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DoD IG Interim Report to Congress on Section 325 of the National Defense Authorization Act for Fiscal Year 2008

Office of Management and Budget Influence Over DoD Public-Private Competitions

Report No. D-2008-088

(Project No. D2008-D000CH-0166.000)

April 22, 2008

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Results in Brief

Section 325 of the National Defense Authorization Act for FY 2008 prohibits the Office of Management and Budget (OMB) from directing or requiring the Secretary of Defense or Secretary of a Military Department to undertake a public-private competition under OMB Circular No. A-76.

DoD Guidance on Section 325. On March 20, 2008, the Deputy Under Secretary of Defense for Installations and Environment issued to the DoD Components competitive sourcing guidance related to restrictions in the FY 2008 Defense Authorization Act. He stated that restrictions in the FY 2008 Defense Authorization Act limit, but do not entirely prohibit, the use of the competitive sourcing tool. He stated that DoD independently determines its competitive sourcing program during the normal program and budget review process. Annual and out-year plans are established by each Component and submitted via the DoD Comptroller's President's Budget Exhibit 42 (PB-42) and **“Components are expected to execute these plans.”** [emphasis added] He stated that competitive sourcing is an important and essential management tool, and therefore encouraged Components **“to continue to use competitive sourcing to the maximum extent possible”** [emphasis added] to determine the most cost-effective business methods to perform commercial activities.

President's Management Agenda and OMB Pressure. Competitive sourcing is the second initiative on the President's Management Agenda. In FY 2002, OMB directed DoD to complete public-private competitions on 50 percent of the DoD Federal Activities Inventory Reform (FAIR) Act inventory (226,404 positions) by FY 2005. OMB informed DoD that DoD's FAIR inventory was more than half of the Government-wide inventory, and therefore, the DoD share was “critical to the overall success (or failure)” of the competitive sourcing initiative. OMB rates DoD's competitive sourcing efforts using the Executive Management Branch Scorecard. In FY 2004, DoD achieved a successful “green” rating on the scorecard; however, the majority of DoD's ratings in FY 2005 and FY 2006 were unsatisfactory, or “red.” As of the first quarter FY 2008, OMB rated DoD's competitive sourcing initiative as “yellow” for mixed results, meaning that DoD needed to make adjustments to the program in order to achieve objectives on a timely basis.

Clearly the fact that competitive sourcing is a President's Management Agenda item creates pressure on DoD to complete public-private competitions. In addition, Components are expected to execute the President's budget. However, DoD was not close to completing public-private competitions of the 226,404 positions by FY 2005, as OMB originally directed. Additionally, the estimated time frame for completing DoD competitive sourcing efforts continue to move out each year. As of the draft FY 2009 budget estimate, the efforts should be completed by FY 2013.

Discussions With DoD Competitive Sourcing Officials. We have held initial meetings to discuss OMB or DoD pressure to conduct competitive sourcing efforts. We have received a variety of responses and have requested further information to determine the extent of OMB or DoD pressure to complete public-private competitions. The following is a list of the officials we have interviewed and preliminary information regarding the pressure to conduct competitive sourcing.

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- Office of the Secretary of Defense (OSD)—Office of Housing and Competitive Sourcing. The Director of the Office of Housing and Competitive Sourcing stated that he is not directed by OMB to complete a specific number of public-private competitions. He also stated that he does not require the DoD Components to complete a specific number of competitions, but that the DoD Components provide an estimate of positions to be competed each year.
- Army—Office of the Assistant Secretary of the Army for Installations and Environment and Office of the Assistant Chief of Staff for Installation Management. The Army has had difficulties with implementing the competitive sourcing program and feels extreme pressure from OSD to conduct public-private competitions. According to the Chief of the Business Policy and Development Division, the Army is held to a target of 77,873 positions established by the DoD Business Initiative Council in FY 2003, and although the Army has asked for relief on completing this target, formal relief has not been granted. The Army is undergoing many efforts that impact competitive sourcing planning, such as Base Realignment and Closure, growing the Army, and the war.
- Navy—Office of the Assistant Secretary of the Navy for Installations and Environment and Office of the Chief of Naval Operations. The Deputy Assistant Secretary of the Navy for Infrastructure Strategy and Analysis stated that the Navy uses competitive sourcing as a tool to achieve efficiencies and does not feel any pressure from OMB and only appropriate management pressure from DoD to complete public-private competitions.
- Air Force—Directorate of Manpower, Organization, and Resources. The Air Force Deputy of the Directorate of Manpower, Organization, and Resources stated that he does not feel direct OMB pressure to complete public-private competitions, but there is pressure in the budget to conduct the efforts.

