

COMPETITIVE SOURCING

1. REASON FOR ISSUE: This directive establishes policy for implementing the President's Management Agenda related to competitive sourcing for Fiscal Years 2002 through 2003. This Directive should be used by all VA organizations to carry out any competitive sourcing activities and supercedes all previous guidance contained in VA Circular 00-87-10, Policies for Acquiring Commercial Products or Services Needed by the Government and its Supplements and VA Circular 00-84-8, Policies for Acquiring Commercial Products or Services Needed by the Government.

2. SUMMARY OF CONTENTS/MAJOR CHANGES: This Directive sets forth the policies and responsibilities for implementing a *streamlined* competitive sourcing process throughout VA.

3. RELATED HANDBOOK: VA Circular 00-84-8, Policies for Acquiring Commercial Products or Services Needed by the Government, dated April 25, 1984, and its Supplements, VA Circular 00-87-10, Policies for Acquiring Commercial Products or Services Needed by the Government, dated March 27, 1987, and its Supplements only to the extent that they are applicable as general guidance for the *Tier 2* process. These circulars would only apply in their entirety to the conduct of a *Tier 3* formal study based on OMB Circular A-76, Performance of Commercial Activities, should a *Tier 3* formal study be performed. Otherwise, this directive supercedes these circulars.

4. RESPONSIBLE OFFICE: The Office of Policy and Planning is responsible for the material contained in this directive.

5. RESCISSIONS: None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS**

/s/

John A. Gauss
Assistant Secretary for
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/s/

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COMPETITIVE SOURCING

1. PURPOSE: This directive establishes policy and responsibilities for implementing a competitive sourcing process throughout the Department of Veterans Affairs (VA). Competitive sourcing is a tool that each of our organizations can use to optimize the capacity to meet veterans' needs using a market-based approach. It is the goal of VA to have a systematic, timely, and cost-effective competitive sourcing process within VA.

2. POLICY:

a. VA Staff Offices, networks, and facilities will conduct competitive sourcing analysis to achieve economy, quality, and enhanced productivity. Whenever commercial sector performance of a Government operated commercial activity is permissible, in accordance with this Directive (and with OMB Circular A-76, Performance of Commercial Activities to the extent applicable), comparison of the cost of contracting and the cost of in-house performance shall be performed to determine who will do the work.

b. Each facility and central office management official will ensure that the guidance contained herein is reflected in all policies and procedures used in conducting the competitive sourcing process.

c. There is currently a prohibition on formal A-76 studies that restricts the use of any appropriations from the medical care, medical and prosthetic research, medical administration and miscellaneous operating expenses account to be used for A-76 studies, in the absence of a specific appropriation. (Sec. 8110(a)(5) of Title 38 U.S.C.). Thus A-76 studies for non-medical care activities, such as laundry services and grounds maintenance, funded out of those accounts, could not be performed in the absence of a specific appropriation.

d. The OMB Circular A-76 as provided by para. 8(c) states that commercial activities at Government-owned hospitals or other health facilities may be performed by in-house, contract or interservice support agreements (ISSA), without cost comparison, when needed to maintain the quality of direct patient care.

e. VA recognizes the unique independence of the Office of Inspector General as outlined in the Inspector General Act of 1978 (PL 95-452), as amended, Section 6(a)(9) which states "to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act."

3. RESPONSIBILITIES:

a. Under Secretaries, Assistant Secretaries and Other Key Officials. The senior level managers are responsible for:

(1) Working with their respective field and business units to ensure proper documentation, tracking, and analytical integrity of competitive sourcing activities; and

(2) Initially identifying activities within their purview for analysis.

b. Contracting Officer. The Contracting Officer is the duly appointed government agent authorized to conduct the formal solicitation process once a decision is made to convert a particular activity to commercial source.

c. Office of Policy and Planning (OPP). OPP will coordinate with the points of contact from each VA Administration and staff office or Competitive Sourcing Working Group members to develop annual guidance and to receive and assess quarterly tracking reports of competitive sourcing decisions. OPP will provide a quarterly status report to the Strategic Management Council (SMC).

d. Independent Management Officer (IMO). The IMO is an objective third party responsible for:

(1) Reviewing the Management Plan containing Most Efficient Organization (MEO) or its equivalent and the independent market survey data;

(2) For Tier 2 analyses only, comparing the costs and benefits of private sector versus MEO contract of the activities; and

(3) For Tier 2 analyses only, making a recommendation to the business unit director about whether to direct contract or to conduct the activities in-house, based on the cost-benefit analysis.

