

**Contractual Governance: Theory and Practice in Circular A-76**

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(ABSTRACT)

This study builds a conceptual framework of contractual governance through an examination of the policy environment and contracting process under one federal program, Circular A-76. To comply with the government's general policy of relying on commercial sources to supply products and services, Circular A-76 requires agencies to study selected activities and put them up for bid between in-house government departments and private companies. The A-76 process is examined using a framework that incorporates David H. Rosenbloom's three-fold analysis of the aspects of governance--political, managerial, and legal--and a continuum of contracting relationships stretching from competition to cooperation.

A comparison is then made of the assumptions for implementing A-76 in the guidelines of the U. S. Navy with the perceptions of program participants in the contracting situations. This comparison reveals a dichotomy between the program's assumptions, on the one hand, which reflects a managerial "systems" orientation, and the perceptions of the participants, on the other, which reflects a political and community orientation. The dissertation recommends that: the actual time devoted to planning should be lengthened in relation to the time given to performing the activities of each stage; greater continuity be maintained among stages; and contractual governance achieve increased synthesis between assumptions and perceptions and more balance between governance components. Finally, it is recommended that practitioners and researchers prepare better for participation in the governing of the interdependency of the public and private sectors.

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## Chapter One--Theory and Practice in Circular A-76

The mixture of marketing incentives and political authority is one of the most important institutional design decisions facing advanced societies (Lindblom 1977; Perry and Rainey 1985). In recent years debate on this issue in American society has been interwoven with and articulated through the concept of privatization, the transferring of ownership, provision, and/or management to the private sector of goods and services that once were public sector responsibilities. One of the most common tools to accomplish privatization has been "contracting out," the granting to a private sector entity of the provision of goods and services that once were provided by the public sector. The increase in incidence of contracting has prompted many scholars in the last few years to express the need for new skills in contract administration. Lester Salamon (1989) notes the importance of rethinking public management and the need for new tools to accomplish the work. Donald Kettl (1987) denotes the increasing need to hire more managers skilled in the "intricacies of overseeing grants, contracts, loan programs, tax expenditures, and regulations" (Kettl 1987, 6). Further, Kettl emphasizes the need for a different kind of training than the decision-making approach of many graduate programs and notes the possibility that little attention may be given to the details of contract management.

Certainly these authors make needed, valid, and instrumental contributions to public administration, but several basic questions have not received the attention they deserve, either in the litera-

ture of contract management or in the burgeoning literature on privatization. These basic questions are:

1) Does the implicit theory behind the establishment of contracting situations take into account the assumptions of governance interwoven in the process?

2) What relationship exists between the guidelines for contracting and the organizational reality in which contracting is implemented?

3) What are the differences/similarities in organizational adjustments and management techniques in the contractual process across sites, tasks, and time?

To explore the possible answers to these questions, this work will concentrate on contracting out under one federal program, that of Circular A-76. This federal regulation contains the Office of Management and Budget's mandate regarding the performance of commercial activities under government auspices. The Circular requires agencies to study selected activities and put them up for competitive bid between in-house government agencies and private companies.

Central to this work is development of a theoretical understanding of contracting out and the explanation of the results of structured interviews, direct observations, and comparative data from four sites at United States Naval bases in Maryland and Virginia. To build toward these goals, this chapter first gives a brief description of Circular A-76. Next the framework guiding this work is explained and objectives for the rest of the dissertation are outlined.

## *Circular A-76--Brief Background*

The origin of Circular A-76 may be traced to the Eisenhower Administration when Bulletin 55-4 was issued by the Bureau of the Budget (January 15, 1955). The bulletin originally stated that it was government policy to rely on the private sector for goods and services available from commercial sources, rather than for the government to compete with private enterprise. Over the next few years, the bulletin was revised twice (Bulletin 57-7, February 5, 1957 and Bulletin 60-2, September 21, 1959). In 1966 the document became a permanent BOB circular (Russell 1985, 38).<sup>1</sup>

When Congress passed Public Law 93-400 creating the Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget, OFPP was given the responsibility for providing leadership and guidance on procurement policy. This Act permitted the first formal link between procurement policy, which directs agencies on how to procure products and services, and Circular A-76 (Appendix A), which tells agencies when to procure from the private sector instead of providing in-house. After this reorganization and several years of futile effort, revisions were made to Circular A-76 to make it more effective.