Planned Actions to Meet the Section 325 Requirement. We have requested data from each of the Military Departments competitive sourcing offices to identify the Army and Air Force Major Commands and Navy Budget Submitting Offices conducting competitive sourcing efforts. We plan to interview individuals conducting competitive sourcing efforts to determine the extent of any OMB or DoD pressure to conduct public-private competitions. We also plan to identify specific public-private competitions in progress and discuss the competitive sourcing program with individuals at that level to discuss any pressure to conduct the competitions and achieve a “green” rating on the Executive Branch Management Scorecard.

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Public-Private Competitions In-Progress. As of April 10, 2008, DoD had 55 public-private competitions listed as in-progress in the Defense Commercial Activities Management Information System. Table 1 shows the details by Military Service and Defense Agency.

<u>DoD Component</u>	<u>Competitions</u>	<u>Positions</u>
Army	17	2,612
Navy	13	6,427
Air Force	21	1,856
Marine Corps	2	75
Defense Commissary Agency	1	141
Defense Logistics Agency	1	279
Total	55	11,390

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FY 2008 Defense Authorization Act

Section 325, “Restriction on Office of Management and Budget Influence Over Department of Defense Public-Private Competitions,” of Public Law 110-181, “National Defense Authorization Act of Fiscal Year 2008,” January 28, 2008, requires the Inspector General of the Department of Defense to submit an interim report to Congress, not later than 90 days after the enactment of the Act, addressing Department of Defense compliance during 2008 with the following requirements:

- (a) RESTRICTION ON OFFICE OF MANAGEMENT AND BUDGET.—The Office of Management and Budget may not direct or require the Secretary of Defense or the Secretary of a military department to prepare for, undertake, continue, or complete a public-private competition or direct conversion of a Department of Defense function to performance by a contractor under Office of Management and Budget Circular A-76, or any other successor regulation, directive, or policy.
- (b) RESTRICTION ON SECRETARY OF DEFENSE.—The Secretary of Defense or the Secretary of a military department may not prepare for, undertake, continue, or complete a public-private competition or direct conversion of a Department of Defense function to performance by a contractor under Office of Management and Budget Circular A-76, or any other successor regulation, directive, or policy by reason of any direction or requirement provided by the Office of Management and Budget.

DoD Guidance on FY 2008 Defense Authorization Act

On March 20, 2008, the Deputy Under Secretary of Defense for Installations and Environment issued to the DoD Components competitive sourcing guidance related to restrictions in the FY 2008 Defense Authorization Act. The purpose of the memorandum was to reaffirm DoD’s commitment to the administration’s public-private competition program as an important and essential management tool. The Deputy Under Secretary stated that the restrictions in the FY 2008 Defense Authorization Act limit, but do not entirely prohibit, the use of the competitive sourcing tool. He stated that it is imperative that the Department continue to use competitive sourcing to the greatest extent possible, and encouraged Components **“to continue to use competitive sourcing to the maximum extent possible to determine the most cost-effective business methods to perform commercial activities.”** [emphasis added]

The Deputy Under Secretary stated that section 325 prohibits OMB from directing or requiring the Secretary of Defense or Secretary of a Military Department to undertake a public-private competition under OMB Circular No. A-76; however, DoD does not conduct public-private competitions at the requirement or direction of OMB. Specifically, he stated:

The Department independently determines its competitive sourcing program during the normal program and budget review process. Annual and out-year plans are established by each Component and submitted via the DoD Comptroller’s PB-42 budget exhibit and **Components are expected to execute these plans.** [emphasis added]

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President's Management Agenda

The President's Management Agenda, issued in FY 2002, is the President's strategy for improving the management and performance of the Federal Government. The agenda includes five Government-wide initiatives, the second of which is competitive sourcing. The President expressed concern because public-private competitions were not being performed, adequate records were not being kept on work performed by the Government, and the cost estimates of Government work were controversial. To achieve efficient and effective competition between public and private sources, the administration committed itself to simplifying and improving the procedures for evaluating public and private sources, to better publicizing the activities subject to competition, and to ensuring senior level agency attention to the promotion of competition.