Note: For Tier 3 formal A-76 analyses, should it be utilized, the role of the contracting officer and others is specified in OMB Circular A-76.

e. Commercial Activities (CA) Team. This team is comprised of primarily in-house employees whose key responsibility is to create the Performance Work Statement (PWS) or its equivalent. Contractor assistance may be provided.

f. MEO Team. This team is comprised of primarily in-house employees whose key responsibility is to develop the Management Plan containing the MEO or its equivalent for the activities being reviewed. In order to prevent a potential conflict of interest, the CA Team and the MEO Team shall each be comprised of different individuals.

g. Business Unit Director. The Business Unit Director will be responsible for:

(1) Directing the conduct of any cost-benefit analysis under this directive; and

(2) Reporting to the appropriate Under Secretary or Assistant Secretary.

4. REFERENCES

a. Federal Activities Inventory Reform Act of 1998, PL 105-270;

b. OMB Circular A-76, August 4, 1983 (Revised 1999);

- c. OMB Directive M-01-15, dated March 9, 2001; and
- d. Title 38 USC, Sec. 8110(a)(5).

5. DEFINITIONS

a. Benchmarking. A rigorous comparison of processes used by other organizations in order to establish “best practices” that might be applied to your organization.

b. Business Process Reengineering (BPR). A fundamental reexamination of core business practices with an eye toward radical improvement. BPR is an on-going process of review, examination, development of alternatives, testing those alternatives and implementation of improved processes.

c. Commercial Activities. For purposes of the FAIR Act, federal employees can perform activities considered to be “*commercial*” in nature. An activity is considered *commercial* if the activity or product is available in the private sector.

d. Commercial In-House Core (Reason Code A). This activity is commercial in nature but VA has made a decision to retain the activity in-house.

e. Commercial Competitive (Reason Code B). This activity is performed by Federal employees and may be selected for cost comparison or direct conversion requirements of OMB Circular A-76.

f. Commercial Exempt (Reason Code C). This activity is commercial in nature and performed by Federal employees but is exempt from the provisions of OMB Circular A-76 by Congress, Executive Order or OMB.

g. Direct Conversion. The conversion of a commercial activity from in-house to contract performance without applying the cost comparison process. An estimate of the current in-house operating cost is compared to an estimate of the maximum acceptable contract bid prices to justify the cost effectiveness of directly converting the in-house commercial activity to contract performance. This process may be applied to commercial activities performed by ten or fewer FTE.

h. FAIR Act. The Federal Activities Inventory Reform (FAIR) Act of 1998, P.L. 105-270, has two major requirements. (www.whitehouse.gov/omb/procurement/fair-index.html) First, all Federal agencies must develop an annual inventory of commercial activities performed by Federal employees. Second, when the Secretary decides to contract out an activity on the inventory, the FAIR Act cost comparison process must be used in selecting the source to perform that activity, unless the agency is exempt from using that process. The FAIR Act cost comparison process is provided by the Office of Management and Budget (OMB) Circular A-76, Performance of Commercial Activities. (www.whitehouse.gov/omb/circulars/index.html)

i. Inherently Governmental. An inherently governmental activity is one that is so intimately related to the public interest as to mandate performance by Federal employees. Activities that meet these criteria are not in competition with commercial sources, are not

generally available from commercial sources and are, therefore, not subject to Circular A-76. 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 (by giving aid or service) 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.

j. In-House Cost Estimate (IHCE) –A formal cost estimate of what the Government’s MEO will cost to complete. It is a description of all costs associated with the performance of the MEO, calculated in accordance with Part II of the OMB A-76 Revised Supplemental Handbook.

k. Management Plan – The Management plan describes the Government’s Most Efficient Organization (MEO) and is the basis for the Government’s “In-House Cost Estimate” (IHCE): the Government’s estimate of its cost to perform the functions described in the PWS. The Management Plan should identify the organizational structures, staffing and operating procedures, equipment, and transition and inspection plans necessary to ensure that the Government can perform the activity in an efficient and cost effective manner. The Management Plan includes four documents, the MEO, the IHCE, the Technical Performance Plan, and the Transition Plan.

l. Most Efficient Organization (MEO). The MEO refers to the Government’s in-house organization to perform a commercial activity. It may include a mix of Federal employees and contract support. It is the basis for all Government costs entered in a *Tier 2* cost benefit analysis and all Government costs entered on an A-76 Cost Comparison. The MEO is the product of the Management Plan and is based upon the PWS.

m. Performance Work Statement (PWS). The Performance Work Statement defines specific results or outcomes derived from the commercial activity, including performance measures, standards and timeframes.

