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Competitive Sourcing in the Federal Civil Service

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Competitive sourcing, meaning public–private competitions to perform work in the federal civil service, was made a priority management policy of the George W. Bush administration. Competition, it is believed, will greatly enhance administrative efficiency whichever bidder, public or private, wins. Introduction of such market-based human resource policies into the federal civil service has engendered debate over long-term effects on merit principles, public service motives and ethics, and administrative performance. This article contributes to that discussion by examining the policy origins and purposes behind competitive sourcing and by analyzing implementation of the policy during the Bush administration. Results show that the market ideology expressed in competitive sourcing has been moderated and mediated by the implementation process. Congressional and public employee involvement alongside that of the administration produced policy outcomes of mixed results.

Keywords: human resources; implementation; market policies; public–private competitions

In May, 2003 the U.S. Office of Management and Budget (OMB) released its substantially revised Circular A-76 issuing directives and guidelines to federal departments and agencies for implementing competitive sourcing. Under this initiative, departments are required to produce annual inventories of personnel activities, not positions, classified as either commercial or inherently governmental. Activities deemed to be commercial in nature are potentially subject to public–private competitions, pitting federal employees against private sector providers in bidding for the right to conduct the work of government.

On the face of it, defining all federal personnel activities as fitting into either one of two categories is daunting. Although some activities appear to be easily distinguishable as commercial, often the situation is not clear cut. For example, clerical activities such as answering phones, monitoring and responding to e-mail, maintaining electronic and paper files, greeting office visitors, and typing letters and documents are easy to define as commercial. Many private sector employees could perform this work as easily as government employees. However, one might question whether these activities should be classified as commercial when conducted in the office of a career professional administrator or political appointee in a key policy making position. The sensitive nature of information handled in the clerical activities could easily be classified as inherently governmental. Multiply this by...
thousands of activities across the departments of government and their geographical units, and the scope of the challenge becomes apparent. Several reasons have been expressed in law and administrative policy statements for requiring competitive sourcing in the federal service. Reasons in past administrations include that government should not take commercial jobs away from the private sector (Light, 2003). However, in the administration of President George W. Bush, justification for competitive sourcing has revolved around the presumed benefits of competition. The administration felt that public employees are given an incentive to closely examine their work, search for ways to innovate, redefine their work, and design new processes and procedures by being required to compete for their jobs (Department of Agriculture competitive sourcing officer [CSO], personal communication, April 2007). In this way, cost efficiencies are obtained and productivity increased. The same benefits are acquired if the public employees fail to produce a winning bid and the private sector wins the competition. Competitive sourcing, in the Bush administration, then appears to be rooted in a market based human resource policy framework.

This article examines the application by the George W. Bush administration of competitive sourcing in the federal civil service. It begins by placing the current practice in the context of previous law and policy and the Bush administration’s agenda for reform in human resource management. Then, the structure and process of competitive sourcing is described. Utilizing federal data and documentary sources and interviews with federal officials, we then examine potential effects of competitive sourcing on the federal civil service. We find that although the Bush administration’s competitive sourcing policy succeeded in implanting market-like forces through public–private job competition, the policy’s goals were notably modified during the process of implementation by contending administrative and political forces.1

Policy Background

Competitive sourcing in the federal government is a process for structuring public–private competitions for the right to perform activities defined as commercial in character. It is not the same as contracting out where government bids work solely to the private sector. Instead, federal employees are given the opportunity to prepare a contract bid and are allocated administrative staff resources to help them design a competitive work plan. There has been similar practice of public–private competitions at the local level, most prominently in Phoenix and Indianapolis but also in such localities as Charlotte and Meclenburt County, North Carolina, Milwaukee, and New York (Enos, 1996; Foster, 1997; McGillicuddy, 1996). In a survey of 135 municipalities, 26.5% reported allowing employees to compete with private vendors (Moulder, 2004, p. 3).

Competitive sourcing is a component of one of the latest efforts to reform the federal civil service that have occurred over the past three decades. The 1978 Civil Service Reform Act reorganized the civil service structure and was intended to strengthen presidential management over the federal administrative structure (Campbell, 2003; Ingraham, 1992). Following the Reagan administration’s insistence that government is the problem and the
growing practice of privatizing government service, the tone of civil service reform took on decidedly business management characteristics. The George H. W. Bush administration’s promotion of total quality management represented a movement away from political management to endorsement of emerging private sector flexible, participative, customer-oriented management theory. The Clinton administration followed up with reinvention of government’s entrepreneurial paradigm which further promoted the concepts of customer satisfaction, achievement of results over following rules, empowering employees and decentralizing departments and agencies, and perhaps diminution of administration’s political and legal accountability (Moe, 1994).

