are considered common costs. Replacement costs, insurance, maintenance and repair costs for GFP may or may not be government-furnished, depending on the provisions in the solicitation.

**Government Personnel.** Civilian employees, foreign national employees, temporary employees, term employees, non-appropriated fund employees, and uniformed services personnel employed by an agency to perform activities.

**Human Resource Advisor (HRA).** An inherently governmental agency official who is a human resource expert and is responsible for performing human resource-related actions to assist the ATO in developing the agency tender.

**Incumbent Service Provider.** The source (i.e., agency, private sector, or public reimbursable source) providing the service when a public announcement is made of the streamlined or standard competition.

**Information Technology.** Any equipment or interconnected system(s) or subsystem(s) of equipment used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency. For purposes of

this definition, equipment is used by an agency if the equipment is used directly by the agency, or is used by a contractor under a contract with the agency that requires (1) its use or (2) to a significant extent, its use in the performance of a service or the furnishing of a product. The term "information technology" includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources, and does not include any equipment that is acquired by a contractor incidental to a contract; or contains imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, heating, ventilation, and air conditioning equipment, such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not information technology.

**Inherently Governmental Activities.** An activity that is so intimately related to the public interest as to mandate performance by government personnel as provided by Attachment A.

**Interested Parties.** For purposes of challenging the contents of an agency's commercial activities inventory pursuant to the Federal Activities Inventory Reform Act, an interested party is (1) a private sector source that is an actual or prospective offeror for a contract or other form of agreement to perform the activity and has a direct economic interest in performing the activity that would be adversely affected by a determination not to procure the performance of the activity from a private sector source; (2) a representative of any business or professional association that includes within its membership private sector sources referred to in (1) above; (3) an officer or employee of an organization within an executive agency that is an actual or prospective offeror to perform the activity; (4) the head of any labor organization referred to in section 7103(a)(4) of title 5, United States Code, that includes within its membership officers or employees of an organization referred to in paragraph (3).

**Inventory.** A list of government personnel, by location, function, and position, performing either commercial activities or inherently governmental activities.

**MEO Letter of Obligation.** A formal agreement that an agency implements when a standard or streamlined competition results in agency performance (e.g., MEO).

**MEO Subcontracts.** Contracts between an agency and the private sector that are included in the agency tender or fee-for service agreements with a public reimbursable source that are included in the agency tender. In addition to the cost of MEO subcontracts, agency or public reimbursable cost estimates must include support costs associated with MEO subcontracts such as government-furnished property, and contract administration, inspection, and surveillance.

**MEO Team.** A group of individuals, comprised of technical and functional experts, formed to assist the ATO in developing the agency tender.

**Military Personnel.** Officers [*as defined in 10 U.S.C. § 101(b)(1)*] and enlisted members [*as defined in 10 U.S.C. § 101(b)(6)*] of the military services (defined as the Army, Navy, Air Force, and Marine Corps).

**Most Efficient Organization (MEO).** The staffing plan of the agency tender, developed to represent the agency's most efficient and cost-effective organization. An MEO is required for a standard competition and may include a mix of government personnel and MEO subcontracts.

**New Requirement.** An agency's newly established need for a commercial product or service that is not performed by (1) the agency with government personnel; (2) a fee-for-service agreement with a public

reimbursable source; or (3) a contract with the private sector. An activity that is performed by the agency and is reengineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, is not considered a new requirement. New ways of performing existing work are not new requirements.

**Non-Pay Categories of Costs.** Costs in a cost estimate that are not related to pay. Non-pay categories of costs include, but are not limited to, materials, supplies, equipment, facilities, capital assets, and minor items and the inflation for these costs.

**Offer.** A private sector source's formal response to a request for proposals or invitation for bid. The term "offeror" refers to the specific source rather than the response.

**Overhead.** Overhead includes two major categories of cost, operations overhead and general and administrative overhead. Operations overhead includes costs that are not 100 percent attributable to the activity being competed but are generally associated with the recurring management or support of the activity. General and administrative overhead includes salaries, equipment, space, and other tasks related to headquarters management, accounting, personnel, legal support, data processing management, and similar common services performed external to the activity, but in support of the activity being competed. A standard twelve percent overhead factor is an estimated federal agency overhead factor that is calculated in agency and public reimbursable cost estimates for streamlined and standard competitions.

**Past Performance.** An indicator that may be used in the source selection process to evaluate a prospective provider's previous performance on work comparable to that being competed, for the purpose of predicting the quality of future performance relative to other offers or public reimbursable tenders. FAR 42.1501 describes the information used to evaluate past performance, and FAR 15.305(a)(2) provides guidance for the consideration of past performance in the source selection process.

**Pay Categories of Cost.** Costs in a cost estimate associated with the payroll for government personnel, including inflation.

**Performance Decision.** The outcome of a streamlined or standard competition, based on SLCF or SCF certifications.

**Performance Standards.** Verifiable, measurable levels of service in terms of quantity, quality, timeliness, location, and work units. Performance standards are used in a performance-based PWS to (1) assess (i.e., inspect and accept) the work during a period of performance; (2) provide a common output-related basis for preparing private sector offers and public tenders; and (3) compare the offers and tenders to the PWS. The requiring activity's acceptable levels of service are normally stated in the PWS. The solicitation includes performance standards.

**Performance Work Statement (PWS).** A statement in the solicitation that identifies the technical, functional, and performance characteristics of the agency's requirements. The PWS is performance-based and describes the agency's needs (the "what"), not specific methods for meeting those needs (the "how"). The PWS identifies essential outcomes to be achieved, specifies the agency's required performance standards, and specifies the location, units, quality and timeliness of the work.

**Phase-in Plan.** A prospective provider's plan to replace the incumbent provider(s) that is submitted in response to the solicitation. The phase-in plan is implemented in the first performance period and includes details on minimizing disruption, adverse personnel impacts, and start-up requirements. The phase-in plan is different from the employee transition plan developed by the HRA.

**Privatization.** A federal agency decision to change a government-owned and government-operated commercial activity or enterprise to private sector control and ownership. When privatizing, the agency eliminates associated assets and resources (manpower for and funding of the requirement). Since there is no government ownership and control, no service contract or fee-for-service agreement exists between the agency and the private sector after an agency privatizes a commercial activity or enterprise. Moving work from agency performance with government personnel to private sector performance where the agency still funds the activity is not privatization.

**Prospective Providers.** Private sector, public reimbursable, and agency sources that may submit responses (offers or tenders) in response to an agency's solicitation.

**Provider.** An agency, private sector, or public reimbursable source that is performing, or will perform, a commercial activity; sometimes referred to as a service provider.

**Public Announcement.** An agency's formal declaration that the agency has made a (1) decision to perform a streamlined or standard competition, or (2) performance decision in a streamlined or standard competition. The CO makes these announcements via *FedBizOpps.gov*.

**Public Reimbursable Source.** A service provider from a federal agency that could perform a commercial activity for another federal agency on a fee-for-service or reimbursable basis by using either civilian employees or federal contracts with the private sector.

**Public Reimbursable Tender.** A federal agency's formal response to another federal agency's solicitation for offers or tenders. The public reimbursable tender is developed in accordance with this circular and includes a cost estimate, prepared in accordance with Attachment C.

**PWS Team.** A group of individuals, comprised of technical and functional experts, formed to develop the PWS and quality assurance surveillance plan, and to assist the CO in developing the solicitation.

**Quality Assurance Surveillance.** The government's monitoring of a service provider's performance in accordance with the quality assurance surveillance plan and the performance requirements identified in the solicitation.

**Quality Assurance Surveillance Plan.** The government's inspection plan. The quality assurance surveillance plan documents methods used to measure performance of the service provider against the requirements in the PWS. The agency relies on the service provider to monitor daily performance using their own quality control plan, but retains the right to inspect all services. When the agency makes a performance decision, the agency re-evaluates and modifies the existing quality assurance surveillance plan, based upon the selected provider and the selected provider's accepted quality control plan.

**Quality Control Plan.** A self-inspection plan that is included in all offers and tenders. The quality control plan describes the internal staffing and procedures that the prospective provider will use to meet the quality, quantity, timeliness, responsiveness, customer satisfaction, and other service delivery requirements in the PWS.

**Representatives of Directly Affected Employees.** In the case of directly affected employees represented by a labor organization accorded exclusive recognition under 5 U.S.C. § 7111, a representative is an individual designated by that labor organization to represent its interests. In the case of directly affected

employees not represented by a labor organization under 5 U.S.C. § 7111, a representative is an individual appointed by directly affected employees as their representative.

**Residual Value.** The estimated value of a capital asset at the end of its useful life as determined by application of the Useful Life and Disposal Value Cost Factor.

**Resources.** Funding allocated for contracts, manpower, facilities, material, or equipment to perform agency requirements.

**Segregable Expansion.** An increase to an existing commercial activity that can be separately competed.

**SHARE A-76!** The Department of Defense A-76 knowledge management system used to share knowledge, information, and experience about public-private competitions. This public site contains A-76-related guidance, sample documents, best practices, tools, and links to other A-76 websites and sources for A-76-related information. Users may post best practices used in public-private competitions, research A-76 through the use of search engines, and submit internet links to add to the available links in SHARE A-76! The web site address is <http://sharea76.fedworx.org/sharea76/Home.aspx>

**Solicitation Closing Date.** The due date for delivery of private sector offers, public reimbursable tenders, and the agency tender, as stated in the solicitation.

**Source.** One of three specific categories of service providers (i.e., agency, private sector, or public reimbursable) that can perform a commercial activity for an agency.

**Source Selection Authority (SSA).** A competition official with decision-making authority who is responsible for source selection as required by the FAR and this circular. The SSA and CO may be the same individual.

**Source Selection Evaluation Board (SSEB).** The team or board appointed by the SSA to assist in a negotiated acquisition.

**Standard Competition Form (SCF).** The agency form that documents and certifies all costs calculated in the standard competition.

**Start Date.** The start date for a streamlined or standard competition is the date that the agency makes a formal public announcement of the agency's decision to perform a streamlined or standard competition.

**Streamlined Competition Form (SLCF).** The agency form that documents and certifies all costs calculated in the streamlined competition, in accordance with Attachment C.

**Uniformed Services.** Members of the armed forces (i.e., Army, Navy, Air Force, Marine Corps, and Coast Guard) and other uniformed services (e.g., National Oceanic and Atmospheric Administration, Public Health Service).

**Useful Life.** The estimated period of economic usefulness of a capital asset.



## 2009 Presidential Memorandum

## Presidential Documents

Memorandum of March 4, 2009

### Government Contracting

#### Memorandum for the Heads of Executive Departments and Agencies

The Federal Government has an overriding obligation to American taxpayers. It should perform its functions efficiently and effectively while ensuring that its actions result in the best value for the taxpayers.

Since 2001, spending on Government contracts has more than doubled, reaching over \$500 billion in 2008. During this same period, there has been a significant increase in the dollars awarded without full and open competition and an increase in the dollars obligated through cost-reimbursement contracts. Between fiscal years 2000 and 2008, for example, dollars obligated under cost-reimbursement contracts nearly doubled, from \$71 billion in 2000 to \$135 billion in 2008. Reversing these trends away from full and open competition and toward cost-reimbursement contracts could result in savings of billions of dollars each year for the American taxpayer.

Excessive reliance by executive agencies on sole-source contracts (or contracts with a limited number of sources) and cost-reimbursement contracts creates a risk that taxpayer funds will be spent on contracts that are wasteful, inefficient, subject to misuse, or otherwise not well designed to serve the needs of the Federal Government or the interests of the American taxpayer. Reports by agency Inspectors General, the Government Accountability Office (GAO), and other independent reviewing bodies have shown that non-competitive and cost-reimbursement contracts have been misused, resulting in wasted taxpayer resources, poor contractor performance, and inadequate accountability for results.

