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Subject AFGE 3607 Comments on Outsourcing

The Union applauds EPA's relative restraint to date from dismantling the Agency under the color of "competitive sourcing." Since the Union is generally opposed to the Office of Management and Budget's (OMB's) implementation of the FAIR Act as waste of taxpayer's money, I'm not sure why you asked for Union comments on your June 28, 2005 memo "Competitive Sourcing." Nonetheless, AFGE Local 3607 offers the following thoughts on EPA's analysis of commercial functions:

None of the "functions" listed as "potential candidates" for competitive sourcing at EPA have a good prospect for taxpayer savings as a result of a competitive sourcing process. EPA protestations notwithstanding, this latest round of competitive sourcing is driven by an OMB sanctioned numerical quota, which is apparently based on EPA's admittedly flawed 2004 FAIR Act Inventory. The Union agrees with you that OMB's FAIR Act implementation guidance is completely out of touch with EPA's functions and organization. Starting from that flawed guidance yields the dubious result that 850 EPA FTE perform "commercial functions." This number of FTE is arbitrary, and unrelated to any credible analysis of the work EPA actually performs.

Moving on to the specific functions listed as potentially commercial:

Outsourcing job functions A, B, I and J (IT, administrative services, records management, and laboratory services) would leave EPA at the mercy of its vendors to perform its work. We've been through the opposite version of this in the 1990's with IT where Congress directed EPA to "convert" contractor positions to EPA employees because EPA was too reliant on contractors. EPA already spends far more on IT contracts than on salaries for EPA IT employees. Why defy Congressional intent? At least in the Region 8 office contractor and grantee provided services make up the bulk of EPA's expense in these functional areas. Further cutting EPA staff oversight of these functions is reckless, and increases the potential for contracting impropriety.

Outsourcing job functions C, D, E, F and G (financial services; grants specialists, project officers and closeout; and Superfund cost recovery) would likely put EPA technical staff in a difficult position of having to violate provisions in EPA Order 1900.1 CHG 1 (Interim Policy) in order to get their work done. All five of these job functions support EPA staff who make decisions on how to spend Federal funds. All five of these functions require EPA technical staff to work closely with EPA staff who currently hold these positions. Regarding the grants functions, its impossible to imagine Congressional support for competitive sourcing these functions given the ongoing controversy about the adequacy of EPA grants oversight.

Specific provisions of EPA Order 1900.1 CHG 1 that could be violated include:

- (1) Prohibition of personal services contracts** . These are characterized by the “actual or apparent supervision of contractor employees by Government employees.” OIG and GAO have previously identified problems in EPA contract management activities, especially as related to the technical direction of on-site contractors.
- (2) Requirement that only COs and CORs may engage in technical direction with contractor personnel**
- (3) Contractors should not be provided with copies of EPA internal deliberative correspondence** , except by the CO or COR, and only if it is covered under the Statement of Work.
- (4) Contractors shall not attend meetings as the official representative of an EPA organization**

To give some specific examples of how this outsourcing would not work for these categories:

(1) Function C - contract payments

Even the simple function of approving an invoice for payment would become difficult if these EPA staff were outsourced. For instance, when problems or discrepancies occur on invoices, the EPA staff can (as requested by the Procurement Request originator) call the vendor to investigate and correct the problem. If this function is outsourced, would the originator of a Procurement Request have to contact the CO for the “outsourced” contractors at EPA-RTP in order to get an invoice fixed?

(2) Function D, E, F - grants management functions

If these job functions were outsourced, how could contractors participate in pre-application meetings; assess applicants' technical capabilities; prepare funding recommendations; perform on-site reviews of grant recipients; negotiate approved “fair share” objectives; perform fiduciary reviews; negotiate work plans and budgets with grant applicants; and resolve payment issues? By performing any of these activities, the contractors would be acting as a representative of EPA, which is prohibited by EPA Order 1900.1.

Regarding function I, compliance assistance, the "considerations" listed in your memo are all significant. The Union cannot see any way to maintain credible "in-house expertise" if these functions are subjected to competitive sourcing.

I hope you will consider these comments, revisit the EPA competitive sourcing plan, and tell OMB that EPA needs to complete a viable FAIR Act analysis of its functions prior to initiating new competitive sourcing efforts.

Thank you.

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