President George W. Bush’s administration has emphasized market based principles for accomplishing further changes in the federal civil service. This direction was clearly articulated in issuance of the President’s Management Agenda (PMA) in 2002. The PMA declared a need to “reform” and “rethink” government, stating that “government should be . . . market-based, actively promoting rather than stifling innovation through competition” (U.S. OMB, 2002, p. 4).

Two of the five PMA government-wide management initiatives were strategic management of human capital and competitive sourcing. Civil service reforms evoked by strategic management of human capital include initiatives to implant pay for performance throughout the entire administrative system and substitution of broad-banding pay scales for the general schedule. These Bush administration reforms were reflected in legislation creating the new personnel system of the Department of Homeland Security (DHS) and in the National Security Personnel System created by the Department of Defense (DoD). As a result of changes carried out by the Bush and previous administrations, the civil service is less and less a uniform system. Agencies throughout the federal government have been granted exemptions from Title V of the U.S. Code on the civil service, including waivers of merit principles, hiring, performance management, classification and pay, labor management, and adverse actions (U.S. General Accountability Office, 2005).

The origins of the current competitive sourcing initiative lie in the issuance of several OMB bulletins, beginning in 1955, and publication of Circular A-76 in 1966. The original A-76 purpose was to declare that government should not interfere with the private sector by performing work that was commercial in nature (Light, 2003). Outsourcing was encouraged. The original circular states in part that “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” (U.S. OMB, 1999, p. 1).

Over time, revisions in the A-76 transformed the intent of government policy from outsourcing work to engaging in public–private competitions, giving federal employees performing activities defined as commercial the opportunity to redesign their work and offer competitive bids. The 2003 circular emphasizes competition rather than outsourcing:

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. (U.S. OMB, 2003)

The circular makes it clear that competition includes public employees.
The crucial step in competitive sourcing is defining commercial and inherently governmental activities. Policy Letter 92-1, issued in 1992 by the Office of Federal Procurement Policy, defined inherently governmental positions. This was followed up in 1998 by the Federal Activities Inventory Reform (FAIR) Act, which defined and required an annual inventory of commercial activities (U.S. OMB, 1998). Finally, the revised A-76 issued in 2003 required departments to produce by June each year an annual inventory of both commercial and inherently governmental activities and instructed them in how to define the two types. The circular further requires that a CSO at the assistant secretary level be appointed in each department to oversee the process, describes the procedures for conducting streamlined and standard competitions, establishes a framework for formulating the department’s bid, and describes procedures for comparing bids (U.S. OMB, 2003).

Prior to the Bush administration, competitive sourcing had been little utilized by the federal government (Light, 2003). An exception was the DoD, which pursued an active competition agenda by the mid-1990s. As part of its National Performance Review initiative, the Clinton administration focused its competitive sourcing initiative on DoD (Gansler & Luscycshyn, 2004).

Challenges of Competitive Sourcing

Conceptually, competitive sourcing could result in breaking apart whole positions as they have been defined, diminishing public service values, and drawing sharper distinctions between line and staff employees. First, competitive sourcing imposes the classification of activities on top of the traditional practice of defining positions. Position descriptions define whole units of work in respect to an array of duties and responsibilities. Definitions of activities may cut through those whole units of work contained in position descriptions, naming individual tasks as commercial and dividing them for separate competitions or defining some position tasks as commercial and others as inherently governmental. The effect would be to recombine and narrow the scope of positions.