When awarding Government contracts, the Federal Government must strive for an open and competitive process. However, executive agencies must have the flexibility to tailor contracts to carry out their missions and achieve the policy goals of the Government. In certain exigent circumstances, agencies may need to consider whether a competitive process will not accomplish the agency's mission. In such cases, the agency must ensure that the risks associated with noncompetitive contracts are minimized.

Moreover, it is essential that the Federal Government have the capacity to carry out robust and thorough management and oversight of its contracts in order to achieve programmatic goals, avoid significant overcharges, and curb wasteful spending. A GAO study last year of 95 major defense acquisitions projects found cost overruns of 26 percent, totaling \$295 billion over the life of the projects. Improved contract oversight could reduce such sums significantly.

Government outsourcing for services also raises special concerns. For decades, the Federal Government has relied on the private sector for necessary commercial services used by the Government, such as transportation, food, and maintenance. Office of Management and Budget Circular A-76, first issued in 1966, was based on the reasonable premise that while inherently governmental activities should be performed by Government employees, taxpayers may receive more value for their dollars if non-inherently governmental activities that can be provided commercially are subject to the forces of competition.

However, the line between inherently governmental activities that should not be outsourced and commercial activities that may be subject to private

sector competition has been blurred and inadequately defined. As a result, contractors may be performing inherently governmental functions. Agencies and departments must operate under clear rules prescribing when outsourcing is and is not appropriate.

It is the policy of the Federal Government that executive agencies shall not engage in noncompetitive contracts except in those circumstances where their use can be fully justified and where appropriate safeguards have been put in place to protect the taxpayer. In addition, there shall be a preference for fixed-price type contracts. Cost-reimbursement contracts shall be used only when circumstances do not allow the agency to define its requirements sufficiently to allow for a fixed-price type contract. Moreover, the Federal Government shall ensure that taxpayer dollars are not spent on contracts that are wasteful, inefficient, subject to misuse, or otherwise not well designed to serve the Federal Government's needs and to manage the risk associated with the goods and services being procured. The Federal Government must have sufficient capacity to manage and oversee the contracting process from start to finish, so as to ensure that taxpayer funds are spent wisely and are not subject to excessive risk. Finally, the Federal Government must ensure that those functions that are inherently governmental in nature are performed by executive agencies and are not outsourced.

I hereby direct the Director of the Office of Management and Budget (OMB), in collaboration with the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Administrator of General Services, the Director of the Office of Personnel Management, and the heads of such other agencies as the Director of OMB determines to be appropriate, and with the participation of appropriate management councils and program management officials, to develop and issue by July 1, 2009, Government-wide guidance to assist agencies in reviewing, and creating processes for ongoing review of, existing contracts in order to identify contracts that are wasteful, inefficient, or not otherwise likely to meet the agency's needs, and to formulate appropriate corrective action in a timely manner. Such corrective action may include modifying or canceling such contracts in a manner and to the extent consistent with applicable laws, regulations, and policy.

I further direct the Director of OMB, in collaboration with the aforementioned officials and councils, and with input from the public, to develop and issue by September 30, 2009, Government-wide guidance to:

(1) govern the appropriate use and oversight of sole-source and other types of noncompetitive contracts and to maximize the use of full and open competition and other competitive procurement processes;

(2) govern the appropriate use and oversight of all contract types, in full consideration of the agency's needs, and to minimize risk and maximize the value of Government contracts generally, consistent with the regulations to be promulgated pursuant to section 864 of Public Law 110-417;

(3) assist agencies in assessing the capacity and ability of the Federal acquisition workforce to develop, manage, and oversee acquisitions appropriately; and

(4) clarify when governmental outsourcing for services is and is not appropriate, consistent with section 321 of Public Law 110-417 (31 U.S.C. 501 note).

Executive departments and agencies shall carry out the provisions of this memorandum to the extent permitted by law. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of OMB is hereby authorized and directed to publish this memorandum in the *Federal Register*.

A handwritten signature in black ink, appearing to be "George W. Bush", written in a cursive style.

THE WHITE HOUSE,  
Washington, March 4, 2009

[FR Doc. E9-4938  
Filed 3-5-09; 8:45 am]  
Billing code 3110-01-P

## 2011 OMB Policy Letter

nonresponse in key Bureau surveys. Moreover, as the use of Web-based surveys continues to grow, so too will the need for careful tests of instrument design and usability, human-computer interactions, and the impact of multiple modes on data quality. The BSRL is uniquely equipped with both the skills and facilities to accommodate these demands.

The extension of the accompanying clearance package reflects an attempt to accommodate the increasing interest by BLS program offices and other agencies in the methods used, and the results obtained, by the BSRL. This package reflects planned research and development activities for FY2012 through FY2014, and its approval will enable the continued productivity of a state-of-the-art, multi-disciplinary program of behavioral science research to improve BLS survey methodology.

### III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

*Type of Review:* Extension of a currently approved collection.

*Agency:* Bureau of Labor Statistics.

*Title:* Cognitive and Psychological Research.

*OMB Number:* 1220-0141.

*Affected Public:* Individuals and Households, Private Sector.

*Total Respondents:* 1,200.

*Frequency:* One time.

*Total Responses:* 1,200.

*Average Time per Response:* 60 minutes.

*Estimated Total Annual Burden*

*Hours:* 1,200 hours.

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintenance):* \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC this 31st day of August 2011.

**Kimberley D. Hill,**

*Chief, Division of Management Systems,  
Bureau of Labor Statistics.*

[FR Doc. 2011-23209 Filed 9-9-11; 8:45 am]

**BILLING CODE 4510-24-P**

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

#### Publication of the Office of Federal Procurement Policy (OFPP) Policy Letter 11-01, Performance of Inherently Governmental and Critical Functions

**AGENCY:** Office of Management and Budget, Office of Federal Procurement Policy.

**ACTION:** Notice of final policy letter.

**SUMMARY:** The Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget (OMB) is issuing a policy letter to provide to Executive Departments and agencies guidance on managing the performance of inherently governmental and critical functions. The guidance addresses direction to OMB in the Presidential Memorandum on Government Contracting, issued on March 4, 2009, to clarify when governmental outsourcing of services is, and is not, appropriate, consistent with section 321 of the Duncan Hunter National Defense Authorization Act (NDAA) for Fiscal Year 2009 (Pub. L. 110-417). Section 321 requires OMB to: (i) Create a single definition for the term "inherently governmental function" that addresses any deficiencies in the existing definitions and reasonably applies to all agencies; (ii) establish criteria to be used by agencies to identify "critical" functions and positions that should only be performed by Federal employees; and (iii) provide guidance to improve internal agency management of functions that are inherently governmental or critical. The Presidential Memorandum is available at [http://www.whitehouse.gov/the\\_press\\_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-Subject-Government/](http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-Subject-Government/). Section 321 may be found at [http://www.dod.gov/dodgc/olc/docs/2009NDAA\\_PL110-417.pdf](http://www.dod.gov/dodgc/olc/docs/2009NDAA_PL110-417.pdf).

**DATES:** The effective date of OFPP Policy 11-01 is October 12, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mathew Blum, OFPP, (202) 395-4953 or [mblum@omb.eop.gov](mailto:mblum@omb.eop.gov), or Jennifer Swartz, OFPP, (202) 395-6811 or [jswartz@omb.eop.gov](mailto:jswartz@omb.eop.gov).

### SUPPLEMENTARY INFORMATION:

#### A. Overview

OFPP is issuing a policy letter to provide guidance on managing the performance of inherently governmental and critical functions. The policy letter is intended to implement direction in the President's March 4, 2009, Memorandum on Government Contracting that requires OMB to "clarify when governmental outsourcing for services is and is not appropriate, consistent with section 321 of Public Law 110-417 (31 U.S.C. 501 note)." The policy letter:

- *Clarifies what functions are inherently governmental and must always be performed by Federal employees.* The policy letter provides a single definition of "inherently governmental function" built around the well-established statutory definition in the Federal Activities Inventory Reform Act (FAIR Act), Public Law 105-270. The FAIR Act defines an activity as inherently governmental when it is so intimately related to the public interest as to mandate performance by Federal employees. The definition provided by this policy letter will replace existing definitions in regulation and policy, including the Federal Acquisition Regulation (FAR). The policy letter provides examples and tests to help agencies identify inherently governmental functions.

- *Explains what agencies must do when work is "closely associated" with inherently governmental functions.* Specifically, when functions that generally are not considered to be inherently governmental approach being in that category because of the nature of the function and the risk that performance may impinge on Federal officials' performance of an inherently governmental function, agencies must give special consideration to using Federal employees to perform these functions. If contractors are used to perform such work, agencies must give special management attention to contractors' activities to guard against their expansion into inherently governmental functions. The policy letter includes examples to help agencies identify closely associated functions and a checklist of responsibilities that must be carried out

when agencies rely on contractors to perform these functions.

- *Requires agencies to identify their "critical functions" in order to ensure they have sufficient internal capability to maintain control over functions that are core to the agency's mission and operations.* The policy letter holds an agency responsible for making sure it has an adequate number of positions filled by Federal employees with appropriate training, experience, and expertise to understand the agency's requirements, formulate alternatives, manage work product, and monitor any contractors used to support the Federal workforce. Federal officials must evaluate, on a case-by-case basis, whether they have sufficient internal capability, taking into account factors such as the agency's mission, the complexity of the function, the need for specialized staff, and the potential impact on mission performance if contractors were to default on their obligations.

- *Outlines a series of agency management responsibilities to strengthen accountability for the effective implementation of these policies.* Agencies must take specific actions, before and after contract award, to prevent contractor performance of inherently governmental functions and overreliance on contractors in "closely associated" and critical functions. Agencies are also required to develop agency-level procedures, provide training, and designate senior officials to be responsible for implementation of these policies.

OFPP will work with the Federal Acquisition Regulatory Council, the Defense Acquisition Regulations Council and the Civilian Agency Acquisition Council to develop and implement appropriate changes to the FAR to implement this policy letter. In addition, OFPP will review other relevant policy documents, such as guidance in OMB Circular A-76 implementing the FAIR Act, and take appropriate action to ensure they conform to the policies in this letter. Finally, OFPP will work with the Federal Acquisition Institute and the Defense Acquisition University on appropriate training materials for the acquisition workforce and other affected stakeholders.

## **B. Summary of Proposed and Final Policy Letters**

The Presidential Memorandum on Government Contracting required the Director of OMB to develop guidance addressing when governmental outsourcing of services is, and is not, appropriate. The Memorandum states

that the line between inherently governmental activities that should not be outsourced and commercial activities that may be subject to private-sector performance has become blurred, which may have led to the performance of inherently governmental functions by contractors and, more generally, an overreliance on contractors by the government. It directs OMB to clarify when outsourcing is, and is not, appropriate, consistent with section 321 of the NDAA for Fiscal Year (FY) 2009.

Section 321 directs OMB to: (1) Create a single, consistent definition for the term "inherently governmental function" that addresses any deficiencies in the existing definitions and reasonably applies to all agencies; (2) develop criteria for identifying critical functions with respect to the agency's mission and operations; (3) develop criteria for determining positions dedicated to critical functions which should be reserved for Federal employees to ensure the department or agency maintains control of its mission and operations; (4) provide criteria for identifying agency personnel with responsibility for (a) maintaining sufficient expertise and technical capability within the agency, and (b) issuing guidance for internal activities associated with determining when work is to be reserved for performance by Federal employees; and (5) solicit the views of the public regarding these matters.