In 1979, A-76 policy shifted from the proper relative roles of the Government and the private sector to a pragmatic consideration of comparative costs. Government commercial activities<sup>2</sup> were to be reviewed and the costs of Government operations were to be compared to a competitive price for contract performance. When it was demonstrated that the private sector could provide the product or service at less cost, a contract was to be awarded and the government activity terminated. Although the business community was convinced that the original A-76 policy was philosophically right, its leaders did accept the policy revisions in the belief that a realistic and equitable cost com-

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<sup>1</sup> The authority for Circular A-76 derives from the The Budget and Accounting Act of 1921 (31 U. S. C. 1 *et seq*) and The Office of Federal Procurement Policy Act Amendments of 1979 (41 U. S. C. 401 *et seq*).

<sup>2</sup> Those activities considered by the government as activities that could be provided by the private sector.

parison would consistently show that a competitive contract was more economical than sole-source government performance (Russell 1985).

Within the current A-76 policy, the process from identification of a function for study to the final decision for the function to remain in-house or be contracted out consists of activities distinct enough to be grouped into stages. These include: review of activities for exemption, a study of functions to describe the work and prescribe changes for efficiency, cost estimates, bidding, transition to contractor or to a scaled-down more efficient in-house organization, and institution of changes in the workplace once the process is complete.

William D. Russell's conclusion is that the story of Circular A-76 is not a happy one. He characterizes its progress as filled with good intention, great promise of benefits to the nation, the private sector, and the taxpayer, but actually accomplishing very few results. In a 1983 publication, Russell notes that after 28 years of relying on the public sector, the rate of contracting-out progress has been disappointing and that the current Circular, although less than perfect, is workable if implemented with the right intentions.

The purpose of Circular A-76 to have the private sector, rather than government, provide services fits well with underlying American ideology from the late Nineteenth Century to the present. Yet, here is a program, which by Congressional, Executive, and business sector accounts has not reached its stated goals, is extremely controversial, and even though the subject of multiple congressional hearings, newspaper accounts, and executive analysis, has not been satisfactorily implemented. Although Russell's conclusion is that Circular A-76 can be implemented with the right intentions, just what those intentions are or should be, may not be easy to discern at the field level when one considers that there are multiple intentions within agencies themselves and that contractors and government may enter agreements with different intentions. If A-76 is enacted with differing intentions, perhaps some of them lie in the assumptions guiding the program itself, a speculation that is developed in the following review of the framework for this study.

## *Governance Frameworks and Assumptions in Circular A-76*

Frameworks for the study of policy and the implementation process fill the academic landscapes of political science, sociology, economics, and public administration. A plethora of explanations of why policies succeed and fail is available (e.g., Cobb and Elder 1981; Pressman and Wildavsky 1983; Kingdom 1984). Likewise, studies of the success and failure of implementation have examined many competing explanations. A recent review article by James P. Lester et al (1987) notes that despite the many attempts at explanation of implementation, there has been little systematic research or theory compilation. Instead, findings have accumulated, but each has not built upon the other. One possible explanation for this is that usually the variables which have been examined are those easily quantified or of more obvious connection to implementation (e.g., individual behavior, task allocations, systems variables, or measures of political influence). However, in the case of implementing contracting, questions of values and assumptions about the roles for public and private come into play.

For centuries, debates on government have included questions about the role of the government toward private agencies and groups delivering public services. The latest manifestation of the arguments, privatization, has not only involved the body politic at the local, state, and national level, but captured too the attention of academicians. Many normative answers to what the state should do have been proposed from an ideological spectrum, while many answers to what the state can do have been proposed from a variety of experiences as well as ideologies. However, the dominant voices in the popular and academic literature have mostly asked questions of efficiency from an economizing perspective on government. In the political fervor to adopt contracting out in all situations, the question that has not been thoroughly examined is how the governing arrangements themselves are outcomes. Many scholars, including Harold Seidman and Robert Gilmour (1986), maintain that understanding the governing arrangements is crucial since the choice of institutional types and structural arrangements are decisions with significant political implications. As Stephen

Elkin (1983, 99) notes, "In choosing between market-like arrangements and bureaucratic ones, we are... not merely selecting a machine to produce a separate result. Instead, to focus on the outcomes produced by institutional alternatives misses the sense in which these institutions are the outcome."