The President's Management Agenda states that increased competition consistently generates significant savings and noticeable performance improvements. Competition promotes innovation, efficiency, and greater effectiveness. For many activities, citizens do not care whether the private or public sector provides the service or administers the program. The process of competition provides an imperative for the public sector to focus on continuous improvement and removing roadblocks to greater efficiency.

OMB Competitive Sourcing Requirement

According to a December 21, 2001, memorandum from the Under Secretary of Defense for Acquisition, Technology, and Logistics to the OMB Deputy Director, in March 2001 OMB directed completion of public-private competitions or direct conversions on not less than 5 percent of the positions listed in the DoD FAIR Act inventory. OMB directed DoD to complete these competitions by the end of FY 2002. In July 2001, OMB increased this requirement to 10 percent in FY 2003, for a cumulative total of 15 percent.

In October 2001, OMB issued a memorandum and associated standards for success on the Executive Branch Management Scorecard, which expanded the requirement to completing public-private competitions on 50 percent of the DoD FAIR inventory by FY 2005. The FY 2000 DoD FAIR inventory was 452,807 positions. In December 2001, OMB told DoD that DoD's FAIR inventory was more than half of the Government-wide inventory, and therefore, the DoD share was "critical to the overall success (or failure)" of the competitive sourcing initiative. As shown in Table 2, 50 percent of the FY 2000 DoD FAIR inventory equated to 226,404 positions.

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Table 2. President's Management Agenda and OMB Competitive Sourcing Requirement

	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>Total</u>
Army	9,914	29,741	29,741	29,741	99,137
Navy/Marine Corps	4,804	14,411	14,411	14,411	48,035
Air Force	4,562	13,687	13,687	13,687	45,623
Defense agencies	3,361	10,083	10,083	10,083	33,610
Total Positions	22,640	67,921	67,921	67,921	226,404

*Totals may appear inconsistent because we rounded the original data.

DoD Management Initiative Decision 907

[REDACTED]

[REDACTED]

[REDACTED]

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Program Budget Decision 729

[REDACTED]

[REDACTED]

[REDACTED]

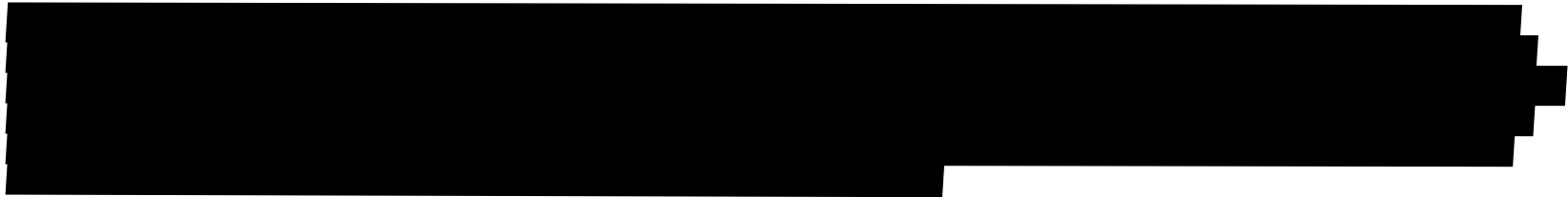
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President's Budget Exhibit 42

The President's Budget Exhibit 42 (PB-42), "Competitive Sourcing and Alternatives," is an annual budget submission that provides Congress and OMB with budget justification data for public-private competitions and approved alternatives. The PB-42 includes information on completed, in-progress, and planned public-private competitions, military-to-civilian conversions, and alternatives to public-private competitions.