### *1. Proposed Policy Letter*

OMB's OFPP issued a proposed policy letter on March 31, 2010, entitled "Work Reserved for Performance by Federal Government Employees," to implement the requirements of the President's Memorandum and section 321 (75 FR 16188-97). The proposed policy letter, which was issued after OFPP reviewed current laws, regulations, policies, and reports addressing the definition of inherently governmental functions, as well as feedback from a public meeting held in the summer of 2009, proposed to consolidate in one document a number of policies, definitions, and procedures associated with identifying when work must be performed by Federal employees that are currently addressed in multiple guidance documents, including the Federal Acquisition Regulation (FAR), OMB Circular A-76, and various OMB memoranda. The document proposed the following policy actions to address inherently governmental functions, functions closely associated with inherently governmental functions, and functions

that are critical to the agencies' mission and operations.

### *a. Proposed Steps To Address Inherently Governmental Functions*

- Create a single definition for the term "inherently governmental function" by directing agencies to adhere to the statutory definition for this term set forth in the FAIR Act and eliminate variations of this definition found in other documents, such as the FAR and OMB Circular A-76.
- Preserve a long-standing list of examples set out in the FAR of the most common inherently governmental functions, such as the determination of agency policy, hiring of Federal employees, and awarding of Federal contracts.
- Refine existing criteria (e.g., addressing the exercise of discretion) and provide new ones (e.g., focused on the nature of the function), to help an agency decide if a particular function that is not identified on the list of examples is, nonetheless, inherently governmental.

### *b. Proposed Steps To Address Functions Closely Associated With Inherently Governmental Functions*

- Reiterate requirements in the Omnibus Appropriations Act, 2009 (Pub. L. 111-8) to give special consideration to Federal employee performance of functions closely associated with inherently governmental ones.
- Reinforce and refine guidance in the FAR and Attachment A of OMB Circular A-76 requiring special management attention when contractors perform functions closely associated with inherently governmental functions to guard against their expansion into inherently governmental functions. Steps might entail providing clearer prescriptions in the statement of work of what the contractor may and may not do, and ensuring adequate and adequately trained personnel to oversee the contractor's work.
- Preserve a long-standing list of examples set out in the FAR of the most common functions closely associated with inherently governmental functions, such as support for policy development or support for the selection of contractors.

### *c. Proposed Steps To Address Critical Functions*

- Recognize a new category of work, "critical functions," which must be evaluated to determine the extent to which performance by Federal employees is required. Define the term as a function that is "necessary to the

agency being able to effectively perform and maintain control of its mission and operations.”

- Hold an agency responsible for making sure that, for critical functions, it has an adequate number of positions filled by Federal employees with appropriate training, experience, and expertise to understand the agency’s requirements, formulate alternatives, manage work product, and monitor any contractors used to support the Federal workforce. To meet this responsibility, require Federal officials to evaluate, on a case-by-case basis, whether they have sufficient internal capability, taking into account factors such as the agency’s mission, the complexity of the function, the need for specialized staff, and the potential impact on mission performance if contractors were to default on their obligations.

- Make clear that, so long as agencies have the internal capacity needed to maintain control over their operations, they are permitted to allow contractor performance of positions within critical functions (subject to any other applicable legal or regulatory requirements).

Finally, the proposed policy letter would require agencies to take specific actions, before and after contract award, to prevent contractor performance of inherently governmental functions and overreliance on contractors in the performance of “closely associated” and critical functions. Agencies would also be required to develop agency-level procedures, provide training, and designate senior officials to be responsible for implementation of these policies. The proposed policy letter emphasized the need for a shared responsibility between the acquisition, program and human capital offices within the agency to effectively implement its provisions.

The proposed policy letter was published in the **Federal Register** on March 31, 2010 (75 FR 16188–97) for public comment. OFPP encouraged respondents to offer their views on a series of questions to elicit feedback on some of the more difficult or pressing policy challenges, such as whether and how best to use the “discretion” test to identify inherently governmental functions, how best to explain the difference between critical functions and functions that are closely associated with the performance of inherently governmental functions, and how to properly classify certain functions related to acquisition support and security.

For additional background on the proposed policy letter, see discussion in the preamble at 75 FR16188–94.

## 2. Final Policy Letter

Based on public comments received in response to the proposed policy letter (which are discussed in greater detail below), and additional deliberations within the Executive Branch, OFPP has refined the proposed policy letter to:

- Rename the policy letter “Performance and Management of Inherently Governmental and Critical Functions” to more accurately capture its scope and purpose;
- Add to the illustrative list of inherently governmental functions the following: (i) All combat, (ii) security operations in certain situations connected with combat or potential combat, (iii) determination of an offer’s price reasonableness, (iv) final determinations about a contractor’s performance, including approving award fee determinations or past performance evaluations and taking action based on those evaluations, and (v) selection of grant and cooperative agreement recipients;
- Clarify the illustrative list of functions closely associated with the performance of inherently governmental functions to expressly recognize a variety of work to support Federal acquisitions that includes conducting market research, developing inputs for independent government cost estimates, drafting the price negotiations memorandum and collecting information, performing an analysis or making a recommendation for a proposed performance rating to assist the agency in determining its evaluation of a contractor’s performance;
- Establish a comprehensive responsibilities checklist for functions closely associated with inherently governmental functions;
- Caution that, in many cases, functions include multiple activities that may be of a different nature—some activities within a function may be inherently governmental, some may be closely associated, and some may be neither—and by evaluating work at the activity level, an agency may be able to more easily differentiate tasks within a function that may be performed only by Federal employees from those tasks that can be performed by either Federal employees or contractors;
- Clarify that determining the criticality of a function depends on the mission and operations, which will differ between agencies and within agencies over time;
- Establish that if an agency makes a decision to insource some portion of a function that is currently being performed for the agency by a combination of small and large

businesses, the “rule of two” should be applied to determine who will perform the work that remains in the private sector (the “rule of two” requires that acquisitions be reserved for award to small businesses, or certain subsets of small businesses, if there are two or more responsible small businesses capable of performing the work at fair market prices); and

- Reorganize and consolidate the discussion of management associated with inherently governmental, closely associated, and critical functions to more clearly recognize that oversight responsibilities for these functions are interrelated and should not be stove-piped.

## C. Public Comments

OFPP received public comments from more than 30,350 respondents on the proposed policy letter. All but approximately 110 comments were submitted in the format of a form letter. Respondents were divided in their reaction to the proposed guidance. One form letter, submitted by approximately 30,000 respondents, expressed concern about excessive outsourcing and recommended expanding the definition of an inherently governmental function to encompass critical functions and functions closely associated with inherently governmental functions. The letter also proposed augmenting the list of inherently governmental functions to include all security functions and intelligence activities, training for interrogation, military and police, and maintenance and repair of weapons systems. A second form letter, submitted by approximately 240 respondents, raised significantly different concerns, cautioning that the policy letter and the increased attention on having non-inherently governmental functions performed by Federal employees will inappropriately discourage Federal managers and agencies from taking full and effective advantage of the private sector and the benefits of contracting. The roughly 110 responses that were not form letters were generally supportive of OFPP’s efforts to clarify policies and management responsibilities, though respondents were divided over whether too much or not enough work would be reserved for Federal employees if policies were implemented as proposed.

Copies of the public comments received are available for review at <http://www.regulations.gov> (Docket ID OFPP–2010–0001). A short summary description of the comments and OFPP’s responses and changes adopted in the final policy letter are set forth below.



### 1. Scope of the Policy Letter

A number of respondents offered views on the general focus of the policy letter. Several respondents stated that the policy letter was too narrowly focused and cautioned that the overall tone of the policy letter, as set by the title and purpose section, could be construed as being concerned only about ensuring that work is properly reserved for Federal employees—as opposed to also needing to strike the right balance between work that may be contracted out and work that must be reserved. Some respondents recommended that the scope of the policy letter be broadened to more expressly address the performance of commercial activities and advisory and assistance services.

*Response:* OFPP concurs that the overall purpose of the policy letter should be clarified. While a key goal of the policy letter is to ensure that inherently governmental work is reserved for Federal employees, agencies have an equally important responsibility, in cases where work is not inherently governmental, to evaluate how to strike the best balance in the mix of work performed by Federal employees and contractors to both protect the public's interest and serve the American people in a cost-effective manner. The policy letter's title and purpose statement have been revised accordingly. In particular, rather than focusing the title on work reserved for Federal employees, it now focuses on performance of inherently governmental and critical functions, which expressly acknowledges that functions closely associated with inherently governmental functions and critical functions are often performed by both Federal employees and contractors, and states that reliance on contractors is not, by itself, a cause for concern, provided that the work that they perform is not work that should be reserved for Federal employees and that Federal officials are appropriately managing contractor performance.

OFPP does not believe the scope of the policy letter should be broadened to include an extended discussion of contractor performance of commercial activities and instead prefers to keep the main focus on inherently governmental functions, functions closely associated with them, and critical functions. Recent studies of the role of employees and contractors, and the overall increase in reliance on contractors over the past decade, do not suggest a general difficulty or hesitation in taking advantage of contractors to provide expertise, innovation, and cost-effective

support to Federal agencies. By contrast, these studies and general contracting trends, as well as the President's Memorandum on Government Contracting in March 2009, point to a need for guidance to clarify when work must be performed by Federal employees and the steps agencies need to take to ensure they maintain control of their mission and operations, when extensive work is performed by contractors. OFPP believes any questions regarding the intended use of contractors will largely be addressed by clarifying the overall scope of the policy letter, as described above, and reinforcing that an agency may frequently be able to address overreliance on contractors by allocating additional resources to contract management while continuing to use contractors for support.

OFPP carefully considered the merits of adding discussion on advisory and assistance services and other professional and technical services. These functions are likely to be commonly found among those considered to be either critical or closely associated with inherently governmental functions and spending in this area has grown disproportionately over the past few years. In November 2010, OFPP identified these functions for special management consideration based on concern of increased risk of losing control of mission and operations as identified through a review of reports issued in recent years, such as by the Government Accountability Office, the Commission on Wartime Contracting, agency Inspectors General, Congressional Committees, and the Acquisition Advisory Panel. Agencies were instructed to consider if contractor support for these "special interest functions" is being used in an appropriate and effective manner and if the mix of Federal employees and contractors in the agency is appropriately balanced. See OFPP Memorandum, *Service Contract Inventories*, Memorandum to Chief Acquisition Officers and Senior Procurement Executives (November 5, 2010), available at <http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf>. OFPP will work with agencies as they review their use of support contractors in these areas and consider the need for additional guidance in conjunction with these efforts.

### 2. Inherently Governmental Functions

Respondents offered a number of comments regarding the scope of the

definition of "inherently governmental function," the tests proposed to determine whether or not a function is inherently governmental, and the illustrative list of examples.

a. *Definition.* Many respondents stated that use of the FAIR Act definition of an inherently governmental function is reasonable. Some respondents, including those offered through one of the two form letters, urged that the definition be expanded to include functions closely associated with inherently governmental functions and critical functions, in order to effectively prevent the inappropriate outsourcing of work that should be reserved for performance by Federal employees. A number of respondents inquired as to OMB's plans for ensuring that, going forward, the definition set forth in the policy letter is recognized as the single authorized definition for the term.

*Response:* Based on its review of public comments, prior feedback (including that provided at a public meeting held in the summer of 2009, in connection with the President's Memorandum on Government Contracting) and its review of relevant reports (such as the report of the Congressionally-chartered Acquisition Advisory Panel), OFPP believes the FAIR Act definition is reasonable. OFPP does not believe it is appropriate to expand the definition to encompass closely associated or critical functions. Agencies must give special attention to functions falling into those categories to ensure that the government does not lose control of either inherently governmental functions (in the case of closely associated functions) or activities that are core to the agency's mission or operations (in the case of critical functions), but such functions can, in appropriate circumstances, be performed by contractors.