Position descriptions are written in the abstract, that is, they are written independently of any particular job incumbent. However, position analyses are influenced by current job incumbents whose assumption or delegation of new tasks and responsibilities over time may affect writing of new position descriptions. Classifying activities adds a layer of abstraction to position analysis, being another step removed from the link with job incumbents. It does not consider possible effects of separating tasks on current job holders. One Department of Labor (DoL) official described this effect on incumbent employees in the following manner. A competition is held for commercially designated clerical activities that include basic office duties like data collection, record keeping, and correspondence. One of the position tasks, considered inherently governmental and therefore separated from the commercial activities, includes responding to information inquiries and requests for assistance from the public, which makes the job more attractive to job holders because it provides creative work beyond the routine clerical duties. Competitive sourcing does not take into account these potentially dispiriting effects when it focuses solely on activities in the abstract and does not take into account consequences for the workforce performing those duties.
Second, classifying activities as inherently governmental or commercial, considered in terms of its fullest impact, draws distinct boundaries between the public and private sectors and extends those boundaries into the civil service. Although government employees may win competitions and retain work activities, conceptually those winning employees are equated to private sector workers. The federal government may be their employer but their employer considers them to be commercial workers engaged in typical private sector work. This raises concerns about the values and motivations that draw people to the public sector. There is evidence to suggest that people choose government employment because of the opportunity to pursue public service goals. For instance, Wright (2007) found in a study of a large state agency that employees were motivated by challenging goals and by the intrinsic value they attached to the public mission of their agency. These motivators may well be compromised through competitive sourcing by narrowing the scope of work and telling employees their work is essentially commercial in nature and only secondarily contributes to the public service mission. Government may then be encouraging individual, self-interest motivators while diminishing communal, public service values.

Third, competitive sourcing further separates line and staff employees through the tendency to define the latter as commercial. A basic delineation of the two types is that line employees are engaged in direct service delivery to the public whereas staff employees provide administrative support. These include such tasks as human resource management, accounting, purchasing, information technology, and legal services, many of which are defined as commercial activities. These tasks do indeed seem to have been the focus of most of the competitions. In fiscal years 2004 to 2007, 65% of competed FTEs fell within the categories of information technology, logistics, and property management, with another 20% from human resources, finance and accounting, and administrative support (U.S. OMB, 2007a, p. 8).

There has been much concern about the potential effects of competitive sourcing and other market-like human resource practices, even calling them “radical civil service reform” (Condrey & Battaglio, 2007). Alternative views on such market policies were framed in an exchange of views by Patricia Ingraham (2006) and James Thompson (2006).

Ingraham (2006) contends that competitive, productivity-based reforms are compatible with public sector merit principles. She defines merit as “not only the necessary skills and competencies to fill the job in question but also a public service character—a desire to act, not for individual self-interest but for a broader good” (p. 487). Guided by merit’s public service values, current reforms of the system, she observes, calling for performance accountability of individuals and agencies and reduction of uniform, standard civil service rules and regulations will likely improve administrative agencies’ performance in “pursuit of organizational mission and governmental effectiveness” (p. 493).

Thompson (2006), in contrast, decries the “performance paradigm” of recent reforms that serve “primarily instrumental purposes” which rob “the civil service of its moral content” (p. 496). Public employees are not bound by a sense of pursuing the public interest because the focus is on achieving organizational goals, producing measurable results, and receiving individual rewards. Lacking common values and some common set of workplace procedures that reinforce commonly shared merit values, the civil service is being deinstitutionalized (p. 497).

Stivers and Hummel (2007) echo Thompson, observing that defining only some sets of activities as inherently governmental ignores the fundamental responsibility of civil servants
to exercise discretionary judgment on behalf of the citizens of the nation. They ask what guides the judgment of contract employees and civil servants engaged in commercial activities who are less politically and bureaucratically accountable.

Klingner and Nalbandian (1998) appear to strike a middle ground on the presumptive effects of market-based human resource policies such as competitive sourcing. They note that at various points in the nation’s history, new human resource values were introduced but that no newly adopted value completely supplants existing ones. Instead, values accumulate (e.g., political responsiveness, efficiency, individual rights, social equity), creating a civil service system of sometimes contradictory and clashing practices. Competitive sourcing potentially adds to this accumulation, neither negating existing values nor integrating comfortably with them. This, in large part, has to do with the fact that the process of policy implementation often mitigates the potential effects of reform intended by those who initiate them and feared by those who criticize them. This has been, we argue in this article, the case with competitive sourcing.

In a recent article, Riccucci and Thompson (2008) examine the Bush administration’s attempt to fundamentally change the civil service system at the DHS. They discuss in detail how the courts and congressional politics driven by the federal employees unions derailed DHS’s civil service provisions during implementation. Their findings that policy intentions often flounder on the shoals of policy implementation and the important role politics plays in policy implementation once again confirm the findings of the three decades of policy implementation studies. Pressman and Wildavsky (1973) and Derthick (1972) in their groundbreaking studies showed how local politics drastically modified the purposes of policies during implementation. Studies of politics of policy implementation are important in our understanding of why policies succeed or fail (Ingram & Mann, 1980).

