

Review of RRB Compliance with Federal Laws and Regulations on Competitive Sourcing, Report No. 05-02, December 6, 2004

INTRODUCTION

This report presents the results of the Office of Inspector General's (OIG) review of the Railroad Retirement Board's (RRB) compliance with Federal laws and regulations on competitive sourcing.

BACKGROUND

The RRB's mission is to administer retirement-survivor and unemployment-sickness insurance benefit programs for railroad workers and their families. During fiscal year (FY) 2003, the RRB paid approximately \$9 billion in railroad retirement, survivor, and unemployment and sickness benefits to annuitants and railroad employees. The RRB employs a staff of approximately 1,050 in its Chicago, Illinois headquarters and 53 district offices located in many of the nation's major cities.

The use of competitive sourcing is an important economic and strategic decision that involves determining whether to perform services in-house or obtain services through commercial contracts. The Federal Activities Inventory Reform (FAIR) Act of 1998, Public Law 105-270, directs Federal agencies to annually issue an inventory of all commercial activities performed by employees. A commercial activity is any activity providing a product or service obtainable from a commercial source. Commercial activities would include services such as information gathering, building security, mail operations, housekeeping, warehouse operations, and routine electrical or mechanical services.

In May 2003, the Office of Management and Budget (OMB) revised Circular A-76, *Performance of Commercial Activities*, which implements the statutory requirements of the FAIR Act. The Circular requires that agencies include an inventory of inherently governmental activities in the FAIR Act report. An inherently governmental function is defined as one that is so closely related to the public interest as to mandate performance by Federal employees. These activities normally fall into two categories: (1) the discretionary exercise of Governmental authority, such as criminal investigations, regulation of industry and commerce, and management and direction of the military; and (2) monetary transactions and entitlements, such as tax collections and revenue disbursements, the control of Treasury accounts and the money supply, and the administration of public trusts.

OMB Circular A-76 establishes procedures for determining whether commercial activities should be performed under contract with outside commercial sources or in-house using governmental facilities and employees. OMB Circular A-76 requires all Federal agencies to designate a central contact office and management executive with responsibility for implementing the Circular within the agency. The RRB has designated the Director of Administration as the agency's Competitive Sourcing Official. The

Director oversees agency-wide efforts for OMB Circular A-76 compliance as well as preparation of the annual FAIR Act inventory report.

In the spring of 2001, the Administration announced its intention to open the commercial activities performed by the government to the dynamics of competition between the public and private sectors. Soon thereafter, the President's Management Agenda designated competitive sourcing as one of five Government-wide initiatives.

The RRB's 2003-2008 strategic plan contains a goal that states that the agency will serve as "responsible stewards for our customers' trust funds and agency resources." Agency management has declared a specific commitment to continually seek ways to increase competitive sourcing opportunities to partially achieve this strategic goal.

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of this review was to determine if the RRB's competitive sourcing policy complies with the FAIR Act and OMB Circular A-76. The scope of our review included FYs 2003 and 2004. To perform this review, the OIG:

- Reviewed prior OIG reviews and other Federal government reports and articles on competitive sourcing;
- Reviewed relevant laws, regulations, and guidance;
- Evaluated the RRB's 2003 and 2004 FAIR Act inventory reports and the process used in the compilation of data;
- Assessed RRB procedures for implementing competitive sourcing and opportunities for RRB improvement based on comparisons with other Federal agencies; and
- Conducted meetings with agency officials.

This audit was conducted in accordance with generally accepted government auditing standards as applicable to the objective. Fieldwork was conducted at the RRB headquarters from July through September 2004.

RESULTS OF REVIEW

Our review indicates that, while the RRB is generally in compliance with the FAIR Act and OMB Circular A-76, improvements are needed to ensure the accuracy of key FAIR Act report data and to improve the presentation and information disclosure of agency progress on competitive sourcing. The agency also needs to increase its efforts to successfully implement competitive sourcing under OMB Circular A-76 guidelines.

The details of our findings and recommendations follow.