Two theoretical frames in recent years have increased insights into some of the broader questions surrounding policy implementation in the private-public merging of service provision. These are the "tools" approach and the governance approach. Lester Salamon (1989) begins his explanation of the tools approach with the observation that what has become clear is that the typical domestic government program involves not government takeover of some private function, but a complex pattern of sharing between the two. For all its advantages, third-party government creates serious problems of management and accountability for which standard public administration theory fails to prepare us. Traditional public administration draws sharp lines between the public and private sectors and among levels of government, and it emphasizes hierarchic patterns of authority (Salamon 1989). The tools of government action, including procurement contracting, involve a blurring of sector lines and a sharing of authority. Thus, the public management problem no longer involves simply the running of a public agency. Instead it involves the manipulation of a complex network of players and institutions over which the public manager has only imperfect control, yet on which he or she must depend to operate an agency's programs (Salamon 1989). To come to terms with these new forms of public action, according to Salamon (1989), new theories and concepts will be needed. Instead of command and control, such theories will have to emphasize bargaining and persuasion. Instead of the clarification of directives, they will need to stress the manipulation of incentives (Salamon 1989).

Along with the tools approach is another developing theoretical stream called the governance approach. This approach has not been fully explored in implementation and policy studies with the notable exception of Karen Hult (1987) and is barely explored in the contracting literature. The governance approach, which focuses on an appreciation of the efforts to determine values, set goals, generate consensus, and allocate benefits and burdens, recognizes the political variable in organizations as well as the managerial dimensions. The governance approach alerts us to another defi-

ciency in studies of implementing public-private service arrangements. Little attention has been given to the difficulty of implementation in cases where it is difficult to balance governance values and assumptions (the implicit theory behind a program), and perceptions of a program at the level of contract implementation (perceptions of practice).

To begin to correct the literature's oversight of the importance of understanding frameworks and assumptions of governance and their relationship to practice, Figure 1 outlines an approach to the study of contractual governance in the Circular A-76 program. The figure shows a diagram of dynamic situations. The solid lines around the frameworks of governance indicate their relative permanence. The broken lines around the assumptions of governance and perceptions indicate their permeability to forces of the outside environment and the great likelihood of changes in the elements composing them. Although situations must be viewed as snapshots in one point in time, the figure indicates their susceptibility to change.

The approach identifies the foci of this study as: the identification of the frameworks and assumptions of contract governance; the description of participants' perceptions of stages of contract decisions and implementation; and a comparison between these values and assumptions and the perceptions of contract decisions and contract implementation within the Circular A-76 Program and contracting situations. Figure 1 reveals the overriding predisposition of this work: that understanding the frameworks and assumptions of governance surrounding the A-76 process are crucial to understanding the development of policy and the process of contracting out under the policy.

As will be noted throughout the paper, contracting under A-76 is more than just a tool and more than just an alternative service arrangement. It presents government agencies and those in contracting situations with a conflict of ontologies, a conflict in the beliefs about what values should be emphasized in the situation. Thus, not only must we understand the contracting process and measure the efficiency and effectiveness of service delivery, we must also understand the assump-