In this article, we show that congressional actions and employee unions’ opposition to competitive souring initiative during its implementation significantly reduced its reach and impacts on the federal civil service. We also find that competitive sourcing in federal agencies appear to have emphasized helping existing employees improve their performance rather than sourcing their jobs to private contractors. While limiting the impact of competitive sourcing, this approach has made the implementation of the competitive sourcing policy less overtly conflictual.

Data for this analysis were gathered through departmental data bases recording FAIR inventories, documents produced by OMB and federal departments, and selected interviews with federal officials. We find that although as a formal policy competitive sourcing embraces market-like practices that could bring significant change to the civil service, in its implementation its impacts have been muted.

**The Competitive Sourcing Process**

Competitive sourcing is a complex process and the details of implementation vary across departments. However, the broad scope of competitive sourcing can be summarized in the following manner.

The process begins with the annual FAIR Act inventories of commercial and inherently governmental activities. The definition of each type is crucial. Circular A-76 takes great
pains in defining inherently governmental activities, taking one and a half pages to do so while devoting a short paragraph to commercial activities (U.S. OMB, 2003, A-2, A-3). Two justification tests are applied for not including activities in competitive sourcing. The first justifies classification of an activity as inherently governmental and the second justifies exemptions of commercial positions from competition. Regarding the first test, CSOs are required to “justify” to OMB classifications of inherently governmental activities (Section B-1). They do not have to explain commercial designations.

In brief, A-76 defines inherently governmental as “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” (U.S. OMB, 2003, A-2). Powers and authorities exercised by inherently governmental activities include binding the United States to contracts; protecting economic and political interests; affecting life, liberty, and property; and acquisition and disposition of property.

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. (U.S. OMB, 2003, A-3)

The federal personnel system through its job classifications contains extensive information on position tasks and responsibilities, but it is not structured to systematically categorize activities according to the two FAIR inventory types. To aid in accomplishing this purpose, the DoD developed a list of Function/Activity Codes (U.S. OMB, 2005). The list contains 23 major activity headings (e.g., personnel management, regulatory management, health services), with each broken down into specific activities ranging in number from 12 activities (testing and inspection) to 84 activities (health services). CSOs use this list to code activities reported in their annual inventories. The report itself lists the number of full-time equivalents (FTEs) in each activity code applicable to the department and according to their classification as commercial or inherently governmental.

The second justification test requires the CSO to explain “the rationale for government performance of a commercial activity” (U.S. OMB, 2003, A-3). The policy assumes that commercial activities will be competed but provides for exceptions. Each inventory must apply a “reasons code” that explains why an activity is not being competed or to confirm that competition has been completed or is in planning or process.3

There are two types of competition—streamlined and standard. Streamlined competitions may be used for a group of activities constituting 65 or fewer FTEs (U.S. OMB, 2003). Utilizing a streamlined competition form, agencies estimate the costs of in-house and private sector performance of the activity. Fee-for-service-based provision by a public entity may also be included. Estimates of private provision are based on available market data, and bids may be solicited. To protect the integrity of the process, there is a firewall built between the individuals calculating government and private sector cost estimates. The costs are compared and a decision made as to which entity, public or private, will conduct the activity. Streamlined competitions must be completed within 90 days (extensions allowed).
Figure 1 outlines the more extensive standard competition. This competition is meant for activities involving more than 65 FTEs (an agency may also choose the standard competition for activities involving less than 65 FTEs). It is to take no more than 12 months, from announcement of a pending competition to the performance decision. Once the initial planning takes place, which includes grouping activities and notifying affected employees, a Performance Work Statement (PWS) is developed. The PWS is the agency’s statement of need, describing work activities, technical requirements, and performance standards. The solicitation for bids is then issued. Along with the PWS, a Quality Assurance Surveillance Plan is designed for the monitoring of performance of the competition winner.

Public employees prepare for the competition by creating a Most Efficient Organization (MEO). A MEO team is appointed by the agency tender officer and allocated departmental resources to insure employees can offer a competitive bid. For instance, training support in how to create an MEO is provided along with assistance from a human resource advisor to help with such personnel matters as redesigning jobs. An MEO may also secure private sector assistance in developing its plan, especially when it determines that the newly designed activities will include subcontracting with private businesses. Through the MEOs, public employees propose how they will perform activities and at what cost. This is their contract offer. To ensure fair public–private competition, a firewall is built between the MEO and those who write the PWS and those who select the competition winner.

Bids are received and evaluated for compliance with the requirements of the solicitation and the competition decision made. Should the private entity win, a contract is signed.
Should the MEO win, a letter of obligation (LOO) is signed by the responsible government official charged with carrying out the terms of the MEO.