To ensure that the definition in the FAIR Act is recognized as the single authorized definition for the term, OFPP intends to work with the Federal Acquisition Regulatory Council, the Defense Acquisition Regulations Council and the Civilian Agency Acquisition Council to develop and implement appropriate changes to the FAR to implement this policy letter. In addition, OFPP will review other relevant policy documents, such as OMB Circular A-76, and take appropriate action to ensure they conform to the policies in this letter.

b. *Tests.* Respondents generally did not raise concerns regarding the continued use of tests to help agencies determine if functions are inherently governmental, but a number cautioned

of potential pitfalls, and others offered suggestions for how application of the tests could be improved. A number of recommendations, mostly clarifications, were offered to help improve the “discretion” test, which asks agencies to evaluate if the discretion associated with the function, when exercised by a contractor, would have the effect of committing the government to a course of action. Recommendations included: (i) Emphasizing that the evaluation should generally focus on how much discretion is left to government employees as opposed to how much discretion has been given to contractors, and (ii) distinguishing between fact-finding and making decisions based on the fact-finding. A number of comments questioned the likely effectiveness of the proposed “nature of the function test,” which would ask agencies to consider if the direct exercise of sovereign power is involved. Some respondents suggested that the term “sovereign” be explained while others concluded that the manner in which sovereign authority is exercised is so varied that it is better explained by example than further definition. A few respondents recommended that the final policy letter adopt a new “principal-agent” test that would require agencies to identify functions as inherently governmental where serious risks could be created by the performance of these functions by those outside government, because of the difficulty of ensuring sufficient control over such performance.

*Response:* OFPP has made refinements to the “discretion” test. First, it has more fully distinguished the type of discretion that may be appropriately exercised by a contractor from that which would not be appropriately exercised by a contractor. Second, it has clarified that inappropriate delegations of discretion can be avoided by: (i) Carefully delineating in the statement of work contractor responsibilities and types of decisions expected to be made in carrying out these responsibilities and effectively overseeing them and (ii) subjecting the contractor’s discretionary decisions and conduct to meaningful oversight and, whenever necessary, to final approval by an agency official. OFPP agrees that it is appropriate to consider how much discretion is left to government employees but, at the same time, also believes there is merit in considering the nature of the discretion given to contractors, as well as whether circumstances, such as time constraints, may limit the ability to effectively manage the contractor’s actions or

inappropriately restrict government employees’ final approval authority. It also concluded that the proposed language was sufficiently clear to help agency officials differentiate between fact-finding that could appropriately be performed by contractors from binding decision-making based on fact-finding that needed to be performed by Federal employees.

Only minimal changes were made to the “nature of the function test.” OFPP appreciates that the value of this test may be limited, but believes it still can contribute to an agency’s overall understanding and analysis in differentiating between functions that are inherently governmental and those that are not. OFPP considered, but did not adopt, the “principal-agent” test. While recognizing that risk is an underlying factor in reserving work for Federal employees and the definition of inherently governmental function, OFPP concluded that the test would not likely lead to identification of significantly different functions as inherently governmental and was concerned that application of the test could lead to greater confusion about what may be performed by contractors and what must be performed by Federal employees.

c. *Examples.* While most respondents did not object to retaining a list with illustrative examples, they offered mixed reactions to the specific examples given. A number of respondents felt the proposed list is too narrow and should be modified to add additional functions while at least one respondent thought the list was too broad. Many of those who believed the list was too narrow suggested the addition of functions involving private security contractors, especially when performed in hostile environments or involving intelligence. Some acquisition functions were also recommended for the list, such as developing independent government cost estimates, and preparing documentation in support of a price negotiation memorandum and price reasonableness determination. One respondent who thought the list was too broad recommended refinements to more precisely identify the inherently governmental characteristic of the action, such as “a judge exercising the authority of the Federal government” rather than “the performance of adjudicatory functions.” The respondent explained that deciding a dispute is not, *per se*, inherently governmental since arbitration and alternative dispute resolution processes can be performed by non-Federal employees, even when one of the parties is a Federal agency.

*Response:* Based on public comment and additional deliberations, OFPP has added to the list of inherently governmental functions: (i) All combat and (ii) security operations in certain situations connected with combat or potential combat. OFPP concluded these were clear examples of functions so intimately related to public interest as to require performance by Federal Government employees; hence, the addition of these activities to the list of inherently governmental functions would contribute to clarifying the line between what work must be reserved for Federal employees and what work may be performed by contractors. OFPP also clarified that making final determinations about a contractor’s performance (including approving award fee determinations or past performance evaluations) and taking action based on these assessments are also inherently governmental because such actions involve the exercise of substantial discretion. In addition, OFPP added selection of grant and cooperative agreement recipients to the list of examples of inherently governmental functions because such actions bind the government.

With respect to contract pricing, the list identifies price reasonableness determinations as inherently governmental. This includes approval of any evaluation relied upon to support a price reasonableness determination, such as a price negotiation memorandum or approval of documentation cited as the government’s independent cost estimate, which, by definition, must be the government’s own final analysis. That said, an agency is not precluded from using the services of a contractor to develop inputs for government cost estimates or to draft a price negotiation memorandum as long as whatever the government relies upon to determine price reasonableness has been reviewed and approved by a government employee. As in other situations where a Federal official must review and approve documents prepared by a contractor, the Federal official’s review and approval must be meaningful; that is to say, it cannot be a “rubber stamp” where the government is completely dependent on the contractor’s superior knowledge and is unable to independently evaluate the merits of the contractor’s draft or to consider alternatives to that draft. For that reason, while an agency may appropriately choose to have Federal employees prepare documentation in support of a price negotiation memorandum and price reasonableness

determination, OFPP does not view this work as inherently governmental, but rather closely associated with an inherently governmental function—and has added this work to the list of closely associated functions. If this work is performed by contractors, the agency must apply special management attention to ensure the work does not expand to include decision-making (which is inherently governmental) or otherwise interfere with the government's ability to exercise independent judgment, in this case, to determine that offered prices are fair and reasonable.

Regarding the performance of adjudicatory functions, OFPP retained the language on the proposed list, without change, and notes that the language currently in the FAR and the proposed policy letter already provides a carve-out for certain types of adjudicatory functions that are not inherently governmental, such as those relating to arbitration or other methods of alternative dispute resolution.

Similar to the list appearing in the FAR today, the list in the final policy letter is illustrative and not exhaustive. In addressing security operations, for example, the list identifies where security operations would be inherently governmental in connection with combat. This should not be read as a determination that all security performed in any hostile situation other than actual combat may be performed by contractors. Rather it means that those situations should be evaluated on a case-by-case basis to determine what security functions and activities are inherently governmental and what can be performed by contractors with appropriate management and oversight.

Finally, OFPP has added a caveat to recognize that many functions include multiple activities, some of which may not be inherently governmental. These other activities performed in conjunction with the function may be closely associated or neither inherently governmental nor closely associated. This caveat helps to clarify that the identification of a function on the list does not mean every action associated with the function is inherently governmental. For additional discussion, see response to comment no. 5, below.

### 3. Functions Closely Associated With Inherently Governmental Functions

Respondents offered a range of comments. Some call into question the purpose of this category; others raise concerns about the extent to which contractors should perform these

functions; still others offer refinements to the proposed list of examples.

a. *Purpose.* A number of respondents recommended that the guidance on closely associated functions be clarified. Many of them pointed out that discussion of this concept appears to overlap with the new concept of critical function in that both appear to address the same risk, namely of the government losing control of its operations. Some thought this confusion might be avoided by defining the term “closely associated” so that its scope as a functional category can be more clearly understood. Others favored adding an explanation of the different purposes served by the two concepts. Some proposed doing away with the category, pointing out that the “closely associated” concept is more appropriately viewed as a management practice rather than as a separate functional category.

*Response:* OFPP does not agree that the concept of “closely associated” should be eliminated, as it serves an important management purpose in helping agencies guard against losing control of inherently governmental functions. However, OFPP agrees that the concept is more relevant to management practices, or internal control mechanisms, as opposed to serving as a stand-alone functional category. For this reason, the discussion of this concept in the policy letter has been reorganized so that it is now addressed as part of the discussion on identifying inherently governmental functions. This reorganization should also help to clarify the different reasons for tracking contractors who are performing closely associated functions and those who are performing critical functions. In the case of closely associated functions, the agency is trying to prevent contractor performance from interfering with Federal employees' ability to perform inherently governmental functions. In the case of critical functions, the agency is looking to determine if the agency is at risk of losing control of its ability to perform its mission and operations. OFPP does not believe a definition will necessarily provide greater clarity, but has created a new checklist to summarize in one place the various actions that must be taken if the agency determines that contractor performance of a function closely associated with an inherently governmental function is appropriate.

b. *Performance.* A number of respondents (including those using one of the two form letters) stated that *only* Federal employees should be allowed to perform functions closely associated with inherently governmental functions

(with contractor performance allowed only in limited or exceptional circumstances). These respondents generally recommended that the concept of “closely associated” be incorporated into the definition of inherently governmental function to effectively protect the government against improper reliance on contractors.

*Response:* Agencies must carefully guard against contractor performance of inherently governmental functions, but managing this risk does not require that performance of closely associated functions be reserved exclusively for Federal employees. Such a bar would inappropriately limit an agency's ability to take advantage of a contractor's expertise and skills to support the agency in carrying out its mission. For example, limiting performance of functions closely associated with inherently governmental functions could inappropriately limit an agency's ability to take advantage of a Federally Funded Research Development Center (FFRDC) or University Affiliated Research Center that provides essential engineering, research, development, and analysis capabilities to support agencies in the performance of their responsibilities and mission. As explained in FAR 35.017: “An FFRDC meets some special long-term research or development need which cannot be met as effectively by existing in-house or contractor resources. FFRDCs enable agencies to use private sector resources to accomplish tasks that are integral to the mission and operation of the sponsoring agency.”

Effective risk management can be achieved if agencies are mindful of their responsibility to give special consideration to Federal employee performance and effectively apply special management attention when contractor performance is determined to be appropriate. With respect to special consideration, the policy letter reminds agencies of their responsibilities under the law and OMB's management guidance on this issue. (These responsibilities are also reiterated in guidance OFPP issued last fall to help agencies in evaluating the activities of their service contractors in accordance with section 743 of Division C of the Consolidated Appropriations Act, 2010 (Pub. L. 111-117). See OFPP Memorandum *Service Contract Inventories* (refer to response to comment no. 1, above, for cite).

With respect to contractor performance of closely associated functions, the final policy letter includes a new checklist that summarizes the various contract

management actions that agencies must take to ensure contractors are not performing, interfering with, or undermining the agency's decision-making responsibilities. The checklist, which is largely taken from existing guidance in the FAR and other documents, identifies steps such as: (i) Establishing specified ranges of acceptable decisions and/or conduct in the contract, (ii) assigning a sufficient number of qualified government employees to perform contract management, (iii) ensuring reasonable identification of contractors and contractor work products if there is a risk that the public will confuse contractor personnel or work products with government officials or work products, and (iv) avoiding or mitigating conflicts of interest.

In the case of an FFRDC, the FAR has long required that such organizations conduct their business in a manner befitting their special relationship with the government—which includes access, beyond that which is common to the normal contractual relationship, to government and supplier data, including sensitive and proprietary data, and to employees and installations equipment and real property. As stated in FAR 35.017, FFRDCs must operate in the public interest with objectivity and independence, be free from organizational conflicts of interest, and have full disclosure of their affairs to the sponsoring agency.

*c. Examples.* Respondents offered varied reactions to maintaining a list of examples of “closely associated” functions. Several felt a list should not be included in the final policy letter because it introduces unnecessary ambiguity and allows for unnecessarily broad interpretation that could include either an inappropriate presumption in favor of insourcing or an inappropriate presumption that the work is appropriately performed by a contractor. Of those who favored (or did not oppose) the continued use of a list, some felt the list was too broad, either because it included functions where the potential for encroaching on inherently governmental responsibilities should not be viewed as a significant concern in need of heightened scrutiny or because the function as described was indistinguishable from those identified as inherently governmental.