n. Quality Assurance Surveillance Plans (QASP). The QASP describes the methods of inspection to be used, the reports required and the resources to be employed with estimated work-hours. The QASP accompanies the PWS to the Independent Management Officer.

o. Technical Performance Plan (TPP) – Describes how the MEO will perform the work requirements of the PWS, and specifics how the performance requirements will be met, measures of performance, staffing by functional area, staff utilization, and describes how changes in the workload will be addressed in the new organization. The TPP may include the following:

- (1) Manpower matrix
- (2) Organizational structure
- (3) Organizational responsibilities
- (4) Quality program
- (5) Environmental and safety program
- (6) Training and certification
- (7) Facility use and management

- (8) Materials and supplies
- (9) Key personnel position descriptions
- (10) Hire plans

p. Transition Plan. A list of milestones for all Government organizations that must support the transition period, a thorough list of Government responsibilities, a list of contractor responsibilities, training and security requirements identified, and lessons learned from predecessor acquisitions used to avoid problems. Managers will need to consider position management, staffing, compensation/benefits, employee relations/morale issues, etc.

COMPETITIVE SOURCING PROCEDURES

1. NEW REQUIREMENTS: Competitive Sourcing is one of the President's five primary management objectives for the Government. The Office of Management and Budget (OMB) has indicated that Executive Departments and Agencies need to increase their focus on competitive sourcing. Specifically, OMB Directive M-01-15, dated March 9, 2001, requested that in Fiscal Year (FY) 2002, agencies should seek to have public-private competitions or direct conversions on not less than 5 percent of the personnel associated with commercial activities. By the end of FY 2003, the goal is a cumulative 15 percent according to OMB Directive M-02-02, dated October 30, 2001 and the President's FY 2003 Budget submission.

2. In an effort to comply with the OMB Directive M-01-15 and to conduct a more streamlined competitive sourcing process, outlined is the following 3-tiered process:

a. Identification of Activity to be competitively sourced.

(1) Tier 1

(a) The "*Tier 1*" cost-benefit analysis is intended to cover many day-to-day business case decisions about whether to conduct activities in-house or to contract out based on an increased level of documentation about the rationale for the "best value" decision. Situations that may lead to a Tier 1 analysis include, where there are 10 or fewer employees - - review of the existing outpatient clinics, grounds keeping at a national cemetery, or medical center laundry services for in-house or commercial sourcing. This decision should take into account, and document, what services or activities were considered and evaluated for competitive sourcing, the effects on the quality of service of either private or public sector conduct of activities, and any cost savings with either approach.

(b) Summary – Tier 1

Cost-benefit analysis for business case decisions for activities with 10 or fewer FTE involving:

- 1 direct medical care; or
- 2 other *commercial exempt* activities

(2) Tier 2

(a) The "*Tier 2*" cost-benefit analysis is intended to provide a streamlined "A-76-like" process that would result in a more detailed level of analysis for specific targeted areas of commercial activities with 11 or more FTE. This *Tier 2* level of analysis requires the preparation of a PWS or its equivalent to be prepared by a Commercial Activities (CA) Team and the development of the MEO or its equivalent to be prepared by the MEO Team, which include representatives of VA employees currently performing the activities. However, in order to avoid a conflict of interest, no individual employee or contractor should be on both of these teams.

(b) An Independent Management Officer (IMO) would also be selected by the appropriate VA business unit director to conduct an independent market survey and the cost-benefit analysis necessary to determine the “best value” to the government. The IMO would be required to possess the knowledge, skills, and abilities necessary to conduct objective *market research* consistent with the Federal Acquisition Regulations (FAR). If the IMO is not a contracting officer, the IMO would conduct the market research in consultation with a contracting officer. Based on the independent analysis, the IMO would recommend a decision to the director of the appropriate VA business unit. Any disputes related to decisions should be elevated to the next management level for resolution.

(c) Summary – Tier 2

Cost-benefit analysis for VA’s streamlined “A-76-like” process for activities with 11 or more FTE involving:

Commercial exempt activities

1. Includes development of Performance Work Statement (PWS) or its equivalent – may include benchmarking with private sector.
2. Includes development of Most Efficient Organization (MEO) or its equivalent – may include business process reengineering.

(d) Estimation of Costs

1. For the purposes of conducting this cost-benefit analysis, and determining the In-House Cost Estimate (IHCE), the following fringe benefit factors are estimated according to the Federal Accounting Standards for Liabilities-Exposure. Multiply the following Government wide standard factors by the appropriate basic pay: full or part-time permanent Federal civilian employees, the standard retirement cost factor CSRS/FERS/Social Security/TSP (23.7%), federal employee insurance and health benefits (5.6%), miscellaneous fringe benefits (workmen’s compensation, bonuses and awards, and unemployment programs) (1.7%).