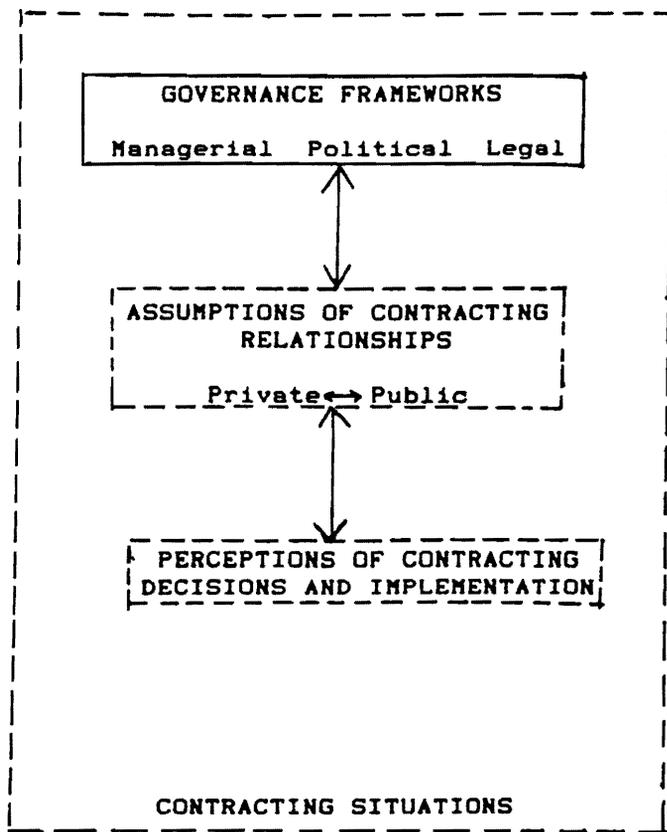


Figure 1: Contractual Governance in Circular A-76: Theory and Practice

tions guiding the program and investigate how these assumptions fit with action at the implementation level.

The frameworks viewed here are imbued with values, deep-seated beliefs that are held with strong intensity and are reflected throughout a culture's institutions and ways of organizing. Although acknowledging Salamon's astute observation that the current theories and tools of public administration may not fit the new third party arrangements, the contention here is that a better understanding of some of the old theories may lead to an appreciation of what conceptual tools and techniques are needed in our new forms of governing. In this case, since our focal culture is American culture, the single overriding value dominating governance situations is the concept of separation of powers. Nominated by many as the "theory" behind the constitution, the concept of separation of powers manifests itself in the peculiar American compromise of three separate branches of government blended together to keep them apart. In other words, American government does have three separate functions, but the institutions sometimes share functions in order to check and balance each other. The most common example given is the executive veto, a blending of executive and legislative powers.

David Rosenbloom (1983) observes that the central problem of American public administration theory is related to our valuing "the separation of powers." Theory is derived from three disparate approaches to the basic questions of what is public administration. Labeling these directions the managerial, legal, and political, Rosenbloom notes that it is unlikely that the three can be synthesized without violating "values deeply ingrained in the United States political cultures" (Rosenbloom 1988, 219). Further, he notes that as a consequence of the rise of the administrative state, the constitutional separation of powers has collapsed into the administrative branch. Thus, the development of a more coherent body of theory must recognize the utility of each of these approaches as they apply to public administration. Further, he recommends that it may be necessary to recognize that each approach may be more or less relevant to different agencies, administrative functions, and policy areas.

Taking a lead from Rosenbloom's work, our contention is that an appreciation of the three sets of values is necessary in the contracting process. As one form of the "new governance arrangements emerging in our political system," it is imperative to note how the frameworks are balanced in actual contracting situations. Since the degree to which policy offers reconciliation among competing values in the governance process has been almost totally neglected in the contracting literature, Rosenbloom's trichotomy offers a framework to understand some of the problems and adjustment mechanisms in third party government.

Rosenbloom's three frameworks, in essence, deal with three basic realms of knowledge, government, and expertise--the legal, managerial, and political approaches. According to Rosenbloom, an outline of the three approaches could show the following emphases as depicted in Figure 2. The figure outlines each approach according to selected major values and the focus of the approach (the unit of analysis) according to Rosenbloom's work (1983, 1987).

In the United States, the managerial approach to public administration grew largely out of the civil service movement of the nineteenth century. Beginning with Wilson's emphasis on "businesslike" public administration, the approach was strengthened by Frederick Taylor and the scientific management school and the contributions of Leonard White and Luther Gulick (Rosenbloom 1983). According to Rosenbloom, the essence of the management approach is captured in the terms of Simmons and Dvorin:

The "goodness" or "badness" of a particular organization pattern was a mathematical relationship of inputs to outputs. Where the latter was maximized and the former minimized, a moral good resulted. Virtue or goodness was therefore equated with the relationship of these two factors, that is "efficiency" or "inefficiency." Mathematics was transformed into ethics (Simmons and Dvorin 1977 as quoted in Rosenbloom 1983).