### Implementation of Competitive Sourcing

A basic summary of the achievements of competitive sourcing are recorded in Table 1. Over a 5-year period (FY 2003 to FY 2007) following redrafting of Circular A-76 in 2003, a total of 1,375 competitions were held for 50,980 FTE positions. Although the large majority of competitions were streamlined, 77% of FTEs were competed through the standard process, which was likely to result in MEO–private sector competition. Federal employees fared very well in the competitions. Approximately 83% of competed FTEs were secured by federal employees.

The Bush administration has declared competitive sourcing an unqualified success, generally defined as cost savings. Following the FY 2007 competitions, OMB estimated that 5 years of competitions brought a net savings of $7.3 billion, spread across a 5- to 10-year period (U.S. OMB, 2008). These savings were thought to be achieved by such means as redesigning work, introducing technology, reducing the number of employees, and contracting out. In another measure of success, OMB designed a scorecard system to rate departments on their progress in implementing each of the five policies of the PMA. A three-color scoring scheme in a simple graphic fashion presents OMB’s evaluation of each

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<tbody>
<tr>
<td># streamlined competitions completed</td>
<td>570</td>
<td>116</td>
<td>124</td>
<td>120</td>
<td>76</td>
</tr>
<tr>
<td># standard competitions completed</td>
<td>92</td>
<td>101</td>
<td>57</td>
<td>63</td>
<td>56</td>
</tr>
<tr>
<td>Total</td>
<td>662</td>
<td>217</td>
<td>181</td>
<td>183</td>
<td>132</td>
</tr>
<tr>
<td>FTEs, streamlined</td>
<td>5,474</td>
<td>1,201</td>
<td>1,296</td>
<td>2,158</td>
<td>1,374</td>
</tr>
<tr>
<td>FTEs, standard</td>
<td>12,121</td>
<td>11,372</td>
<td>8,683</td>
<td>4,520</td>
<td>2,791</td>
</tr>
<tr>
<td>Total</td>
<td>17,595</td>
<td>12,573</td>
<td>9,979</td>
<td>6,678</td>
<td>4,165</td>
</tr>
<tr>
<td>% total FTEs competed through standard competition</td>
<td>69</td>
<td>90</td>
<td>87</td>
<td>68</td>
<td>67</td>
</tr>
<tr>
<td>% total FTEs where federal employees win competition</td>
<td>89</td>
<td>91</td>
<td>83</td>
<td>87</td>
<td>73</td>
</tr>
<tr>
<td>Incremental cost ($)</td>
<td>103 million</td>
<td>74 million</td>
<td>50 million</td>
<td>15 million</td>
<td>15 million</td>
</tr>
<tr>
<td>Net savings ($)</td>
<td>1.1 billion</td>
<td>1.4 billion</td>
<td>3.1 billion</td>
<td>1.3 billion</td>
<td>397 million</td>
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</tbody>
</table>


Note: FTE = full-time equivalent.

a. Estimate of 3- to 5-year savings.
b. Estimate of 5-year savings.
c. Estimate of 5- to 10-year savings.
department (red = unsatisfactory, yellow = mixed results, green = success). By the end of FY 2006, 10 of the 16 departments received a green (success) score on competitive sourcing and 5 had shown mixed results. Only the Veterans Administration was rated unsatisfactory (U.S. OMB, 2007b).

The 5-year data recorded in Table 1 suggest that the overall impact on the civil service in terms of forcing an evaluation and redesigning of work and possible competition for work has been limited. First, the percentage of employees directly affected by competitions has been small. In 2006 there were approximately 2,390,391 full-time civilian employees in the executive branch, 1,314,293 of whom were in the competitive service to whom competitive sourcing applies (U.S. Office of Personnel Management [OPM], 2006). The 50,980 FTEs competed is 2.0% of full-time employees and 3.6% of competitive service employees. Altogether, only 13% of commercial activities were competed between 2003 and 2007 (U.S. OMB, 2007a, p. 7).

Second, the pace of competition slowed down from 2003 to 2007. Each year showed a decline in the total number of FTEs competed, from 17,595 in 2003 to 4,165 in 2007. Of the total FTEs during the 5-year period, 59% were competed during the first 2 years. It is not clear whether the slackening of the pace of competition is because of increased difficulty in identifying work appropriate for competition, decline in management interest, declining resources to administer competitive sourcing, congressional opposition, employee and union opposition, or an assortment of other reasons.