*Response:* OFPP believes the list, which is currently set forth in the FAR, continues to serve as a useful tool to assist agencies in identifying functions where they must give special consideration to performance by Federal employees or special contract management attention if performed by

contractors. The reorganized discussion of this issue (as described above) in combination with the checklist should help to avoid inappropriate presumptions regarding the performance of these functions.

With respect to the substance of the list, OFPP has made three types of modifications. First, as was done with the list of inherently governmental functions, OFPP has added a caveat that many functions include multiple activities, only some of which are closely associated with inherently governmental. Other activities performed in conjunction may be inherently governmental or not closely associated. This caveat helps to clarify that the identification of a function on the list does not mean every action associated with the function is closely associated with an inherently governmental function. (See comment no. 5, below for additional discussion.) Second, the list more carefully delineates activities that are performed in direct support of inherently governmental functions (e.g., analyses and feasibility studies to support the development of policy), which are closely associated activities, from those that involve making binding decisions (e.g., the final shape of a policy), which are inherently governmental. Third, OFPP has added additional examples to further describe the types of acquisition support that are closely associated functions. These added functions include: Conducting market research, developing inputs for independent government cost estimates, assisting in the development of a price negotiation memorandum, and supporting agency personnel in evaluating a contractor's performance, such as by collecting information or conducting an analysis that can be used by a Federal employee to make a determination about the quality of the contractor's performance.

#### 4. Critical Functions

A number of respondents recognized that the creation of “critical function” as a new category helps to fill a void in current policy, but sought clarification and recommended refinements to ensure agencies properly identify and address functions that are at the core of an agency's mission and operations. Some confusion was voiced, as noted above, regarding the difference between critical functions and closely associated with inherently governmental functions. Some respondents suggested that a list providing examples of critical functions be developed, similar to that developed for inherently governmental and closely associated functions, but others advised against developing a list, noting that the

criticality of a function depends on an agency's mission and current capabilities. A number of respondents addressed how an agency might go about differentiating between a critical and a non-critical function. Some suggested that agencies be authorized, if not encouraged, to identify categories of service contracts that may be presumed to be non-critical in order to avoid unnecessary analyses. Others expressed concern that a list will lead to inappropriate generalizations that will hinder, rather than facilitate, meaningful rebalancing.

*Response:* OFPP intends to work with FAI and DAU to develop appropriate training to support the successful implementation of the policy letter. However, OFPP does not support the creation of a list of critical functions. A function's criticality is dependent on an agency's mission and operations. The policy letter has been clarified to emphasize that the criticality of a function depends on mission and operations, which will differ between agencies and potentially within agencies over time. Whether an agency is over reliant on a contractor to perform a critical function also will vary from agency to agency depending on its current internal capabilities compared to those needed to maintain control of its mission and operations. Similarly, OFPP does not support the creation of a government-wide list of non-critical functions, as this may also differ between agencies based on their mission and operations.

#### 5. Terminology

Several respondents raised concerns regarding how the policy letter uses the terms “function,” “activity,” and “position.” These respondents state that the terms are used interchangeably to cover different concepts, namely: (1) A process, (2) tasks undertaken in conjunction with the process, and (3) billets filled by individuals to perform tasks. They recommend that clarification be provided, perhaps with the addition of definitions.

*Response:* OFPP recognizes that the terms have different meanings and agrees that more careful use of these terms may help to avoid inappropriately broad generalizations regarding the characterization of work. A function, for example, often includes multiple activities, or tasks, some of which may be inherently governmental, some of which may be closely associated with inherently governmental work, and some may be neither. By identifying work at the activity level, an agency can more easily differentiate tasks within a function that may be performed only by

Federal employees from those tasks that can be performed by either Federal employees or contractors without blurring the line between the role of Federal employees and contractors. The chart below provides several examples. For instance, within the function of source selection, the tasks of

determining price reasonableness and awarding a contract are inherently governmental, the task of preparing a technical evaluation and price negotiation memorandum are closely associated (provided the government has sufficient time and knowledge to independently evaluate alternative

recommendations and decide which is in the government's best interest) and (although not shown on the table), the task of ensuring the documents are in the contract file is neither inherently governmental nor closely associated.

Function	Work that is inherently governmental and therefore must be performed by Federal employees	Work that is closely associated with inherently governmental functions and that may be performed by either Federal employees or contractors
Budget development .....	The determination of budget policy, guidance, and strategy, and the determination of Federal program priorities or budget requests.	Support for budget preparation, such as workforce modeling, fact finding, efficiency studies, and should-cost analyses.
Policy and regulatory development.	The determination of the content and application of policies and regulations.	Support for policy development, such as drafting policy documents and regulations, performing analyses, feasibility studies, and strategy options.
Human resources management.	The selection of individuals for Federal Government employment, including the interviewing of individuals for employment, and the direction and control of Federal employees.	Support for human resources management, such as screening resumes in accordance with agency guidelines.
Acquisition planning, execution, and management.	<p><i>During acquisition planning:</i></p> <ul style="list-style-type: none"> <li>(1) Determination of requirements,</li> <li>(2) approval of a contract strategy, statement of work, incentive plans, and evaluation criteria,</li> <li>(3) independent determination of estimated cost based on input from either in-house or contractor sources or both.</li> </ul> <p><i>During source selection:</i></p> <ul style="list-style-type: none"> <li>(1) Determination of price reasonableness of offers,</li> <li>(2) participation as a voting member on a source selection board, and</li> <li>(3) awarding of contracts.</li> </ul> <p><i>During contract management:</i></p> <ul style="list-style-type: none"> <li>(1) Ordering of any changes required in contract performance or contract qualities,</li> <li>(2) determination of whether costs are reasonable, allocable, and allowable,</li> <li>(3) participation as a voting member on performance evaluation boards,</li> <li>(4) approval of award fee determinations or past performance evaluations, and</li> <li>(5) termination of contracts.</li> </ul>	<p><i>Support acquisition planning by:</i></p> <ul style="list-style-type: none"> <li>(1) Conducting market research,</li> <li>(2) developing inputs for government cost estimates, and</li> <li>(3) drafting statements of work and other pre-award documents.</li> </ul> <p><i>Support source selection by:</i></p> <ul style="list-style-type: none"> <li>(1) Preparing a technical evaluation and associated documentation;</li> <li>(2) participating as a technical advisor to a source selection board or as a nonvoting member of a source evaluation board; and</li> <li>(3) drafting the price negotiation memorandum.</li> </ul> <p><i>Support contract management by:</i></p> <ul style="list-style-type: none"> <li>(1) Assisting in the evaluation of a contractor's performance (e.g., by collecting information, performing an analysis, or making a recommendation for a proposed performance rating); and</li> <li>(2) providing support for assessing contract claims and preparing termination settlement documents.</li> </ul>

Further analyzing work from the perspective of the number of positions required to perform an activity enables an agency to differentiate those tasks that may require rebalancing from those that do not. The fact that contractors are performing some portion of a particular activity is not an automatic signal that rebalancing is required, except where work is inherently governmental. In other cases, the number of positions, or slots, that should be held by government employees versus contractor personnel to perform a particular activity will depend on a number of considerations, such as whether the work is critical or closely associated with inherently governmental functions, the particular mission of the agency, the current capability of government employees to understand the mission and manage contractors, and how the function will

be delivered to the agency by the contractor.

A number of clarifications have been made throughout the document to capture these differences, such as in connection with the lists of inherently governmental and closely associated functions in Appendix A and Appendix B. OFPP does not believe definitions need to be added to the policy letter at this time, but will review with the FAR Council if further clarification is required as regulatory changes are develop to implement the policy letter.

**6. Small Business Contracting**

Many respondents expressed concern that the rebalancing called for in the policy letter could harm small businesses. These respondents offered a number of recommendations to mitigate this impact, such as excluding all contracts that were awarded under set-

asides from insourcing without a formal justification and approval, and having the Small Business Administration review proposed insourcing actions.

*Response:* OFPP does not anticipate a widespread shift away from contractors as a result of the requirements in the policy letter. As the policy letter explains, insourcing is intended to be a management tool—not an end in itself—to address certain types of overreliance on contractors. In many cases, overreliance may be corrected by allocating additional resources to contract management—i.e., an agency does not necessarily need to take work away from contractors and have it performed by Federal employees. However, some insourcing is taking place and will be undertaken in the future in some situations, such as where an agency determines that outsourced work is inherently governmental or

where the agency is at risk of losing control of its operations regarding work of a critical nature. To minimize the negative impact of these actions on small businesses, the final policy letter requires agencies to take two actions. First, when prioritizing what contracted work should be reviewed for potential insourcing, agencies are instructed to generally place a lower priority on reviewing work performed by small businesses where the work is not inherently governmental and where continued contractor performance does not put the agency at risk of losing control of its mission and operations. Second, agencies are instructed to apply the "rule of two" to work that will continue to be performed by contractors following the insourcing of part of the work (the rule of two calls for a contract to be set aside for small businesses when at least two small businesses can do the work for a fair market price). Application of this rule should increase the amount of residual work remaining in the hands of small businesses that can perform the work cost effectively.

#### 7. Human Capital Planning

A number of respondents acknowledged the connection that exists between human capital planning, clear guidance on the performance of inherently governmental, closely associated, and critical functions, and the ability to effectively evaluate the need for rebalancing. However, reactions were mixed regarding the value of addressing hiring ceilings and funding constraints. Some thought these were appropriate considerations for assessing the current and desired mix of Federal employees and contractors in an organization. Others felt that the assessment should remain focused exclusively on the nature of the function.

*Response:* Striking the right balance of work performed by Federal employees and contractors is a shared responsibility between human capital, acquisition, program, and financial management offices. Issues such as hiring ceilings and funding constraints were referenced in the guidance document because these issues are part of the challenges that agency officials must address in executing their responsibilities and determining the best mix of labor resources. OFPP and other organizations within OMB are working with the Chief Human Capital Officers (CHCO) Council to ensure agency human capital officers understand their role and responsibilities. OMB will work with the CHCO Council to determine the appropriate type of supplementary

materials that might be needed when the policy letter is finalized.

#### 8. Other Issues

a. *The role of cost in rebalancing decisions.* Several respondents raised concern that the policy letter provides insufficient guidance on the parameters for insourcing when based on a determination that public sector performance is more cost effective than private sector performance. They suggested that the policy letter lay out the steps for performing a cost comparison and define key terms such as "cost effective," "fully loaded cost" and "indirect cost."

*Response:* The proposed policy letter's discussion of insourcing focuses primarily on situations where an agency identifies improper reliance on contractors, namely, where the outsourced work is inherently governmental, or where the agency is at risk of losing control of its mission and operations. These circumstances, in particular, were highlighted in section 321 of the FY 2009 NDAA and the President's Memorandum on Government Contracting and have been the subject of reports issued in recent years addressing the use of contractors. The policy letter acknowledges that cost may also be a basis for insourcing, and requires in such situations that agency officials ensure that the agency's analysis fairly takes into account the full cost of performance by both sectors to support a determination that insourcing will save money. OFPP agrees that additional guidance in this area may be beneficial, and is reviewing the need for such guidance, but believes that additional coverage of the type described by the respondents, if appropriate, is better addressed as a supplement to existing guidance on insourcing, such as that in Appendix 3 of OMB Memorandum M-09-26, *Managing the Multi-Sector Workforce* (July 29, 2009), which implements section 736 of Division D of the Omnibus Appropriations Act, 2009 (Pub. L. 111-8), or Circular A-76, which addresses the use of public-private competition to outsource or insource work that may appropriately be performed by either sector.

b. *Management responsibilities.* Some respondents recommended that the contents of the policy letter be reorganized, such as by consolidating the discussion of management responsibilities, rather than addressing these responsibilities separately for inherently governmental, closely associated and critical functions. A few respondents also recommended listing, either in the text or an additional

appendix, all laws that require work to be performed by Federal employees.

