

ADDRESSES: Ledia Esther Bernal, OSHRC Clearance Officer, 202-606-5390, Occupational Safety and Health Review Commission, 1120 20th Street, N.W., Ninth Floor, Washington, DC 20036-3419, Stuart Shapiro, OMB Reviewer, (202) 395-7857, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Patricia A. Randle,
Executive Director.

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OFFICE OF MANAGEMENT AND BUDGET

Request for Agency and Public Comments

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Request for agency and public comments.

SUMMARY: The Office of Management and Budget (OMB) publishes a request for agency and public comments on three proposed technical changes to the OMB Circular A-76 Revised Supplemental Handbook.

DATES: Agency and public comments on the proposed changes are due to OMB not later than June 19, 2000.

ADDRESSES: Address all comments to the Office of Federal Procurement Policy, NEOB Room 9013, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, FAX Number (202) 395-5105.

FOR FURTHER INFORMATION CONTACT: Mr. David C. Childs, Office of Federal Procurement Policy, Telephone No. (202) 395-6104.

AVAILABILITY: Copies of the OMB Circular A-76, its Revised Supplemental Handbook and currently applicable Transmittal Memoranda may be obtained at the OMB Home page. The online address (URL) is <http://www.whitehouse.gov/OMB/circulars/index.html#numerical>.

Interested parties are reminded that OMB Circular No. A-76, Transmittal Memoranda 1 through Transmittal Memorandum 14 are canceled. Transmittal Memorandum No. 15 provided the Revised Supplemental Handbook dated March 27, 1996 (**Federal Register**, April 1, 1996, pages 14338-14346) and remains in effect. Transmittal Memoranda No. 16, 17 and 18, which provided previous A-76 related Federal pay raise and inflation factor assumptions are canceled.

Transmittal Memorandum No. 19, to the extent that it provided last year's A-76 related Federal pay raise and inflation factor assumptions, is canceled. The standard retirement cost factors for the weighted average CSRS/FERS pension and Federal retiree health cost numbers and the post-retirement health costs also provided by Transmittal Memorandum No. 19, remain in effect. Transmittal 20, which implemented the Federal Activities Inventory Reform (FAIR) Act, remains in effect.

SUPPLEMENTARY INFORMATION:

1. In last year's Federal Activities Inventory Reform Act (FAIR) guidance (OMB Circular A-76 Transmittal Memorandum No. 20), OMB stated that the statutory 30-day and 28-day challenge and challenge response periods would be calendar days, while the 10-day appeal period would be working days. OMB is aware that the 30-day deadline for filing challenges was very difficult to meet in 1999. OMB therefore proposes to change, Appendix 2, paragraph g.3., of the Revised Supplemental Handbook to provide for 30-working days. It is likewise proposed that Appendix 2, paragraph g.4., be changed to reflect 28-working days.

2. When asked what, if any, other changes are needed to the Supplemental Handbook, the Department of Defense expressed only one concern—that Part 1, Chapter 3, paragraph K.1.e., which requires appellants to “demonstrate that the items appealed (in an A-76 cost comparison) individually or in aggregate, would reverse the tentative decision,” appears to be in conflict with the statement at Part 1, Chapter 3, paragraph K.7., that provides that sequential appeals are not authorized. It has been suggested that these two statements create an inappropriate standard for the initial winner of the tentative decision. We agree. All concerns regarding the conduct of a cost comparison should be brought forward to the appeal authority within the single appeal period. Therefore, to ensure that all relevant concerns with the conduct of a cost comparison are brought forward, it is proposed that Part 1, Chapter 3, paragraph K.1.e. be voided.

3. Recently, the General Accounting Office expressed concerns regarding the inclusion of Federal employees, whose jobs are included in an A-76 cost comparison study, as members of a related A-76 Source Selection Team. As a result, OMB has decided to strengthen its long standing policy limiting such participation, as a better business practice. Individuals who hold positions in an A-76 study should not be members of the Source Selection Team,

unless an exception is authorized by the head of the contracting activity.

Exceptions may be authorized only in compelling circumstances and, in such cases, the head of the contracting activity will provide a written statement of the reasons for the action. OMB has also been concerned that serving on a Source Selection Team develops certain important skills among the employees that the Government could be in greater risk of losing, if this “workforce investment” became subject to being outsourced. OMB has, therefore, determined that restrictions on source selection evaluation or advisory team membership should be clarified. OMB proposes to revise Part 1, Chapter 3 paragraph H. 3.b. of the Revised Supplemental Handbook as follows:

b. “The Government should establish a source selection evaluation or advisory team. Individuals who hold positions in the function under study should not be members of the team, unless an exception is authorized by the head of the contracting activity. Exceptions will be authorized only in compelling circumstances and, in such cases, the head of the contracting activity shall provide a written statement of the reasons for the action.”

Sylvia M. Mathews,
Deputy Director.

Circular No. A-76 (Revised)

Transmittal Memorandum No. 22

To the Heads of Executive Departments and Agencies
Subject: Performance of Commercial Activities

This Transmittal Memorandum implements changes to the OMB Circular A-76 Revised Supplemental Handbook in furtherance of the requirements of the Federal Activities Inventory Reform Act (“The FAIR Act”), Public Law 105-270 and to clarify other issues of concern. The March 1996 Revised Supplemental Handbook was issued through Transmittal Memorandum 15, published in the April 1, 1996, **Federal Register** at pages 14338-14346. The March 1996 Revised Supplemental Handbook was further revised to implement the requirements of the FAIR Act on June 14, 1999, **Federal Register** at pages 33927-33935.