FAIR Act inventory data shed further light on the potential effects of competitive sourcing on administrative agencies. Table 2 records FY 2005 inventories for 14 federal departments from which data were made available on request by the authors (two did not respond). The FTE total for inherently governmental and commercial activities in the 14 departments totaled 1,004,388. Of that total, a majority (54.4%) were classified as commercial. However, less than a quarter of all FTEs (22.7%) were potentially subject to public–private competition. Departments may request that OPM disqualify commercial activities from competition because of, for example, the sensitive nature of the positions, a need to preserve in-house competencies, or a lack of private sector interest in competing for activities. Congress has also disqualified commercial positions, most particularly in Homeland Security, from competitive sourcing. Altogether, in 2005, departments disqualified 48.4% of commercial activities whereas Congress disqualified another 10.0%. Still, a substantial number of federal activities (227,651 FTEs in 14 departments) were potentially subject to competition in FY 2005.

There is no uniform commercial–inherently governmental classification pattern across the 14 departments. The Department of Justice stands out in classifying 92.1% of its FTEs as inherently governmental. Six other departments (Health and Human Services, Labor, Treasury, State, Commerce, and Homeland Security) classify more than half of their FTEs in the inventory as inherently governmental. The Department of Education has the largest percentage of competitive, commercial FTEs (63.7%), whereas Agriculture has the largest number of competitive FTEs (47,376).

Three factors weigh heavily in producing the modest outcomes of competitive sourcing—administrative procedures, congressional action, and employee response.
<table>
<thead>
<tr>
<th>Department</th>
<th>Number of FTEs</th>
<th>Percentage of FTEs</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Commercial</td>
<td>Governmental</td>
</tr>
<tr>
<td>Education</td>
<td>1,205</td>
<td>490</td>
</tr>
<tr>
<td>Housing and Urban Development</td>
<td>1,037</td>
<td>2,668</td>
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<tr>
<td>Agriculture</td>
<td>34,179</td>
<td>11,833</td>
</tr>
<tr>
<td>Interior</td>
<td>28,327</td>
<td>13,280</td>
</tr>
<tr>
<td>Health and Human Services</td>
<td>35,558</td>
<td>5,666</td>
</tr>
<tr>
<td>Energy</td>
<td>4,921</td>
<td>4,985</td>
</tr>
<tr>
<td>Labor</td>
<td>8,998</td>
<td>1,872</td>
</tr>
<tr>
<td>Treasury</td>
<td>71,730</td>
<td>6,772</td>
</tr>
<tr>
<td>Transportation</td>
<td>15,796</td>
<td>28,026</td>
</tr>
<tr>
<td>State</td>
<td>6,613</td>
<td>2,908</td>
</tr>
<tr>
<td>Commerce</td>
<td>19,611</td>
<td>4,067</td>
</tr>
<tr>
<td>Veterans Administration</td>
<td>31,422</td>
<td>171,200</td>
</tr>
<tr>
<td>Homeland Security</td>
<td>99,863</td>
<td>4,671</td>
</tr>
<tr>
<td>Justice</td>
<td>98,363</td>
<td>6,484</td>
</tr>
<tr>
<td>Total</td>
<td>457,623</td>
<td>264,922</td>
</tr>
</tbody>
</table>

Source: FAIR Act inventories of 14 federal departments.

a. Activities disqualified from competition by Office of Management and Budget at the request of the department.
b. Activities disqualified from competition by congressional action.
Administrative Procedures

Although the A-76 revision of 2003 emphatically expressed the Bush administration’s intention to compete commercial activities, the fact that 83% of FTEs competed in a 5-year period were secured by federal employees suggests that civil servants have not had the deck stacked against them. It is important to note that federal employees have lost their jobs when winning MEOs eliminated positions. Still, the winning percentage for federal employees is outstanding.

An important support provided by the agencies to their employees is the resources they put into helping employees to prepare a bid. They are provided with management and human resource staff to guide development of the proposal and provide technical support, are given training in MEO preparation, and may be permitted to contract with consultants to help formulate the MEO. Employees are given essential support to prepare a credible bid.

This managerial and technical assistance for preparing an MEO has signaled that competitive sourcing was not used by the administration as a tool simply to reduce the number of government personnel. The administration’s own position has been that the purpose of competitive sourcing is to improve performance and efficiency in administration. That need not come at the expense of federal employees and indeed can well be accomplished by working with them. OMB has oversight of the process and agencies must justify classifications and report accomplishments to that presidential office. But CSOs we spoke to in Agriculture and Labor and an oversight official in OMB maintained that OMB does not exact close control over the actions and decisions of the individual agencies. The departments must report to OMB, they stated, but that office gives wide discretion to the departments and the decisions they make. This would mean a decentralized program that can satisfy the individual needs of departments and not a monolithic policy with rigid goals and rules.