A table structure is visible within a rectangular border, but the vast majority of its cells are filled with black redaction boxes. Only a few small, empty-looking cells are visible, particularly in the lower-left and lower-right corners of the table area.

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Figure 1 shows the completed and planned public-private competitions, military-to-civilian conversions, and alternatives to public-private competitions documented in each [REDACTED] for FY 2005 through FY 2009.

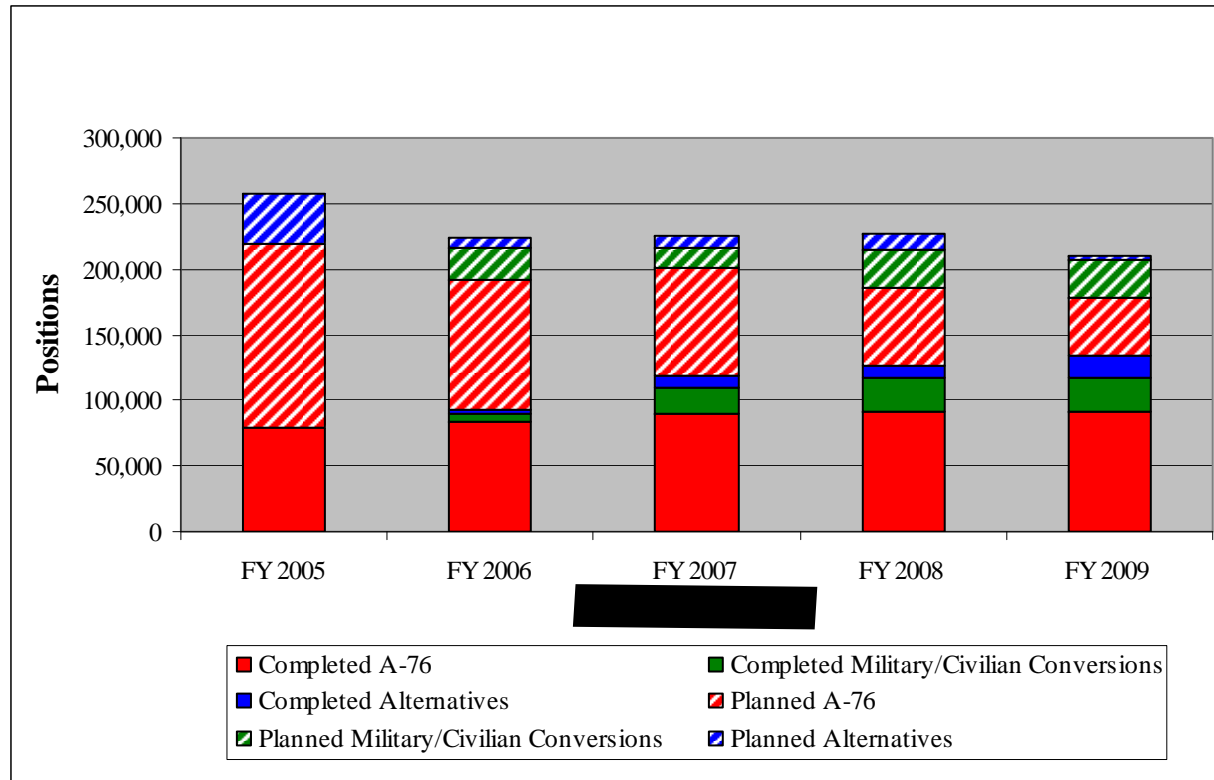


Figure 1. Completed and Planned Public-Private Competitions, Military-to-Civilian Conversions, and Alternatives to Public-Private Competitions in the FY 2005 Through FY 2009 [REDACTED]

Table 6 details the [REDACTED] positions for completed, in-progress, and planned public-private competitions, military-to-civilian conversions, and alternatives to public-private competitions by Military Service.

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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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President's Management Agenda Scorecard

The Executive Branch Management Scorecard tracks how well the departments and major agencies are executing the five Government-wide management initiatives. The scorecard provides grades on the current status and the progress on implementing the President's Management Agenda. The scorecard employs a simple grading system:

- **Green** for success,
- **Yellow** for mixed results, and
- **Red** for unsatisfactory.