Continuing, Rosenbloom notes that the values of the managerial approach are clearly effectiveness, efficiency, and economy. The organizational ideal approximates Max Weber's ideal-type bureaucracy, stressing functional specialization for efficiency and hierarchy for coordination. Programs and functions are to be clearly assigned, overlaps minimized, and relationships and procedures formalized. The view of the individual is impersonal and the concept of position is preferred over that

GOVERNANCE FRAMEWORKS

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	Political	Managerial	Legal
<b>DIMENSIONS</b>			
<b>Values:</b>	Representativeness, Responsiveness, and Accountability	Efficiency, Hierarchy, Specialization	Procedural due process, rights of the individual, equity
<b>Assumptions:</b>			
<b>Public/ Business:</b>	Distinction important	No distinction	Law is distinction.
<b>View of organization:</b>	Groups, collectivities of similar interests	The organization, bureaucratic.	Generally as a particular single unit
<b>Process focus:</b>	Values pluralism and realizes to have pluralism, you must sometimes have overlapping, unmanageable situations.	Values a focus on inputs, outputs, a "systems view"	Values the adversarial process
<b>Role of the individual:</b>	Sees individual as representative of collectivity of interests	Impersonal, a "case"	Sees individual enmeshed in unique circumstances

Figure 2: Frameworks of Governance--Based on David H. Rosenbloom (1983).

of person. To promote the values of efficiency, employees are related to position classifications, clients become "cases," and even victims become depersonalized.

The political approach grew out of the observations of Paul Appleby that public administration during the New Deal and World War II was filled with politics. Values promoted are those of representativeness, political responsiveness, and accountability through elected officials to the citizen. Strongly held in the political framework is the idea that these values are necessary for democratic governance, particularly with the rise of the administrative state. Concepts such as "a workforce reflective of the Nation's diversity," "representative advisory committees," "citizen participation," "sunshine" and "sunset" provisions have their conceptual roots in the political approach. According to Rosenbloom, the political perspective stresses pluralism in organization and the ideal organizational form may come to resemble a political party platform...

that promises something to everyone without establishing clear priorities among them. Agency becomes adversary of agency and the resolution of conflict is shifted to the legislature, the office of the chief executive, interagency committees, or the courts. Moreover, the number of bureaus and agencies tends to grow over time, partly in response to the political demands of organized interests for representation. This approach to administrative organization has been widely denounced as making government unmanageable, costly ... but, as Seidman argues, it persists because administrative organization is frequently viewed as a political question that heavily emphasizes political values (Rosenbloom 1983, 222).

The image of the individual in the political process is as one of an aggregate group, an identification of the individual's interests as similar to the interests of an aggregate, e.g., blacks, women, and pro-abortionists. In other words, the individual is viewed in terms of collective interests.

The legal approach is seen as deriving primarily from three sources: administrative law, the "judicialization of public administration" (a concentration upon the establishment of procedures designed to safeguard individual rights); and constitutional law. Three central values are embodied, according to Rosenbloom. The first is procedural due process, a term standing for the value of fundamental fairness and viewed as requiring procedures designed to protect individuals from malicious, arbitrary, or unconstitutional harm at the hands of the government. The second value concerns substantive individual rights, as embodied in evolving interpretations of the Bill of Rights and the Fourteenth Amendment. Third, the judiciary values equity, a concept that, as due process,

is subject to varying interpretations, but basically stands for the value of fairness in the results of conflicts between private parties and the government. It encompasses much of the constitutional requirement of equal protection and safeguards individuals against arbitrary treatment. The view of organizational structure most desired within the legal framework is a framework which maximizes the use of adversary procedures. While full-fledged judicial trial is the most desired in this framework, in the case of public administration, administrative hearings approximate the legal model. The view of the individual is that of "a unique person in a unique set of circumstances" (Rosenbloom 1983, 224).

This simple chart of three frameworks highlights the possible value conflicts and organizational emphases that must be included in a comprehensive concept of contractual governance. Some of the obvious conflicts include a natural tension between pluralism's demands for inclusion for representativeness and managerial demands for exclusion for efficiency. Additionally, a tension exists between the legal insistence on adversative proceedings and the picture of a smooth, well-oiled effective process found in the managerial framework. Although exploring all the conflicts and complementarities in the frameworks is beyond the scope of this study, Rosenbloom's succinct summary of the three elements alerts us to the necessity for any realistic concept of a public administration process, such as contracting, to engage questions from all three areas.