The Federal Activities Inventory Reform Act (FAIR) provides that there shall be a 30-day administrative challenge period available to interested parties who might wish to challenge and agency's decision to include or omit an activity from the list of potential commercial activities. As a part of OMB Circular A-76 Transmittal Memorandum No. 20, dated June 14,

1999, OMB stated that the statutory 30-day and 28-day challenge and challenge response periods would be calendar days, while the 10-day appeal period would be working days. OMB is aware that the 30-day deadline for filing challenges was very difficult to meet in 1999. Appendix 2, paragraph g.3., of the Revised Supplemental Handbook is, therefore, revised to reflect 30-working days. Appendix 2, paragraph g.4., is also changed to reflect 28-working days.

Concern has been expressed that Part 1, Chapter 3, paragraph K.1.e., may be in conflict with the statement at Part 1, Chapter 3, paragraph K.7., that provides that sequential administrative cost comparison appeals are not authorized. It is OMB's view that all concerns regarding the conduct of a cost comparison should be brought forward to the designated appeal authority within the single appeal period. Therefore, to ensure that all relevant concerns with the conduct of a cost comparison are brought forward, Part 1, Chapter 3, paragraph K.1.e. is hereby voided.

And finally, OMB has been concerned that the use of Federal employees on Source Selection Teams, when those employees are subject to losing their jobs or otherwise being adversely affected by the award of the contract being reviewed by that Source Selection Team, is a poor business practice. OMB is also concerned that such a practice puts certain important skills that are developed by participating on a Source Selection Team at Risk. Therefore, OMB revises Part 1, Chapter 3 paragraph H. 3.b. of the Revised Supplemental Handbook as follows:

b. "The Government should establish a source selection evaluation or advisory team. Individuals who hold positions in the function under study should not be members of the team, unless an exception is authorized by the head of the contracting activity. Exceptions will be authorized only in compelling circumstances and, in such cases, the head of the contracting activity shall provide a written statement of the reasons for the action. As a result, OMB has decided to strengthen its long standing policy limiting such participation, as a better business practice. Individuals who hold positions in an A-76 study should not be members of the Source Selection Team, unless an exception is authorized by the head of the contracting activity. Exceptions may be authorized only in compelling circumstances and, in such cases, the head of the contracting activity will provide a written statement of the reasons for the action."

All changes in this Transmittal Memorandum are effective immediately and shall apply to all cost comparisons in process where the Government's in-house cost estimate has not been publicly revealed before this date. Current A-76 guidance can be accessed at OMB's homepage at <http://www.whitehouse.gov/OMB/circulars/index.html#numerical>.

Sylvia M. Mathews,
Deputy Director.

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OFFICE OF MANAGEMENT AND BUDGET

Issuance of Transmittal Memorandum No. 21 Amending OMB Circular No. A-76, "Performance of Commercial Activities"

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Issuance of Transmittal Memorandum No. 21, amending OMB Circular No. A-76, "Performance of Commercial Activities."

SUMMARY: This Transmittal Memorandum updates the annual Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay costs, as generally provided in the President's Budget for Fiscal Year 2001.

DATES: All changes in the Transmittal Memorandum are effective immediately and shall apply to all cost comparisons in process where the Government's in-house cost estimate has not been publicly revealed before this date.

FOR FURTHER INFORMATION CONTACT: Mr. David C. Childs, Office of Federal Procurement Policy, NEOB Room 9013, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Tel. No. (202) 395-6104.

AVAILABILITY: Copies of the OMB Circular A-76, its Revised Supplemental Handbook and currently applicable Transmittal Memoranda may be obtained at the OMB Homepage on the Internet. The online address (URL) is <http://www.whitehouse.gov/OMB/circulars/index.html#numerical>.

Sylvia M. Mathews,
Deputy Director.

Circular No. A-76 (Revised)

Transmittal Memorandum No. 21

To the Heads of Executive Departments and Agencies

Subject: Performance of Commercial Activities

This Transmittal Memorandum updates the annual Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay costs, as generally provided in the President's Budget for Fiscal Year 2001.

The non-pay inflation factors are for purposes of A-76 cost comparison determinations only. They reflect the generic non-pay inflation assumptions used to develop the FY 2001 Budget baseline estimates required by law. The law requires that a specific inflation factor (FY/FY G.D.P. chain price index) be used for this purpose. These inflation factors should not be viewed as estimates of expected inflation rates for specific major long-term procurement items or as an estimate of inflation for any particular agency's non-pay purchases mix.

Federal pay raise assumptions effective date	Military/civilian (percent)
January 2000	4.8
January 2001	3.7
January 2002	3.7
January 2003	3.2
January 2004	3.2
January 2005	3.2

Non-pay categories (supplies and equipment, etc.)	Percent
FY 1999	1.3
FY 2000	1.5
FY 2001	2.0
FY 2002	2.0
FY 2003	2.0
FY 2004	2.0
FY 2005	2.0

The pay rate (including geographic pay differentials) that are in effect for 2000 shall be included for the development of in-house personnel costs. The pay raise factors provided for 2001 and beyond shall be applied to all employees, with no assumption being made as to how they will be distributed between possible locality and ECI-based increases.

Agencies are reminded that OMB Circular No. A-76, Transmittal Memoranda 1 through Transmittal Memorandum 14 are canceled. Transmittal Memorandum No. 15 provided the Revised Supplemental Handbook dated March 27, 1996 (**Federal Register**, April 1, 1996, pages 14338-14346) and remains in effect. Transmittal Memoranda No. 16, 17 and 18, which provided previous A-76 related Federal pay raise and inflation factor assumptions are canceled.