2. An activity will not be converted to or from in-house, contract or ISSA performance, on the basis of a cost comparison, unless the minimum cost differential is met. The minimum cost differential is the lesser of 10 percent of in-house personnel-related costs or, \$10 million over the performance period. The minimum differential is established to ensure that the Government will not convert for marginal estimated savings

(3) Tier 3

(a) A Tier 3 Analysis is governed completely by the OMB formal A-76 Circular and process. It requires a formal solicitation process prior to the make or buy decision. All of the formal steps of the Circular have to be followed for situations with 65 or more FTE. A “streamlined” process, outlined in the Circular can be used for situations with 11-65 FTE.

(b) Summary -- Tier 3

Formal A-76 process for activities involving:

1. 11 or more FTE; and

2. *Commercial competitive* activities that are not related to direct medical care.

3. Optional for *commercial exempt* activities

b. Decision to Conduct In-house or Contract Out Activity. The criteria for decision-making should include the quality and timeliness of service to veterans, costs, VA's mission, effectiveness, employee morale, and equity. Equity for specific activities and geographic areas should be considered, i.e., application of new information technology, telemedicine, and others. If the decision is to go to contract and the procurement process is initiated, there may be instances in which no contract will be awarded. These instances can include a situation where no bid is received, where no reasonable bids are received, or where bids in excess of the in-house cost estimates are received. In those instances, the solicitation will need to be canceled and the work would remain in-house – presumably being performed under the new most efficient organization (MEO) approach.

c. Competitive Sourcing Reporting/Tracking System.

(1) On September 15th, prior to the beginning of each Fiscal Year, each VA organization will provide the Office of Policy and Planning with a detailed summary of its projected competitive sourcing activities for the year. This will include planned studies, type of study (Tier 1, 2 or 3), the number of FTE to be studied, and the scheduled completion date. Each VA organization will track their respective *Tier 1*, *Tier 2*, and the *Tier 3* competitive sourcing activities and report quarterly on the amount of competitive sourcing that has occurred in the quarter just ended, and on the amount of competitive sourcing that is expected to occur in the balance of the fiscal year. The purpose of this reporting requirement is to capture costs that outline in-house performance costs and the contract performance cost, which would then show the net savings/cost of each approach.

(2) This information captured in the tracking system will be presented to the Office of Policy and Planning and then to the Strategic Management Council (SMC) quarterly for review. Attached is a sample template. The SMC, chaired by the Deputy Secretary of Veterans Affairs, consists of the Deputy Under Secretaries, Assistant Secretaries, Chief of Staff, and Senior Advisors. The SMC reviews, discusses, and provides recommendations to the Secretary and the Under Secretaries on Department-wide policy, strategic direction, resource allocation, and performance in key areas.

VA Tracking Report

Column 1 – VA Business Unit – the organizational unit where the cost comparison will take place (Network, Administration, or staff offices)

Column 2 – The state where the organization being studied at Central Office or in the Field

Column 3 – The facility – Medical Facility, Regional Office, or Cemetery and location (city in the field or central office)

Column 4 - Date of the study completion date

Column 5 – Type of study method used (Tier 1, 2 or 3)

Column 6 – The activity being studied

Column 7 – Fiscal cost center for that activity and/or function code from FAIR Act Inventory

Column 8 – Description of actual service that will be provided

Column 9 – Decision to retain in-house or contract out to private sector

Column 10 – Indicate contract number (if contracted out)

Column 11 – Contract authority – Title 38, the FAR, other special legislation, etc.

Column 12 - Total cost of the contracting activity. (Whether derived from actual proposal or market research)

Column 13 – Total cost for in-house service

Column 14 – Savings from either retaining the service in-house or contracting out

Column 15 - The number of FTE studied as part of the activity

Column 16 – The number of FTE contracted to perform the activity

Column 17 – FTE savings as a result of the MEO (if any) (e.g., as a result of the MEO, the organization did not have to hire or contract for x number of FTE to perform the activity). This is only if the organization performs a Tier 2 or Tier 3 study.

Appendix C

MAP FOR VA'S COMPETITIVE SOURCING PROCESS

**TIER 1 Cost-Benefit Analysis for Business Case
Decisions for Activities with 10 or fewer FTE**

Involving:

- direct medical care; or
- *commercial competitive*; or
- *commercial exempt* activities.

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- Includes cost-benefit analysis