This necessity, effectively sets off the concept of contractual governance from the more popular phrases of contract management and contract administration. To ask questions of contract management is to ask questions about the most appropriate tools or training managers need to acquire. To ask questions about contract administration may require questions of either management and law or management and politics. However, to ask questions of contractual governance, the concept most needed to capture the complexity of the process, is to ask questions of the managerial, political, and judicial phases of the process and, most importantly, how they relate to one another and to the fabric of society. Further, a concept of contractual governance assists in tying together the issues of macrocosmic concern surfacing in the privatization literature with the microeconomic issues surfacing in the contracting literature.

To raise some of these issues, a beginning point for the investigation here is a question about how the three frameworks interact in Circular A-76. The first contention is that the general guidelines, prepared by the executive branch, and the agency specific guidelines, prepared by the U. S. Department of the Navy, reflect the managerial framework, the framework having its roots in what is sometimes called the "classical organization theory" of public administration or orthodox public administration theory. One of Dwight Waldo's comments is that "the classical theory" is still "the formal working theory of large numbers of persons technically concerned with administrative-organization matters, both in the public and private spheres," and expects "it will be around a long, long time. This is not necessarily because it is 'true'....But in any event a social theory widely held by the actors has a self-confirming tendency and the classical theory is now deeply ingrained in our culture" (Waldo 1961).

Classical orthodox theory is preoccupied with the anatomy of government organizations and is concerned primarily with arrangements to ensure that: 1) each function is assigned an appropriate niche; 2) component parts of the executive branch are properly related; and 3) authorities and responsibilities are clearly assigned (Seidman and Gilmour 1986, 6). Orthodox theory accepts the politics vs. administration dichotomy and sees efficiency as the single overriding goal of organization and administration.<sup>3</sup> If Waldo's assertion that orthodox assumptions are the working theory of most practitioners is correct, then seeing these assumptions reflected in the guidelines setting up the A-76 process may indicate that some of the other crucial aspects of governing may not be amply emphasized in the first stages. For example, some of the services contracted out under A-76, e.g., supply and transportation, require the contractor to work closely with other divisions, e.g., accounting and public works. If guidelines are constructed under the assumptions characteristic of orthodox theory, they may not account for the possibility that contractors under A-76 may become hybrids, part-contractors (primary contractual relationships) and part-government (secondary sub-

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<sup>3</sup> Equally well known by students of public administration is that heretics challenged the politics-administration dichotomy (Appleby 1949) and that Waldo was one of the first voices to question whether efficiency and economy are "the ultimate good."

unit relationships).<sup>4</sup> In other words, when the A-76 program requires contractors to become part of an agency, in this case, naval bases, physically, and perhaps organizationally, the line between government and private sometimes becomes difficult to discern. Procedures and strategies then must be developed to govern relationships among multiple units. Further, if the dichotomy is implied, then little guidance may be given to situations where discretion may be required by contractors. Because orthodox theory is based on in-house provision, not outside provision, the necessity for integration, guidance for situations of discretion, and guidelines for negotiation may not exist.

Figure 1 also indicates that assumptions of contractual governance will be explored in this study. Assumptions about contracting and the relationship of public and private organizations are some of the more specific assumptions found in attempting to connect public and private organizations. The assumptions chosen are those pertinent in the contracting literature: assumptions about the nature of contracting, the nature of public and private organizations and the relationships between public and private organizations and contract implementation. In bringing in private organizations, a different set of values are brought into government, those emphasizing more autonomy and perhaps different rewards. Thus, contractual governance must contend with another set of values when government and private organizations interact. After reviewing the literature on contracting, the subject of the next chapter, these assumptions will be further discussed.

## **Contracting Decisions and Implementation**

Continuing down figure 1, the practice of contracting out under Circular A-76 is viewed within this study through the perceptions of those participating in contract decisions and contract implemen-

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<sup>4</sup> Most of the insights gained from organizational studies focus either on clearly separate organizations in an organizational set, e.g., Hall (1972) and Miles (1980); relationships between departments within the same agencies, e.g., Van de Ven, Delbeq, and Koenig (1976); or general environmental-organizational questions, e.g., Emery and Trist (1965); Terreberry (1968); Lawrence and Lorsch (1969) as summarized in L. David Brown (1983). Fombrum (1986) also has concentrated mostly on organizational- environmental questions.