*Response:* OFPP has reorganized the policy letter to create a comprehensive and consolidated discussion of management responsibilities that agencies must undertake before and after awarding a contract to ensure proper and effective implementation of policies associated with the performance of inherently governmental, closely associated, and critical functions. This consolidated discussion of pre-award and post-award responsibilities more clearly recognizes that oversight responsibilities for each of these functional categories are interrelated. The policy letter includes citations to relevant laws with government-wide or broad applicability but does not include a list of all laws requiring reservation, a number of which are agency-specific and best addressed individually by affected agencies.

c. *Tribal organizations.* Representatives of Tribal organizations requested that language be added to the policy letter exempting Federal government agreements with Tribal government organizations under the Indian Self-Determination and Education Assistance Act (ISDEAA), as amended, 25 U.S.C. 450 *et seq.* They provided a number of statutory and policy reasons for differentiating these agreements, which address a government-to-government relationship, from government procurement contracts, the principal purpose of which is to acquire products and services for the direct benefit or use of the United States Government. They stated that the ISDEAA, at 25 U.S.C. 458aaa-9, expressly exempts the former agreements from the application of Federal acquisition regulations.

*Response:* The policy letter is issued pursuant to section 6(a) of the Office of Federal Procurement Policy Act, which charges the Administrator for Federal Procurement Policy with providing overall policy direction for agencies' acquisition of products and services. In accordance with the OFPP Act, the policy letter focuses on the relationship between the Federal government and its contractors—that is, entities who are providing a product or service for the direct benefit of an agency under a Federal procurement contract. The policy letter is not intended to modify or otherwise affect any rights or limitations set forth under the Act, including either the right of Tribal governments to assume and carry out functions under the ISDEAA or limitations imposed by the ISDEAA on a Tribal government's ability to assume

responsibility for an inherently Federal function as that term is used under the Act.

d. *Foreign indirect hire employees working with U.S. Forces.* During the disposition of comments, a question was raised regarding the applicability of this guidance to foreign indirect hire employees, as that term is defined in Defense Department (DoD) guidance.

*Response:* DoD guidance defines indirect hire employees as “local national personnel assigned by the host government to work with U.S. Forces.” This guidance goes on to state that such personnel are not employees of the United States and cannot perform inherently governmental functions.” See DOD Financial Management Regulation, Volume 5, Chapter 33, ¶ 330204 (August 2010). Nothing in this policy letter is intended to modify the Department’s guidance. Thus, restrictions on the use of contractors to perform inherently governmental functions would also apply to foreign indirect hire employees working with U.S. Forces.

**Daniel I. Gordon,**  
*Administrator.*

#### **POLICY LETTER 11–01**

#### **TO THE HEADS OF CIVILIAN EXECUTIVE DEPARTMENTS AND AGENCIES**

#### **SUBJECT: Performance of Inherently Governmental and Critical Functions**

**1. Purpose.** This guidance establishes Executive Branch policy addressing the performance of inherently governmental functions and critical functions. The policy is intended to assist agency officers and employees in ensuring that only Federal employees perform work that is inherently governmental or otherwise needs to be reserved to the public sector. The policy is further intended to help agencies manage functions that are closely associated with inherently governmental functions and critical functions, which are often performed by both Federal employees and contractors.

Nothing in this guidance is intended to discourage the appropriate use of contractors. Contractors can provide expertise, innovation, and cost-effective support to Federal agencies for a wide range of services. Reliance on contractors is not, by itself, a cause for concern, provided that the work that they perform is not work that should be reserved for Federal employees and that Federal officials are appropriately managing and overseeing contractor performance.

**2. Authority.** This policy letter is issued pursuant to section 6(a) of the

Office of Federal Procurement Policy Act, 41 U.S.C. 405(a), the President’s March 4, 2009, Memorandum on Government Contracting, and section 321 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Public Law 110–417.

#### **3. Definitions.**

“Inherently governmental function,” as defined in section 5 of the Federal Activities Inventory Reform Act, Public Law 105–270, means a function that is so intimately related to the public interest as to require performance by Federal Government employees.

(a) The term includes functions that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as —

(1) to bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(2) to determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(3) to significantly affect the life, liberty, or property of private persons;

(4) to commission, appoint, direct, or control officers or employees of the United States; or

(5) to exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of appropriations and other Federal funds.

(b) The term does not normally include—

(1) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials; or

(2) any function that is primarily ministerial and internal in nature (such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services).

“Critical function” means a function that is necessary to the agency being able to effectively perform and maintain control of its mission and operations.

Typically, critical functions are recurring and long-term in duration.

**4. Policy.** It is the policy of the Executive Branch to ensure that government action is taken as a result of informed, independent judgments made by government officials. Adherence to this policy will ensure that the act of governance is performed, and decisions of significant public interest are made, by officials who are ultimately accountable to the President and bound by laws controlling the conduct and performance of Federal employees that are intended to protect or benefit the public and ensure the proper use of funds appropriated by Congress. To implement this policy, agencies must reserve certain work for performance by Federal employees and take special care to retain sufficient management oversight over how contractors are used to support government operations and ensure that Federal employees have the technical skills and expertise needed to maintain control of the agency mission and operations.

(a) *Performance of work by Federal employees.* To ensure that work that should be performed by Federal employees is properly reserved for government performance, agencies shall:

(1) ensure that contractors do not perform inherently governmental functions (see section 5–1);

(2) give special consideration to Federal employee performance of functions closely associated with inherently governmental functions and, when such work is performed by contractors, provide greater attention and an enhanced degree of management oversight of the contractors’ activities to ensure that contractors’ duties do not expand to include performance of inherently governmental functions (see sections 5–1(a) and 5–2(a) and Appendices B and C); and

(3) ensure that Federal employees perform and/or manage critical functions to the extent necessary for the agency to operate effectively and maintain control of its mission and operations (see sections 5–1(b) and 5–2b).

(b) *Management and oversight of Federal contractors.* When work need not be reserved for Federal performance and contractor performance is appropriate, agencies shall take steps to employ and train an adequate number of government personnel to administer contracts and protect the public interest through the active and informed management and oversight of contractor performance, especially where contracts have been awarded for the performance of critical functions, functions closely



associated with the performance of inherently governmental functions, or where, due to the nature of the contract services provided, there is a potential for confusion as to whether work is being performed by government employees or contractors. Contract management should be appropriate to the nature of the contract, ensure that government officials are performing oversight at all times, and make clear to other government organizations or to the public when citizens are receiving service from contractors.

(c) *Strategic human capital planning.*

(1) As part of strategic human capital planning, agencies shall—

(i) dedicate a sufficient amount of work to performance by Federal employees in order to build competencies (both knowledge and skills), provide for continuity of operations, and retain institutional knowledge of operations;

(ii) ensure that sufficient personnel with appropriate training, experience, and expertise are available, and will remain available for the duration of the contract, to manage and oversee every contractor's performance and evaluate and approve or disapprove the contractor's work products and services, recruiting and retaining the necessary Federal talent where it is lacking; and

(iii) consider the impact of decisions to establish a specified level of government employee authorizations (or military end strength) or available funding on the ability to use Federal employees to perform work that should be reserved for performance by such employees and take appropriate action if there is a shortfall.

(2) Agencies' annual Human Capital Plan for Acquisition shall identify specific strategies and goals for addressing both the size and capability of the acquisition workforce, including program managers and contracting officer's representatives. The number of personnel required to administer a particular contract is a management decision to be made after analysis of a number of factors. These include, among others:

- (i) scope of the activity in question;
- (ii) technical complexity of the project or its components;
- (iii) technical capability, numbers, and workload of Federal management officials;
- (iv) inspection techniques available;
- (v) proven adequacy and reliability of contractor project management;
- (vi) sophistication and track record of contract administration organizations within the agency;
- (vii) importance and criticality of the function; and

(viii) the level of risk associated with performance of the function and its performance by a contractor.

**5. Implementation guidelines and responsibilities.** Agencies shall use the guidelines below to determine: (1) whether their requirements involve the performance of inherently governmental functions, functions closely associated with inherently governmental functions, or critical functions; and (2) the type and level of management attention necessary to ensure that functions that should be reserved for Federal performance are not materially limited by or effectively transferred to contractors and that functions that are suitable for contractor performance are properly managed. Determining the type and level of management required typically requires agencies to consider the totality of circumstances surrounding how, where, and when work is to be performed. Special exceptions to these guidelines may exist, such as for statutorily authorized personal services contracting.

**5-1. Guidelines for identifying inherently governmental functions and critical functions.** Agencies must ensure that inherently governmental functions are reserved exclusively for performance by Federal employees. Agencies must further ensure that a sufficient number of Federal employees are dedicated to the performance and/or management of critical functions so that Federal employees can provide for the accomplishment of, and maintain control over, their mission and operations. Proper identification of inherently governmental and critical functions is the first step for meeting these requirements.

(a) *Determining whether a function is inherently governmental.* Every Federal Government organization performs some work that is so intimately related to the public interest as to require performance by Federal Government employees. Agencies should review the definition of inherently governmental functions in section 3, any other statutory provisions that identify a function as inherently governmental, and the illustrative list of inherently governmental functions in Appendix A. In no case should any function described in the definition, identified in statute as inherently governmental, or appearing on the list be considered for contract performance. If a function is not listed in Appendix A or identified in a statutory provision as inherently governmental, agencies should determine whether the function otherwise falls within the definition in section 3 by evaluating, on a case-by-case basis, the nature of the work and

the level of discretion associated with performance of the work using the tests below.

(1) *Tests for identifying inherently governmental functions.* A function meeting either of the following tests should be considered inherently governmental.

(i) *The nature of the function.* Functions which involve the exercise of sovereign powers of the United States are governmental by their very nature. Examples of functions that, by their nature, are inherently governmental are officially representing the United States in an inter-governmental forum or body, arresting a person, and sentencing a person convicted of a crime to prison. A function may be classified as inherently governmental based strictly on its uniquely governmental nature and without regard to the type or level of discretion associated with the function.

(ii) *The exercise of discretion.*

(A) A function requiring the exercise of discretion shall be deemed inherently governmental if the exercise of that discretion commits the government to a course of action where two or more alternative courses of action exist and decision making is not already limited or guided by existing policies, procedures, directions, orders, and other guidance that:

(I) identify specified ranges of acceptable decisions or conduct concerning the overall policy or direction of the action; and

(II) subject the discretionary decisions or conduct to meaningful oversight and, whenever necessary, final approval by agency officials.

(B) A function may be appropriately performed by a contractor consistent with the restrictions in this section—including those involving the exercise of discretion that has the potential for influencing the authority, accountability, and responsibilities of government officials—where the contractor does not have the authority to decide on the overall course of action, but is tasked to develop options or implement a course of action, and the agency official has the ability to override the contractor's action. The fact that decisions are made, and discretion exercised, by a contractor in performing its duties under the contract is not, by itself, determinative of whether the contractor is performing an inherently governmental function. For instance, contractors routinely, and properly, exercise discretion in performing functions for the Federal Government when, providing advice, opinions, or recommended actions, emphasizing certain conclusions, and, unless



specified in the contract, deciding what techniques and procedures to employ, whether and whom to consult, what research alternatives to explore given the scope of the contract, or how frequently to test.

(C) A function is not appropriately performed by a contractor where the contractor's involvement is or would be so extensive, or the contractor's work product so close to a final agency product, as to effectively preempt the Federal officials' decision-making process, discretion or authority. Such circumstances may be avoided by: (i) carefully delineating in the statement of work the contractor's responsibilities and types of decisions expected to be made in carrying out these responsibilities and (ii) having Federal employees oversee and, as necessary, give final approval of contractor conduct and decisions. This requires that a sufficient number of in-house personnel with the appropriate training and expertise be available and remain available through the course of the contract to make independent and informed evaluations of the contractor's work, approve or disapprove that work, perform all inherently governmental functions, and preclude the transfer of inherently governmental responsibilities to the contractor. Agencies should consider whether time constraints, the operational environment, or other conditions may limit their ability to effectively manage the contractor's actions or inappropriately restrict their final approval authority. If this is the case, government performance may be the only way that Federal officials can retain control of their inherently governmental responsibilities. For example, providing security in a volatile, high-risk environment may be inherently governmental if the responsible Federal official cannot anticipate the circumstances and challenges that may arise, and cannot specify the range of acceptable conduct (as required by paragraph 5-1(a)(1)(ii)). Agencies should also consider if the level of management and oversight that would be needed to retain government control of the operation and preclude the transfer of inherently governmental responsibilities to the contractor would result in unauthorized personal services. In such cases, the function should not be contracted out.