A CSO in Agriculture expressed the view that the program was being used in that department mostly as a tool to reengineer work within existing agencies. Competitive sourcing gave employees the opportunity to think and act creatively to redesign their work and effect efficiency and effectiveness gains. Seen this way, competitive sourcing is the stimulus to break out of old job routines and confining job descriptions. Employees are given an incentive and tools to participate in this change and bring about new ways of doing things that they desire.

The nature of the MEO–agency agreement helps affirm the public service standing of the employees involved. Once federal employees win a competition, an LOO is signed by the agency official responsible for implementation of the MEO. This is unlike a government contract with a private provider that is governed by federal procurement laws and procedures. The LOO is enforced through an administrative process whereby a responsible agency official is held accountable, utilizing the evaluation procedures of the Quality Assurance Surveillance Plan, for ensuring that the MEO performs to the standards of the PWS. Presumably, routine management evaluation and sanction procedures regulate the performance of employees in the MEO.

Congressional Action

Two congressional actions greatly affected how competitive sourcing was actually conducted and constrained any administration impulses that may have been present to use the
policy as a means to turn more work over to the private sector. First, much to the consterna-
tion of the Bush administration, Congress imposed a requirement that contractor bids be
“less costly to the agency by an amount that equals or exceeds the lesser of 10 percent . . .
or $10 million” of the MEO cost (U.S. OMB, 2006, p. 1). The, 2003 A-76 revision had
replaced this method of cost comparison with a “best value” evaluation that permitted qual-
ity comparisons, but Congress restored it in 2005 (U.S. OMB, 2006). The 10% cost margin
may have contributed significantly to the 83% winning percentage of federal employees.

The administration vociferously opposed the congressional action, claiming that 14
competitions held in 2004 and 2005 using the best value method reaped 70% of net savings
($3 billion of $4.3 billion) obtained through all competitions (U.S. OMB, 2006). However,
close scrutiny of administration data shows that of those net savings, 51% came from one
large competition involving 2300 FTEs. That contract went to a private bidder that also met
the 10% cost comparison. Data gathered from departmental annual competitive sourcing
reports reveal that 11 of 13 best value competitions went to MEOs, indicating that federal
employees were not adversely affected by these qualitative comparisons.

A second important action of Congress in opposition to the administration was to make
LOOs open-ended in duration. The A-76 limited LOOs to 5 years, but in 2004 Congress
lifted that limitation, requiring only that agencies apply appropriate performance periods
(U.S. OMB, 2004). It bears watching to see whether LOOs are terminated by agencies at
some future date or federal employees retain their positions without further competitions.

In addition to the 10% cost comparison and lifting the 5-year limit on LOOs, Congress
has exempted numerous activities from being competed, thereby building firm protections
for civil servants against competition. Legislation, for instance, prohibited or restricted
competitions for rural development and farm loan programs, immigration, law enforcement
training, and Veterans Administration. Limits on competition funding were placed on the
Forest Service and for civil works programs. Congress’s FY2007 appropriations for the
DoL prevented the department from spending funds on competitive sourcing until 60 days
after the General Accountability Office produced a report on the process in DoL, a report
still pending in late 2008 (DoL official, personal communication, October 15, 2008).

Employee Reaction

As might be expected with a personnel reform so vigorously pursued by the president’s
administration, there has been employee resistance and political response. One dramatic
story involving competitive sourcing that captured public attention was that of the
deplorable conditions of some of the facilities at Walter Reed hospital. Maintenance activ-
ities had been subject to competition that a private contractor won. However, affected work-
ers protested, holding up the final award for 3 years. While the protest was being handled,
employees left in large numbers, possibly contributing to the dilapidated conditions at the
hospital and evoking criticism of competitive sourcing.

Employees and their unions became more vocal in their opposition as competitive sourc-
ing developed. For example, in June 2007, a group of Labor employees picketed the Capitol
building over the awarding of a competition encompassing more than 300 FTEs to a pri-
ivate supplier (Mandel, 2007). Their union, the American Federation of Government
Employees, claimed partial responsibility for passage of a supplemental spending bill that
exempted Mine Safety and Health Administration employees from competitions, forcing the DoL in August 2007 to cancel the competition (Gupta, 2007a). In July 2007, the National Treasury Employees Union announced it possibly would lobby Congress to stop the Food and Drug Administration from competing 332 positions (Gupta, 2007b). Protesting employees secured advocates in Congress who at various times introduced proposals to extend to all departments the restriction imposed on the DoD that prohibited private vendors from including costs savings in their bids by providing their employees health benefits less than that received by federal workers. Unions also advocated excluding retirement cost from bid comparisons.