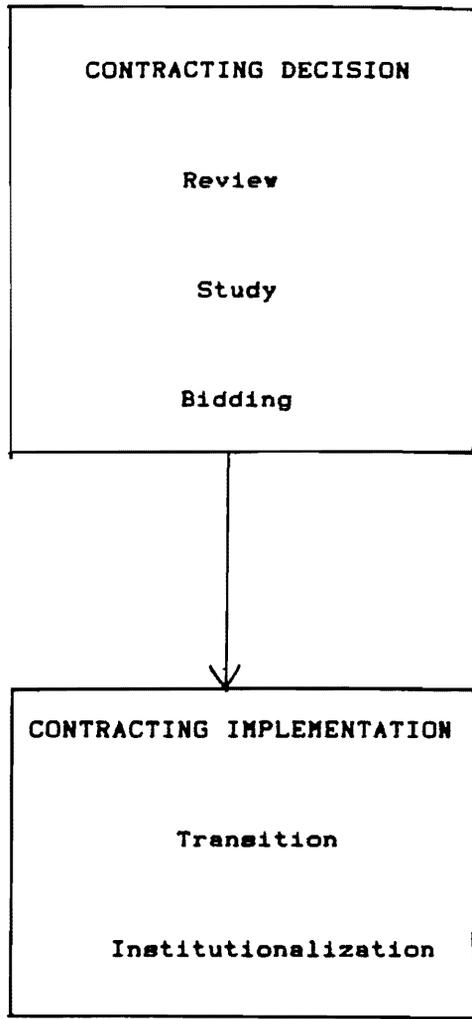
tation. Contracting decisions and implementation are described within this work in terms of the stages of the process. The contracting decision includes review, study and bidding while implementation is divided into transition and institutionalization.

### Review, Study, and Bidding

Shown in Figure 3, the contracting decision includes three phases: review, study, and bidding. In the initial stages of the A-76 process, installation activities are surveyed to determine which positions fit A-76 guidelines to be scheduled for study and which are exempted. After the review, a study process results in a performance work statement, a surveillance plan, and a management study to determine what tasks and personnel are essential for the "Most Efficient Organization" (MEO). This study process is usually the most time-consuming phase of the contracting process. Finally, the in-house cost estimate, translating the MEO into dollars, is constructed. Auditors, independent of the Installation, e.g., the Naval Audit Team, review the in-house cost estimate, the management study, and the performance work statement to assure their accuracy and integrity.

The guidelines for the review, study, and cost estimate stages that we will encounter could have been authored comfortably by a management analyst. Proceeding from a base of assumptions, "the systems framework," the guidelines specify how to count inputs, work, and outputs. The emphasis is on specifying lines of authority and accountability. The assumption is made that the careful study of exact work details will yield a new and more efficient organization dedicated to economy and effectiveness.

Once the government's concept of the most efficient organization is translated into a contract bid, a source selection process is opened with the letting of a solicitation, prepared by the government, partially from information collected from the performance work statement and the management study. For a contractor to win, the contractor's cost must be at least 10 percent lower than the government's in-house personnel costs of the activity. After the winner is announced, the other



**Figure 3: Phases of the Circular A-76 process**

parties may appeal the decision to an appeals board set up specifically to deal with Commercial Activities cost comparison issues.

In the bidding stage of the process, the contracting process is forced to confront "outsiders". A marketplace ideology begins to prevail where each party attempts to best others and "allocation of value" becomes the ruling concern. Questions of politics and power often rule the conversations as well as being reflected in the procedures. For example, efforts are made procedurally in the bidding process, to make sure all parties have access to the same information and only that information and only at bid opening. In addition, enough diverse interests must be represented to ensure that the process has been properly conducted.

This phase of the process stimulates many of the protests from government unions and other groups. Issues center around whether the bid process itself is a fair one: whether the contractor can be held accountable, whether the solicitation will insure responsive service, and whether guidelines in the work statements clearly delineate that which is governmental, i.e., that in which business or "outsiders" should not engage. Of course, these questions come out of a political concern, a concern that government is different from business and that some tasks should remain only within the sphere of governmental effort. The pluralistic nature of the society is also recognized in the consideration for small business set-aside, for making the opportunity to compete available to those toward the bottom range of the socioeconomic spectrum.

Of course, the term "politics" concerns not only those values we esteem, but also those associated with the pejorative uses of power. Allegations of intervention into the process by those who have more than their share of access to sources of political influence permeate the dialogue about the bidding process. Concern may be expressed over political figures influencing the Small Business Administration or over the likelihood of winning contractors who were former governmental employees having undue influence or special information.

