

Government Competition

06/2011

Position Paper

Issue

Should the federal government contract to the maximum extent possible with private sector firms for the performance of groundwater investigations and development using commercially available sources to provide commercial products and services to ensure that the integrity of the water well construction program is not impaired by improper installation?

Background

The federal government's policy regarding the performance of commercial activities is contained in Circular A-76 and states:

“The Federal Government shall rely on commercially available sources to provide commercial products and services. In accordance with the provisions of this Circular, the Government shall not start or carry on any activity to provide a commercial product or service if the product or service can be procured more economically from a commercial source.”

Circular A-76 establishes a policy of achieving economy and enhancing productivity through the use of cost comparisons. Whenever commercial sector performance of a government-operated commercial activity is permissible, comparison of the cost of contracting and the cost of in-house performance shall be performed to determine who will do the work.

Circular A-76 defines commercial activity as: “. . . one which is operated by a Federal executive agency and which provides a product or service which could be obtained from a commercial source.” A government function is defined as “. . . a function which is so intimately related to the public interest as to mandate performance by Government employees. These functions include those activities which require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Government.”

Research and development are not within the scope of Circular A-76; however, several in-house commercial activities in support of research and development are normally subject to the Circular and its Supplements.

Position

The National Ground Water Association position is that:

1. To the maximum extent possible, the government should contract with private sector firms for the performance of groundwater investigations and development, including but not limited to exploratory drilling, the installation of wells for monitoring groundwater quality and elevation, site-specific groundwater contamination assessments and remediation, and wellhead protection delineation. Government agencies should continue to focus their efforts on performing traditional regional geologic and hydrologic studies, as well as continue such research and development activities that are of benefit to the groundwater industry and the general public.

2. Drilling falls within Circular A-76's definition of commercial activity.
3. A fair accounting system should be adopted for use when performing cost comparisons that measure the full cost of procuring drilling services through the public or private sector. This accounting system should address both direct operating costs and all indirect overhead costs of administration plus equipment ownership and maintenance costs.
4. Government agencies should not be competing with the private sector. Typically, groundwater consulting and drilling firms are small size businesses and, as a matter of policy, government should not be competing on work traditionally handled by the private sector.
5. Our industry stands ready to work with government agencies to address any impediments to the contracting out of drilling activities.
6. Government agency employees should be required to follow any substantive well construction, well decommissioning, and driller safety requirements, including having government employees licensed. These measures are necessary to protect employees and the groundwater resource.

Contact

Christine Reimer
NGWA Government Affairs
601 Dempsey Rd.
Westerville, OH 43081-8978
614 898.7791, ext. 560
fax 614 898.7786
creimer@ngwa.org

or the Association's Washington representative:
Bill Simmons
Dutko Worldwide
202 484.4884

References

OMB *Circular A-76: Performance of Commercial Activities*, 2003.

Date

Excerpted from Government Competition Supporting Document approved by the National Ground Water Association's Government Affairs Committee on August 19, 1993. NGWA position papers are updated as needed to reflect changes in information, as noted here: technical update (OMB Memorandum M-03-20) made August 15, 2003; technical update (change company name to Dutko Worldwide) made April 8, 2005; changes made (OMB Memorandum M-07-02) made October 31, 2006; reformatted June 2011.

The National Ground Water Association, a nonprofit organization composed of U.S. and international groundwater professionals—contractors, equipment manufacturers, suppliers, scientists, and engineers—is dedicated to advancing groundwater knowledge. NGWA's vision is to be the leading groundwater association that advocates the responsible development, management, and use of water.