(2) *Functions closely associated with inherently governmental functions.* As agencies identify inherently governmental functions, they should bear in mind that certain services and actions that generally are not considered to be inherently governmental functions may approach being in that category

because of the nature of the function and the risk that performance may impinge on Federal officials' performance of an inherently governmental function. See Appendix B for list of examples. Although closely associated functions are not reserved exclusively for performance by Federal employees, section 736 of Division D of the Omnibus Appropriations Act, 2009, Public Law 111-8, requires civilian agencies subject to the FAIR Act to give special consideration to using Federal employees to perform these functions. Similarly, the Department of Defense is required to ensure special consideration is given to Federal employee performance consistent with the requirements of 10 U.S.C. 2463. The Department is further required, to the maximum extent practicable, to minimize reliance on contractors performing functions closely associated with inherently governmental functions consistent with 10 U.S.C. 2330a. Civilian agencies shall refer to OMB Memorandum M-09-26, *Managing the Multi-Sector Workforce* (July 29, 2009), Attachment 3 for criteria addressing the in-sourcing of work under Public Law 111-8. The OMB Memorandum is available at [http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda\\_fy2009/m-09-26.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_fy2009/m-09-26.pdf).

(b) *Determining whether a function is critical.* Determining the criticality of a function requires the exercise of informed judgment by agency officials. The criticality of the function depends on the mission and operations, which will differ between agencies and within agencies over time. In making that determination, the officials shall consider the importance that a function holds for the agency and its mission and operations. The more important the function, the more important that the agency have internal capability to maintain control of its mission and operations. Examples of critical functions might include: analyzing areas of tax law that impose significant compliance burdens on taxpayers for the Internal Revenue Service's Office of the Taxpayer Advocate and performing mediation services for the Federal Mediation and Conciliation Service. Where a critical function is not inherently governmental, the agency may appropriately consider filling positions dedicated to the function with both Federal employees and contractors. However, to meet its fiduciary responsibility to the taxpayers, the agency must have sufficient internal capability to control its mission and

operations and must ensure it is cost effective to contract for the services.

(1) Sufficient internal capability—

(i) generally requires that an agency have an adequate number of positions filled by Federal employees with appropriate training, experience, and expertise to understand the agency's requirements, formulate alternatives, take other appropriate actions to properly manage and be accountable for the work product, and continue critical operations with in-house resources, another contractor, or a combination of the two, in the event of contractor default; and

(ii) further requires that an agency have the ability and internal expertise to oversee and manage any contractors used to support the Federal workforce.

(2) Determinations concerning what constitutes sufficient internal capability must be made on a case-by-case basis taking into account, among other things the:

- (i) agency's mission;
- (ii) complexity of the function and the need for specialized skill;
- (iii) current strength of the agency's in-house expertise;
- (iv) current size and capability of the agency's acquisition workforce; and
- (v) effect of contractor default on mission performance.

(c) *Handling of work performed by Federally Funded Research and Development Centers (FFRDCs) and University Affiliated Research Centers (UARCs).* In some circumstances, work that is closely associated with the performance of inherently governmental functions, or work that is critical to maintaining control of an agency's mission and operations, may be performed by FFRDCs or UARCs (with appropriate oversight by Federal officials and pursuant to properly executed contracts). These contractors provide essential engineering, research, development, and analysis capabilities to support agencies in the performance of their responsibilities and mission. FFRDCs and UARCs and their employees are not allowed to perform inherently governmental functions. Agencies shall also refer to the requirements in FAR Part 37 regarding requirements pertaining to the conduct of FFRDCs.

**5-2. Management responsibilities in connection with the planning and awarding of contracts.**

(a) *Pre-award.* As part of acquisition planning, agencies shall confirm that the services to be procured do not include work that must be reserved for performance by Federal employees and that the agency will be able to manage the contractor consistent with its

responsibility to perform all inherently governmental functions and maintain control of its mission and operations. For the procurement of services above the simplified acquisition threshold, the contract file shall include documentation of this confirmation from the agency head or designated requirements official to the contracting officer. The contract file should include analysis that establishes, at a minimum, that:

(1) the function to be contracted does not appear on the list of inherently governmental functions in Appendix A and does not otherwise qualify as an inherently governmental function, taking into consideration, as necessary, the tests in subsection 5-1(a);

(2) a statute, such as an annual appropriations act, does not identify the function as inherently governmental or otherwise require it to be performed by Federal employees;

(3) the proposed role for the contractor is not so extensive that the ability of senior agency management to develop and consider options or take an alternative course of action is or would be preempted or inappropriately restricted;

(4) if the function is closely associated with an inherently governmental one—

(i) special consideration has been given to using Federal employees to perform the function in accordance with applicable law and implementing guidance;

(ii) the agency has sufficient capacity and capability to give special management attention to contractor performance, limit or guide the contractor's exercise of discretion, ensure reasonable identification of contractors and contractor work products, avoid or mitigate conflicts of interest, and preclude unauthorized personal services;

(iii) the agency will comply with the checklist of responsibilities in Appendix C; and

(5) if the function is a critical function, the agency has sufficient internal capability to control its mission and operations as provided at subsection 5-1(b).

(b) *Post-award.* Agencies should review, on an ongoing basis, the functions being performed by their contractors, paying particular attention to the way in which contractors are performing, and agency personnel are managing, contracts involving functions that are closely associated with inherently governmental functions (see subsection 5-1(a) and Appendix B) and contracts involving critical functions (see subsection 5-1(b)). These reviews should be conducted in connection with

the development and analysis of inventories of service contracts. Through the use of an inventory, an agency manager can gain insight into where, and the extent to which, contractors are being used to perform activities by analyzing how contracted resources are distributed by function and location across the agency and within its components. Civilian agencies should refer to section 743 of Division C of the Consolidated Appropriations Act, 2010 (Public Law 111-117) and OFPP Memorandum to Chief Acquisition Officers and Senior Procurement Executives, *Service Contract Inventories*, November 5, 2010. Department of Defense services and agencies should refer to section 2330a of Title 10 of the United States Code.

(1) Contractor performance of inherently governmental functions. If a determination is made that a contractor is performing work that is inherently governmental (or involves unauthorized personal services), but the contract, properly defined, does not entail performance of inherently governmental functions or unauthorized personal services, the agency shall take prompt corrective actions. In some cases, government control over, and performance of, inherently governmental responsibilities can be reestablished by strengthening contract oversight using government employees with appropriate subject matter expertise and following the protocols identified in FAR 37.114 (see also Appendix C). However, agencies must ensure that increasing the level of government oversight and control does not result in unauthorized personal services as provided by FAR 37.104. If government control of inherently governmental functions cannot be reestablished, agencies will need to insource work on an accelerated basis through the timely development and execution of a hiring plan timed, if possible, to permit the non-exercise of an option or the termination of that portion of the contract being used to fulfill inherently governmental responsibilities.

(2) Overreliance on contractors to perform critical functions. While contractor performance of critical functions is common, if the agency determines that internal control of its mission and operations is at risk due to overreliance on contractors to perform critical functions, requiring activities should work with their human capital office to develop and execute a hiring and/or development plan. Requiring activities should also work with the acquisition office to address the handling of ongoing contracts and the

budget and finance offices to secure the necessary funding to support the needed in-house capacity. Agencies should also consider application of the responsibilities outlined in Appendix C, as appropriate.

If an agency has sufficient internal capability to control its mission and operations, the extent to which additional work is performed by Federal employees should be based on cost considerations. Supporting cost analysis should address the full costs of government and private sector performance and provide like comparisons of costs that are of a sufficient magnitude to influence the final decision on the most cost effective source of support for the organization.

(c) *Analyzing functions.* A function often includes multiple activities, or tasks, some of which may be inherently governmental, some of which may be closely associated with inherently governmental work, and some may be neither. By evaluating work at the activity level, an agency may be able to more easily differentiate tasks within a function that may be performed only by Federal employees from those tasks that can be performed by either Federal employees or contractors without blurring the line between the role of Federal employees and contractors.

### **5-3. Management responsibilities in connection with small business contracting.**

(a) *Lower prioritization for review.* When prioritizing what outsourced work should be reviewed for potential insourcing, agencies generally should place a lower priority on reviewing work performed by small businesses when the work is not inherently governmental and where continued contractor performance does not put the agency at risk of losing control of its mission or operations, especially if the agency has not recently met, or currently is having difficulty meeting, its small business goals, including any of its socioeconomic goals. The agency should involve its small business advocate if considering the insourcing of work currently being performed by small businesses.

(b) *Considerations when contracted work is identified for insourcing.* If part of a contracted function to be insourced is currently being performed by both small and large businesses, the "rule of two" should be applied in deciding between small and large businesses that will perform the contracted work that remains in the private sector. The "rule of two" set out in FAR subpart 19.5 requires that acquisitions be reserved for award to small businesses, or certain subsets of small businesses, if there are

two or more responsible small businesses capable of performing the work at fair market prices. The agency should involve its small business representative in the same manner as it would in working with the acquisition and program office in evaluating opportunities for small businesses for new work. In addition, if contracted work not currently being performed by small businesses is reduced as part of an insourcing, the agency should carefully consider during recompetition whether it can be totally or partially set-aside for small businesses.

#### 5-4. Additional agency management responsibilities.

(a) *Duty of Federal employees.* Every Federal manager and their employees have an obligation to help avoid performance by contractors of responsibilities that should be reserved for Federal employees. Although contractors provide important support to the agency, they may not be motivated solely by the public interest, and may be beyond the reach of management controls applicable to Federal employees. As part of this obligation, Federal managers and employees who rely on contractors or their work product must take appropriate steps, in accordance with agency procedures, to ensure that any final agency action complies with the laws and policies of the United States and reflects the independent conclusions of agency officials and not those of contractors. These steps shall include increased attention and examination where contractor work product involves advice, opinions, recommendations, reports, analyses, and similar deliverables that are to be considered in the course of a Federal employee's official duties and may have the potential to influence the authority, accountability, and responsibilities of the employee.

(b) *Development of agency procedures.* Agencies shall develop and maintain internal procedures to address the requirements of this guidance. Those procedures shall be reviewed by agency management no less than every two years.

(c) *Training.* Agencies shall take appropriate steps to help their employees understand and meet their responsibilities under this guidance. Steps should include training, no less than every two years, to improve employee awareness of their responsibilities.

(d) *Review of internal management controls.* Agencies should periodically evaluate the effectiveness of their internal management controls for reserving work for Federal employees

and identify any material weaknesses in accordance with OMB Circular A-123, *Management's Responsibility for Internal Control*, and OFPP's *Guidelines for Assessing the Acquisition Function*, available at [http://www.whitehouse.gov/omb/circulars\\_a123/](http://www.whitehouse.gov/omb/circulars_a123/).

(e) *Designation of responsible management official(s).* Each Federal agency with 100 or more full-time employees in the prior fiscal year shall identify one or more senior officials to be accountable for the development and implementation of agency policies, procedures, and training to ensure the appropriate reservation of work for Federal employees in accordance with this guidance. Each such agency shall submit the names and titles of the designated officials, along with contact information, by June 30 annually to OMB on the following MAX Web site: <https://max.omb.gov/community/x/VwkQIq>.