AGENCY SHOULD ENSURE ACCURACY OF FAIR ACT REPORT AND IMPROVE PRESENTATION

The RRB did not fully evaluate the commercial positions included on prior year inventories for the 2004 inventory compilation. Instead of consulting with respective bureaus, the Office of Administration updated the prior year information by merely comparing full-time equivalent (FTE) employees to the agency's position index, and adjusted for significant changes of which they were aware.

The FAIR Act requires the RRB to complete an annual inventory of commercial and inherently governmental activities. Agencies are required to make their list available to the public after OMB approval. Interested outside parties have the option of challenging the omission or inclusion of any particular activity. In the past, the Office of Administration sent notices to bureau heads informing them of their need to compile data for the current FAIR Act inventory. This notice contained the bureau's previous year listing, instructions for analysis of job functions, links to OMB guidance, a RRB contact person for questions, and a deadline for completing the analysis. Bureaus were requested to review the positions and note any relevant changes.

Consulting with respective bureaus helps to improve the accuracy of the inventory and ensure the consistent treatment of activities among bureaus. The agency has not fully documented this evaluation approach; and in 2004, a new Office of Administration official was delegated responsibility for completing the report, but did not use this approach. The official assigned responsibility believed that full evaluation was not necessary because the staffing and positions of the agency did not significantly change over the last year. In addition, the official had not obtained sufficient training on his new duties. Without an annual review of the inventory by officials in the respective bureaus, there is a risk that some FTE counts and classifications in the FAIR Act report are inaccurate.

In addition, the RRB website's presentation and disclosure of FAIR Act report information is not as useful as it could be. The website section that contains the inventory provides only the spreadsheet of the current year's activities and contacts, but no detailed background information on the process used or the procedures for outside

parties to challenge and appeal the inventory statistics. A search on the website using the terms “A-76” or “FAIR Act” did not yield an accessible link to the inventory report.

Agencies are required to publicize their list of commercial and governmental activities to the public after the OMB approves the agency-submitted inventory reports. Interested outside parties have the option of challenging the omission or inclusion of any particular activity. Many Federal agencies use their website to inform the public of their current and prior year inventories, contacts, and procedures for appeals. Providing this detailed information facilitates the public’s understanding of the process for determining commercial activities and shows a commitment to the government-wide competitive sourcing initiative.

The RRB has not made it a priority to make its website section more informative and accessible. Because of the lack of a truly informative website, interested parties may overlook or not be able to locate the information, and may not know their rights and the procedure for challenges or appeals.

Recommendations

The OIG recommends that the Office of Administration:

1. Fully document procedures and consult with respective bureaus in evaluating positions for the FAIR Act inventorying process.
2. Provide sufficient training to the personnel responsible for completing the FAIR Act report.
3. Revise the RRB website to provide more useful and detailed information on the FAIR Act inventory process. At the minimum, this should include adding “A-76” and “FAIR Act” to the report as well as a notice of procedures for appeals and challenges.

Management’s Response

The Office of Administration concurs with all three recommendations and will complete corrective action for all three by June 1, 2005. The management response is included as Appendix I.

INCREASED EFFORT NEEDED TO IMPLEMENT COMPETITIVE SOURCING

The RRB has not performed any OMB Circular A-76 public-private job competitions for commercial activities since 1977.

The RRB’s 2004 Performance Plan included an objective for completing public-private or direct conversion competitions on not less than 5% of the FTEs listed on the FAIR

Act inventory. The agency's FY 2006 budget request to OMB asked for funds to implement \$12.8 million in information technology improvements required to meet performance goals, and the agency has asserted that this extensive effort supports the President's competitive sourcing initiative.

Once agencies identify their commercial activities, OMB encourages agencies to conduct public-private job competitions using Circular A-76 guidelines. Job competitions determine if the internal agency unit is the most efficient organization, or whether an external contract can deliver the same commercial service at a lower price. These public-private assessments can save the government money. During FY 2003, Federal agencies completed 662 competitive assessments at a projected net savings of \$1.1 billion, to be achieved over the next three to five years. For many Federal agencies, private contractors coordinate and oversee the daily operational control and support of desktop computers, servers, applications, and networks. These agencies believe that this outsourcing is beneficial because of the difficulty in hiring and retaining information technology personnel and keeping up with evolving hardware and software technologies.

