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Embracing the Borg: The A-76ed Organization

Beyond Competitive Sourcing

The objectives of government management are typically bi-partisan in nature. Consider these two quotes about the objectives of management:

“A government that works better and costs less.”

Former Vice President Al Gore

National Performance Review

“Resources entrusted to the federal government are well managed and wisely used.”

President George W. Bush

Introduction to President’s Management Agenda Fiscal Year 2002

It is unlikely that either of these former contestants would disagree with the statement of the other about the objective of government management. The devil is in the details.

Competitive sourcing is a tool “to achieve efficient and effective competition between public and private sources”.¹ Historically in the federal government this tool has been implemented using Office of Management and Budget (OMB) Circular A-76, which was first put in place in 1966 and most recently revised in 1996 and again in 1999. While this Circular has drawn much attention—mostly focused on its complexity—it has been little utilized. The General Accounting Office (GAO), in its May 8, 2001 presentation to the newly formed Commercial Activities Panel, cited the following:

- DOD reported that only two percent of the service contracting dollars it awarded in FY 1999 resulted from its use of A-76.
- In civilian agencies OMB reports that one-tenth of one percent of commercial activities has been competed using A-76.

The focus on A-76 has intensified recently with the passage of P.L. 105-270, the Federal Acquisition Inventory Reform (FAIR) Act in 1998, and with the August 2001

¹ President’s Management Agenda Fiscal Year 2002, p.17.

promulgation of the Competitive Sourcing initiative as part of the President’s Management Agenda. The FAIR Act requires:

”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.”

OMB must review these inventories and publish them. The agency heads are directed by the FAIR Act to determine the feasibility of putting those positions that are not inherently governmental functions out for competition.

The President’s Management Agenda goes further by requiring agencies to develop plans for “public private or direct conversion competition of not less than five percent of the full time equivalent employees listed in the Fair Act inventories,” and indicates that, “the Administration will adopt procedures to improve and expand competition.”² This statement recognizes that there are numerous ways to use competition to improve performance that go beyond the A-76 process. The key question here is how will this be done and what will its effect be.

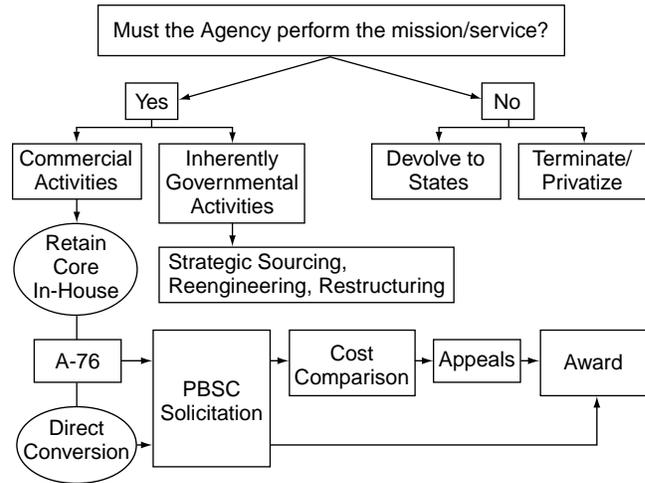
Principles for Competition

No single set of principles has been or probably can be adopted governing all the permutations of competition designed to improve the “efficiency and effectiveness of government”. The first question most people ask is, “Does competition really improve efficiency and effectiveness?” From the experience we all are familiar with in private sector markets, we are encouraged to say yes to this question. However, the nature of public goods places limits on this competition. By definition, the need for government to step in and provide a good or service results from the failure of market competition to produce the good in sufficient quantity at a reasonable price.

This means that competition must be for production of specific goods or services on behalf of the government rather than for the direct provision of the good itself. If this is not true and the private sector can provide the good or service, the decision is not one of competition but rather one of divestiture.

The Bush administration recognized this fact by modifying a decision tree I had previously created for the National Performance Review during the prior administration.

FIGURE 1. Technical Implementation/Role of Privatization



This graphic clearly distinguishes the question of should the agency be in a particular business at all from the question of whether the work should be performed inside or outside. Further, it catalogues other activities that will be occurring simultaneously with competitive sourcing that can improve management.

Improving “efficiency and effectiveness” may be advanced by competitive sourcing but, as the Bush administration points out, other activities including reengineering, restructuring and strategic sourcing should be undertaken along with competitive sourcing. The magnitude of these activities, properly carried out, may greatly out-weigh the benefits of competitive sourcing. Still, we need to examine the principles behind competitive sourcing to see how it may contribute to the overall objective.

In my own testimony before a Joint and Senate Hearing on S 314/H.R. 716 “The Freedom from Government Competition Act” (this was the precursor to the Fair Act) I outlined several principles that I believe are still relevant today:

- “First, the Government must be permitted to choose the alternative—public or private— which is the most cost effective and in the best interest of the taxpayer. In doing so, the process must be fair and equitable to all interested parties.”