**6. Judicial review.** This policy letter is not intended to provide a constitutional or statutory interpretation of any kind and it is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person. It is intended only to provide policy guidance to agencies in the exercise of their discretion concerning Federal contracting. Thus, this policy letter is not intended, and should not be construed, to create any substantive or procedural basis on which to challenge any agency action or inaction on the ground that such action or inaction was not in accordance with this policy letter.

**7. Effective date.** This policy letter is effective October 12, 2011.

Daniel I. Gordon,  
*Administrator.*

#### Appendix A. Examples of inherently governmental functions

The following is an illustrative list of functions considered to be inherently governmental. This list should be reviewed in conjunction with the list of functions closely associated with inherently governmental functions found in Appendix B to better understand the differences between the actions identified on each list.

*Note:* For most functions, the list also identifies activities performed in connection with the stated function. In many cases, a function will include multiple activities, some of which may not be inherently governmental.

1. The direct conduct of criminal investigation.

2. The control of prosecutions and performance of adjudicatory functions (other than those relating to arbitration or other methods of alternative dispute resolution).

3. The command of military forces, especially the leadership of military personnel who are performing a combat, combat support or combat service support role.

4. Combat.

5. Security provided under any of the circumstances set out below. This provision should not be interpreted to preclude contractors taking action in self-defense or defense of others against the imminent threat of death or serious injury.

(a) Security operations performed in direct support of combat as part of a larger integrated armed force.

(b) Security operations performed in environments where, in the judgment of the responsible Federal official, there is significant potential for the security operations to evolve into combat. Where the U.S. military is present, the judgment of the military commander should be sought regarding the potential for the operations to evolve into combat.

(c) Security that entails augmenting or reinforcing others (whether private security contractors, civilians, or military units) that have become engaged in combat.

6. The conduct of foreign relations and the determination of foreign policy.

7. The determination of agency policy, such as determining the content and application of regulations.

8. The determination of budget policy, guidance, and strategy.

9. The determination of Federal program priorities or budget requests.

10. The selection or non-selection of individuals for Federal Government employment, including the interviewing of individuals for employment.

11. The direction and control of Federal employees.

12. The direction and control of intelligence and counter-intelligence operations.

13. The approval of position descriptions and performance standards for Federal employees.

14. The determination of what government property is to be disposed of and on what terms (although an agency may give contractors authority to dispose of property at prices with specified ranges and subject to other reasonable conditions deemed appropriate by the agency).

15. In Federal procurement activities with respect to prime contracts:

(a) determining what supplies or services are to be acquired by the government (although an agency may

give contractors authority to acquire supplies at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency);

(b) participating as a voting member on any source selection boards;

(c) approving of any contractual documents, including documents defining requirements, incentive plans, and evaluation criteria;

(d) determining that prices are fair and reasonable;

(e) awarding contracts;

(f) administering contracts (including ordering changes in contract performance or contract quantities, making final determinations about a contractor's performance, including approving award fee determinations or past performance evaluations and taking action based on those evaluations, and accepting or rejecting contractor products or services);

(g) terminating contracts;

(h) determining whether contract costs are reasonable, allocable, and allowable; and

(i) participating as a voting member on performance evaluation boards.

16. The selection of grant and cooperative agreement recipients including: (a) approval of agreement activities, (b) negotiating the scope of work to be conducted under grants/cooperative agreements, (c) approval of modifications to grant/cooperative agreement budgets and activities, and (d) performance monitoring.

17. The approval of agency responses to Freedom of Information Act requests (other than routine responses that, because of statute, regulation, or agency policy, do not require the exercise of judgment in determining whether documents are to be released or withheld), and the approval of agency responses to the administrative appeals of denials of Freedom of Information Act requests.

18. The conduct of administrative hearings to determine the eligibility of any person for a security clearance, or involving actions that affect matters of personal reputation or eligibility to participate in government programs.

19. The approval of Federal licensing actions and inspections.

20. The collection, control, and disbursement of fees, royalties, duties, fines, taxes and other public funds, unless authorized by statute, such as title 31 U.S.C. 952 (relating to private collection contractors) and title 31 U.S.C. 3718 (relating to private attorney collection services), but not including:

(a) collection of fees, fines, penalties, costs or other charges from visitors to or patrons of mess halls, post or base

exchange concessions, national parks, and similar entities or activities, or from other persons, where the amount to be collected is predetermined or can be readily calculated and the funds collected can be readily controlled using standard cash management techniques, and

(b) routine voucher and invoice examination.

21. The control of the Treasury accounts.

22. The administration of public trusts.

23. The drafting of official agency proposals for legislation, Congressional testimony, responses to Congressional correspondence, or responses to audit reports from an inspector general, the Government Accountability Office, or other Federal audit entity.

24. Representation of the government before administrative and judicial tribunals, unless a statute expressly authorizes the use of attorneys whose services are procured through contract.

#### **Appendix B. Examples Of Functions Closely Associated With The Performance Of Inherently Governmental Functions**

The following is an illustrative list of functions that are generally not considered to be inherently governmental but are closely associated with the performance of inherently governmental functions. This list should be reviewed in conjunction with the list of inherently governmental functions in Appendix A to better understand the differences between the actions identified on each list.

*Note:* For most functions, the list also identifies activities performed in connection with the stated function. In many cases, a function will include multiple activities, some of which may not be closely associated with performance of inherently governmental functions.

1. Services in support of inherently governmental functions, including, but not limited to the following:

(a) performing budget preparation activities, such as workload modeling, fact finding, efficiency studies, and should-cost analyses.

(b) undertaking activities to support agency planning and reorganization.

(c) providing support for developing policies, including drafting documents, and conducting analyses, feasibility studies, and strategy options.

(d) providing services to support the development of regulations and legislative proposals pursuant to specific policy direction.

(e) supporting acquisition, including in the areas of:

i) acquisition planning, such as by—  
I) conducting market research,  
II) developing inputs for government cost estimates, and

III) drafting statements of work and other pre-award documents;

ii) source selection, such as by—

I) preparing a technical evaluation and associated documentation;

II) participating as a technical advisor to a source selection board or as a nonvoting member of a source selection evaluation board; and

III) drafting the price negotiations memorandum; and

iii) contract management, such as by—

I) assisting in the evaluation of a contractor's performance (e.g., by collecting information performing an analysis, or making a recommendation for a proposed performance rating), and  
II) providing support for assessing contract claims and preparing termination settlement documents.

(f) Preparation of responses to Freedom of Information Act requests.

2. Work in a situation that permits or might permit access to confidential business information or other sensitive information (other than situations covered by the National Industrial Security Program described in FAR 4.402(b)).

3. Dissemination of information regarding agency policies or regulations, such as conducting community relations campaigns, or conducting agency training courses.

4. Participation in a situation where it might be assumed that participants are agency employees or representatives, such as attending conferences on behalf of an agency.

5. Service as arbitrators or provision of alternative dispute resolution (ADR) services.

6. Construction of buildings or structures intended to be secure from electronic eavesdropping or other penetration by foreign governments.

7. Provision of inspection services.

8. Provision of legal advice and interpretations of regulations and statutes to government officials.

9. Provision of non-law-enforcement security activities that do not directly involve criminal investigations, such as prisoner detention or transport and non-military national security details.

#### **Appendix C. Responsibilities Checklist For Functions Closely Associated With Inherently Governmental Functions**

If the agency determines that contractor performance of a function closely associated with an inherently governmental function is appropriate, the agency shall—

(1) limit or guide a contractor's exercise of discretion and retain control of government operations by both—

(i) establishing in the contract specified ranges of acceptable decisions and/or conduct; and

(ii) establishing in advance a process for subjecting the contractor's discretionary decisions and conduct to meaningful oversight and, whenever necessary, final approval by an agency official;

(2) assign a sufficient number of qualified government employees, with expertise to administer or perform the work, to give special management attention to the contractor's activities, in particular, to ensure that they do not expand to include inherently governmental functions, are not performed in ways not contemplated by the contract so as to become inherently governmental, do not undermine the integrity of the government's decision-making process as provided by subsections 5-1(a)(1)(ii)(b) and (c), and do not interfere with Federal employees' performance of the closely-associated inherently governmental functions (see subsection 5-2(b)(2) for guidance on steps to take where a determination is made that the contract is being used to fulfill responsibilities that are inherently governmental);

(3) ensure that the level of oversight and management that would be needed to retain government control of contractor performance and preclude the transfer of inherently governmental responsibilities to the contractor would not result in unauthorized personal services as provided by FAR 37.104;

(4) ensure that a reasonable identification of contractors and contractor work products is made whenever there is a risk that Congress, the public, or other persons outside of the government might confuse contractor personnel or work products with government officials or work products, respectively; and

(5) take appropriate steps to avoid or mitigate conflicts of interest, such as by conducting pre-award conflict of interest reviews, to ensure contract performance is in accordance with objective standards and contract specifications, and developing a conflict of interest mitigation plan, if needed, that identifies the conflict and specific actions that will be taken to lessen the potential for conflict of interest or reduce the risk involved with a potential conflict of interest.

[FR Doc. 2011-23165 Filed 9-9-11; 8:45 am]

**BILLING CODE P**

## THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Meetings of Humanities Panel

**AGENCY:** The National Endowment for the Humanities, The National Foundation on the Arts and the Humanities.

**ACTION:** Cancellation of panel meeting.

Notice is hereby given of the cancellation of the following meeting of the Humanities Panel at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 which was published in the **Federal Register** on August 23, 2011, 76 FR 52698.

**Dates:** September 27, 2011.

**Time:** 9 a.m. to 5 p.m.

**Room:** 315.

**Program:** This meeting will review applications for Request for Proposals for A Cooperative Agreement with NEH to Support Bridging Cultures at Community Colleges, submitted to the Division Education Programs at the August 23, 2011 deadline.

**Michael P. McDonald,**

*Advisory Committee, Management Officer.*

[FR Doc. 2011-23264 Filed 9-9-11; 8:45 am]

**BILLING CODE 7536-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-397-LR; ASLBP No. 11-912-03-LR-BD01]

### Energy Northwest; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see, e.g.*, 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

#### Energy Northwest (Columbia Generating Station)

This proceeding involves an application by Energy Northwest to renew for twenty years its operating license for Columbia Generating Station, which is located near Richland, Washington. The current operating license expires on December 20, 2023. In response to a Notice of Opportunity for Hearing, published in the **Federal Register** on March 11, 2010 (75 FR 11,572), a request for hearing was submitted by Nina Bell, Executive

Director, Northwest Environmental Advocates. The request, entitled "Petition for Hearing and Leave to Intervene in Operating License Renewal for Energy Northwest's Columbia Generating Station," was received via E-Filing on August 22, 2011.<sup>1</sup>

The Board is comprised of the following administrative judges:

Alan S. Rosenthal, Chair, Atomic Safety and Licensing Board Panel, U.S.

Nuclear Regulatory Commission, Washington, DC 20555-0001.

Dr. Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Dr. William H. Reed, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007 (72 FR 49,139).

Issued at Rockville, Maryland this 6th day of September 2011.

**E. Roy Hawkens,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 2011-23199 Filed 9-9-11; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52-018-COL, 52-019-COL, 52-025-COL, 52-026-COL; ASLBP No. 11-913-01-COL-BD01]

### Duke Energy Carolinas, LLC; Southern Nuclear Operating Company; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see, e.g.*, 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over this proceeding, which involves the following captioned cases:

Duke Energy Carolinas, LLC, (William States Lee III Nuclear Station, Units 1 and 2), Docket Nos. 52-018-COL & 52-019-COL;

Southern Nuclear Operating Company, (Vogtle Electric Generating Plant,

<sup>1</sup> On August 22, 2011, petitioner, Ms. Bell, also filed a petition for rulemaking, coupled with a request to suspend licensing decision. Those requests are under review by Commission advisers as a separate action.