Scorecard Definitions. Scores for status are based on the scorecard standards for success. The President's Management Council developed the standards for success and discussed them with experts throughout government and academe, including the National Academy of Public Administration. The standards have subsequently been refined with continued experience implementing the President's Management Agenda. Under each of these standards, an agency is "green" or "yellow" if it meets all of the standards for success listed in the respective column, and "red" if it has any one of a number of serious flaws listed in the standards for success "red" column. OMB assesses agency progress on a case by case basis against the deliverables and time lines established for the five initiatives that are agreed upon with each agency as follows.

- **Green** means implementation is proceeding according to plans agreed upon with the agencies.
- **Yellow** means some slippage or other issues requiring adjustment by the agency in order to achieve the initiative objectives on a timely basis has occurred.
- **Red** means the initiative is in serious jeopardy. The initiative is unlikely to realize objectives without significant management intervention.

DoD Competitive Sourcing Scorecard Ratings. The DoD competitive sourcing baseline rating on the President's Management Scorecard for the first quarter of FY 2002 was "red" for both status and progress. Therefore, according to OMB, the DoD competitive sourcing initiative was unsatisfactory and the initiative was in serious jeopardy. While DoD's progress changed to "yellow" the next quarter, DoD's competitive sourcing initiative remained "red" on the scorecard through the third quarter of FY 2003. In the first quarter of FY 2004, DoD received its first successful "green" rating for the progress of its competitive sourcing initiative, and received a majority of "green" ratings during FY 2004. However, by the end of FY 2004, DoD's rating was back to "yellow" and by the second quarter of FY 2005, DoD was back at a "red," unsatisfactory, rating for its competitive sourcing initiative. As of the first quarter of FY 2008, the DoD competitive sourcing initiative rating was "yellow" for both status and

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progress. Figure 2 shows the quarterly ratings DoD competitive sourcing received from FY 2002 through the first quarter of FY 2008.



















































Fiscal Year	Status 1st Quarter	Progress 1st Quarter	Status 2nd Quarter	Progress 2nd Quarter	Status 3rd Quarter	Progress 3rd Quarter	Status 4th Quarter	Progress 4th Quarter
2002								
2003								
2004								
2005								
2006								
2007								
2008								

Figure 2. Quarterly Executive Management Branch Scorecard Ratings for DoD Competitive Sourcing

SECTION 325 INTERIM REPORT

OMB Comments on DoD Scorecard Ratings. Each quarter OMB provided DoD with explanations for its scorecard rating. OMB detailed why the rating was given and what actions should be taken to maintain or increase the rating. The following are some of OMB's comments² to DoD that could be interpreted as pressure to conduct public-private competitions.

FY 2002 Fourth Quarter – Since DoD has not developed new FY 2003-4 targets for A-76 or other competitive sourcing projects, DoD will not move to green on Progress for the foreseeable future. Therefore, Status also will continue at Red.

FY 2005 Third Quarter – OMB is downgrading DoD's "Status" to Red since DoD leadership has shown no real commitment to announcing A-76 competitions. The only announcements last quarter resulted in private sector work being brought back into DoD; no competitions were announced that might result in work being outsourced.

FY 2006 Third Quarter – Status & Progress scores remain at Red until DoD leadership achieves real progress by significantly increasing announcements of A-76 competitions. In the first three quarters of FY 06, announcements are one-sixth of DoD's revised Green Plan target of 10,338 FTEs.

FY 2007 First and Second Quarter – DoD is maintained at Yellow in Progress and Status to reflect OSD's submission of a yellow plan for over 10,000 FTEs in FY 08. However, announcements must significantly accelerate in the next quarter for this plan to be credible and to continue Yellow ratings.

FY 2007 Fourth Quarter – The Navy should be commended for making up the slack left by the Army's decline. The Army should begin to contribute significantly to the Department's goals for FY 2008, beginning in the first quarter.

² The emphasis in the block quotes came directly from OMB.