There are many in Congress and in the private sector who believe that there are very few “inherently governmental functions”, very few true public goods, and they further believe that it is bad policy for government to do any thing that could be done by the private sector regardless of “efficiency and effectiveness”. These views are grounded in fundamental philosophies of government that have been debated again and again in the course of our nation’s history. I come down on the side of “efficiency and effec-

²Ibid. p. 18.

tiveness” but I am persuaded that continual vigilance concerning what government should be doing and how well it is being done is essential to a free and democratic society. Also essential is the creation of clear and simple rules for making decisions regarding the methods to be employed in managing government.

- ▶ “Second, any legislation should avoid judicial involvement in management decisions whether or not to outsource.”

This second principle has less currency today than it did four years ago. However, as active outsourcing is undertaken it is likely that the parties who are negatively affected will seek redress in the courts. The ability of the FAIR Act to avoid inviting judicial review was an excellent compromise and future regulatory or legislative solutions should continue in this direction.

- ▶ “Third, the management documentation, employee participation, costing and source selection rules must be well understood so as to be enforceable and impartial.”

In retrospect, I would add simple. The time consuming and expensive process of A-76 has led to its lack of use despite the savings that have been realized regardless of whether the public sector or the private sector won the work.

- ▶ “Fourth, source selection processes must permit efficient and effective competitions between public and private offerors for work presently being performed by the Government or by a private contractor.”

This is what I call the “both ways” provision. It seems that the current administration’s proposal could be broadened to include the re-competition of work previously awarded to the private sector if the benefits of competition are to be fully realized. However, starting with an examination of FAIR Act inventories is the right direction. As time goes by and more work is outsourced, the value of periodic competitions to allow federal employees and others to challenge the incumbent may prove beneficial. It may also be beneficial to see if some portion of the current \$88 billion in direct services contracts should be brought in house.

- ▶ “Fifth, when an activity currently being performed in-house is converted to performance by contract . . . the in-house employees must be afforded the opportunity to compete to retain the work.”

Given the philosophy that the administration has espoused of wanting the best deal for the taxpayer, this principle is likely to find its way into their guidance. The point of this principle is not just that federal employees compete but that the specific employees currently in the jobs affected are allowed to compete. In the past, pref-

erence has been given to incumbent employees recognizing that change can be disruptive and achievement of a marginal reduction in cost may in fact undermine the effectiveness of service provision and cost more in the aggregate. This is a sensible rule and I hope that it will be continued.

- ▶ “Finally, we must acknowledge the other reinvention and management improvement initiatives that are ongoing and must not delay or cause unnecessary administrative burdens upon the agencies.”

The current President’s Management Agenda is broader than just Competitive Sourcing. The elements of human capital, financial performance, connecting resources to results and e-government have enormous potential to promote “efficiency and effectiveness”. To allow acrimony surrounding one of the Agenda items to harm the others would be counterproductive.

Competitive Sourcing in Context

The current volume of contract services is extremely large. GAO portrays it as follows:

- Every minute of every business day the government buys an average of \$1.9 million in goods and services.
- In FY 2000, federal agencies spent \$88 billion on services, more than all other acquisition categories.³

During the prior administration, the workforce was reduced by a total of more than 350,000 full-time employees (FTEs). It is not known how many of these FTEs were replaced with contract workers although GAO has noted that the total volume of civilian and defense contracting dollars also declined during this period. This is consistent with the findings reported by Paul Light: “Overall, total federal employment fell 10% from 1984 to 1996, from 2.1 million to 1.9 million, while contract-purchased jobs dropped 17 percent, from 6.8 million to 5.6 million.”⁴ At an average cost per FTE of \$40,000, a reduction of 350,000 FTE would produce annual savings of \$14,000,000,000.

In this context, the commercial FTE in the FY 2000 FAIR Act inventories totaled 850,000. A five-percent goal for competition would be 42,500 and this would increase accordingly over the next several years. Historically, OMB has estimated that each FTE studied typically yields \$10,000 of savings. Clearly this is an important saving but only one of many that needs to be realized to meet the President’s goal of wise and efficient use.

³GAO Presentation at the May 2002 meeting of Competitive Sourcing Panel.

⁴“The True Size of Government, by Paul Light, p. 25.

Conclusion

Competitive sourcing is an important tool whether it is to create a government that “works better and costs less” or one that manages resources “wisely and well”.

The next step in the process outlined by the administration is the promulgation of regulations for undertaking this

activity. They have also indicated that they would study the recommendations of the GAO Commercial Activities panel. Both of these are excellent activities. Maintaining a forward momentum for management means being vigilant on many fronts simultaneously. Better programs, better results, better administration must all be balanced with the need to serve the public and gain their trust. 