Annually, the RRB has been committed to upgrading at least 25% of its personal computers, 33% of network printers, and a substantial number of servers, personal printers, and other computing equipment to keep up with evolving technology. The agency also must upgrade computer software on a continual basis. These commitments require not just financial resources, but also skilled information technology staff that have traditionally been difficult to hire and retain.

In the past, the agency has competitively sourced many projects and services including janitorial services, building security, and some building maintenance functions. The Competitive Sourcing Official also has determined that some activities, while available from commercial firms, are engaged in core mission activities that must remain in-house because employees must have detailed, specific technical knowledge of RRB programs and systems, and must possess the most critical core knowledge of the agency's proprietary systems.

According to the RRB's FAIR Act Inventory for FY 2004, 83% of the agency's commercial activities are for data processing services and systems design, development, and programming services. The RRB may be able to achieve financial savings from public-private job competitions of information technology services. The \$12.8 million information technology enhancement initiative offers the agency opportunities to seek competitive sourcing solutions involving technology staffing, infrastructure, and services. Since many of the most knowledgeable and experienced employees will become eligible for retirement during the next few years, the RRB will be challenged to ensure that it has sufficient staff with the necessary skills and experience to complete the extensive information technology upgrades.

Recommendation

The OIG recommends that the Office of Administration:

4. Conduct a feasibility study to determine if the agency should implement public-private competitions of commercial information technology services.

Management's Response

The Office of Administration advised that the Acting Chief Information Officer, at the direction of the Board, has already formed a group to conduct a feasibility study of this area. The Acting Chief Information Officer stated that this committee, which will primarily review outsourcing options for the data center, will complete their study and issue a report by September 1, 2005.

The management response from the Office of Administration and the Acting Chief Information Officer is included as Appendix I and II, respectively.



MEMORANDUM

November 19, 2003

TO : Henrietta B. Shaw
Assistant Inspector General, Audit

FROM : Henry M. Valkulis
Director of Administration/Senior Executive Officer

SUBJECT: Draft Report – Review of RRB Compliance with Federal Laws
and Regulations on Competitive Sourcing

This is in response to your memorandum dated November 4, 2004, in which you transmitted a copy of the above-named draft audit report. I was pleased to see that the report concluded that we were generally in compliance with applicable requirements, with an emphasis on the Federal Activities Inventory Reform (FAIR) Act. This included an analysis of the annual commercial activities inventory required by the FAIR Act. You note that we did not do a full-blown evaluation of all agency positions for purposes of preparing this report in fiscal year 2004. This was partially due to the fact that there was a transition to a new staff person with responsibility for this report, and also due to the fact that the nature and numbers of positions at the agency did not change significantly over the prior year.

However, I agree with recommendation #1 to enhance documentation in this area, particularly with respect to inherently governmental positions and those commercial activities found to be unsuitable for competition. I also agree with recommendation #2, which calls for additional training for the above-referenced staff person. This will take the form of training in Microsoft Excel, as I am unaware of any training specifically geared to the FAIR Act reporting. I would like to point out that the staff person has attended training, along with representatives of the employees' union, on the new requirements and provisions in OMB Circular A-76 on performance of commercial activities. As called for in recommendation #3, we will try to make improvements in the posting to the agency website starting with the current report.

In terms of recommendation #4, I do not believe it is necessary for the Office of Administration to conduct a feasibility study in this area. The Chief Information Officer, at the direction of the Board, has already formed a group to look at possibilities in this area. I believe that the outcome of that effort, including any recommendations for competitive sourcing, will meet the intent of the specific recommendation.

Thank you for the opportunity to comment on this draft report. I appreciate the courtesy extended to me and my staff by your auditors on this project.

Reid, Wendell

From: Morgan, Terri S.
Sent: Friday, December 03, 2004 8:27 AM
To: Reid, Wendell
Cc: Carter, Deborah
Subject: Committee to Review Outsourcing of Data Center

Wendell,

For the purposes of your report, please indicate that the final report from this committee will be September 2005. I believe we can wrap this up in six months (June 2005), but to be on the safe side, let's give ourselves nine months.

Thanks,
Terri