**Conclusion**

The combination of the Bush administration’s application of competitive sourcing, congressional response, and employee reaction has produced a civil service reform of mixed results. As is often the case, the ideology expressed in the competitive sourcing policy through the revised A-76 Circular was moderated and mediated by the implementation process. The Bush administration accomplished its goal to make competitive sourcing a priority management tool that brought forth change in the way at least some work is accomplished in federal agencies and in obtaining small cost savings. These were achieved primarily through federal employees who secured most of the contracted activities. The administration could assert that the policy’s success is in keeping with merit system’s public service value. Federal employees were inspired to innovate, discovering efficiencies that are in the best interest of the public.

On the other hand, congressional action, union activity, and employees’ public protests suggest many do not treat the policy as benign. Loss of jobs, even when employees win the contract, is a threat to job stability as is the redesigning of positions to fit activities categories. The LOO potentially separates groups of employees from their coworkers and possibly weakens their identity with public service missions. These factors support concerns that market-like human resource policies drive individualized, self-interested behaviors, changes that some employees are resisting.

When these factors are taken together—the administration’s claims for significant competitive sourcing outcomes, congressional intervention to alter the course of policy application, and employee action—we find that the policy’s goal, assertion of market values into the civil service, was notably moderated during implementation. Competitive sourcing does, however, promote market-like values that have to be reckoned with as they mix with existing public service values. Market-based human resource values have indeed been ascending of late. Yet countervailing values are also activated during policy implementation to moderate the effects of market trends, as appears to have occurred with competitive sourcing.

Discerning the long-term effect of competitive sourcing and its values and management practices will require more comprehensive, micro-level investigation. We do not yet know the lasting effects of separating activities from positions, drawing further distinctions between line and staff, and placing employees under the direction of a LOO. How LOOs actually perform over time, how they are managed, and the challenges they present in
applying civil service rules are largely unknown. Effects on employee morale, image, and initiative have yet to be systematically investigated. If indeed market-like human resource policies such as competitive sourcing are permanent, they deserve close scrutiny by practitioners and scholars. Answers to these and related questions will help us understand the significance of political and bureaucratic forces in modifying and moderating impacts of policy during its implementation. Studies of policy implementation are necessary to understand on-the-ground impacts of a policy, notwithstanding its “formal” goals.5

Notes

1. Two classic implementation studies, Derthick (1972) and Pressman and Wildavsky (1973), have clearly established this proposition.

2. To obtain a sampling of perspectives at the departmental level, open-ended interviews were held in April 2007 with a competitive sourcing official from each of the Departments of Labor and Agriculture and with a Labor manager. A competitive sourcing official at the Office of Management and Budget (OMB) was also interviewed. All interviewees were promised anonymity.

3. The A-76 reasons code is as follows:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>The commercial activity is not appropriate for private sector performance pursuant to a written determination by the CSO.</td>
</tr>
<tr>
<td>B</td>
<td>The commercial activity is suitable for a streamlined or standard competition.</td>
</tr>
<tr>
<td>C</td>
<td>The commercial activity is the subject of an in-progress streamlined or standard competition.</td>
</tr>
<tr>
<td>D</td>
<td>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.</td>
</tr>
<tr>
<td>E</td>
<td>The commercial activity is pending an agency approved restructuring decision (e.g., closure, realignment).</td>
</tr>
<tr>
<td>F</td>
<td>The commercial activity is performed by government personnel due to a statutory prohibition against private sector performance.</td>
</tr>
</tbody>
</table>


4. No comprehensive data are available on the number of employees who have lost jobs through competitive sourcing. OMB reports that agencies strive to “provide soft landings for affected employees through buyouts, early retirement, reassignment and priority hiring by contractors” (U.S. OMB 2007a).

5. There was much scholarly interest in implementation studies in the 1970s and 1980s. However, it has largely dissipated in recent years. See, for example, Derthick (1972), Pressman and Wildavsky (1973), Hargrove (1975), Bardach (1977), Van Horn (1979), Berman (1980), Williams (1982), Mazmanian and Sabatier (1983), Linder and Peters (1987), and Desai (1989).

References


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