## Transition and Implementation

If the government wins the bid, the changes necessary to meet the Most Efficient Organization (MEO) begin, e.g., reassigning selected duties and personnel to other areas. If a contractor wins the bid, the government begins civilian personnel action and completes detailed planning for the takeover. Displaced employees have specific rights, including "bumping" and first refusal. Bumping rights mean the affected employee may exercise his right to displace other government employees. The right of first refusal in A-76 means that employees have the right of first refusal for employment openings in available positions for which they are qualified under the contract. Finally, certain changes may be instituted after transition is complete. If the In-House Bid is successful, adjustments are necessary in tasks and personnel even though other working arrangements may stay the same. If, however, the contractor takes over, new procedures may need to be initiated to forge interorganizational relationships as well as to ensure that intraorganizational workflows can proceed. As may be expected, tension rises in this stage.

In these final stages of the contracting process in A-76, if the bid is won by a contractor, another sphere of concern is entered. Relationships among government and contractor no longer neatly fit either "in-house" hierarchy or resolution with power or a political process. Thus, the legal approach permeates the everyday contracting world with questions of who can enter the contractor space, the by-law authority of the contracting officer, and the citing of legal ramifications for violation of any aspect of the contract. The realization that a contract is, indeed, a legal document not only affects the way in which work is ordered, but the way in which relationships are entered. The Contracting Representative (COTR) or Contract Service Manager is the governmental manager close to the work and in effect the one responsible for the day-to-day maintenance of the contract. The COTR has responsibility for the contract, but not commensurate authority to control it. Instead, most of the authority actually to change or redirect the contract in any way resides in a different segment of the organization, Contract Administration. Thus, the lines of authority and responsibility do not coincide. There is a direct conflict between orthodox theory's admonition of the need for hi-

erarchy and divided activity specified by the legal guidelines, a practice intended to prevent corruption and to take advantage of the specialized training of those in contract administration.

In the unusual circumstance of grievance or default, the contract process becomes even more a part of the legal arena. Arbitration is used when in-house solutions are exhausted and issues involve the government and contractor, as well as representatives of former governmental employees, the union. Instead, the complexity of the process demands that some attention be paid to issues and questions from each of the three frameworks--the managerial, the political, and the legal. It is important to stress that the contracting process does occur in organizations. Within organizations, selected dimensions of the resulting contracting relationships will be explored. First, the linkages required to accomplish tasks, the degree of technological interdependence, will be examined. Considerable research (e.g., Thompson, 1967) indicates that different types of functions, particularly in terms of the type of technology employed, may be easier or more difficult to integrate into an organization. Second, the relationships between those involved in the contracting situation and other units is noted. The incidents and situations around which contractors and government interact are featured. Since the administrative complexity may affect the ease of implementation, perceptions of the complexity in the eyes of those participating is gauged. Both the experience and ability of government and contractor management may affect implementation. Further, the level of commitment and type of procedures initiated to supervise contracts and to reconcile differences may affect the success of the contracting process. Within the implementation process, contracting changes the authority patterns and, therefore, some of these changes are described.

## **Contracting Situations and Effects on Organizations**

Few have explored the contracting relationships and arrangements that result (DeHoog and Ascher are notable exceptions). Although the A-76 program has long been under study (e.g., Brandt and Eskew 1987; Government Accounting Office 1985; Montoya 1987; and Stolzenberg and Berry

1986), no research found so far has focused on the process and resulting contracting arrangements under this controversial policy in light of the governance values and assumptions.

In studying the dynamic contracting situations, the orthodox theory assumptions guiding the A-76 process may create some discontinuity for agencies. An emphasis on control and hierarchy may mean neglect of guidance for integrating contractors, a neglect that one scholar, John Child (1985), would say is perilous for organizations. As Child notes, most organizations do make choices of integration mechanisms based on the degree seen as required, the difficulties inherent in the situation, and the costs of alternate integrating mechanisms. The traditional bureaucratic approach, normal to most bureaucracies, relies on integration through standardization and planning. Elaborate rules and procedures are worked out and/or formal procedures and plans are developed. When something out of the ordinary occurs, problems and interpretations are referred up the hierarchy. Moreover, some attempts at mutual adjustment, e.g. committee meetings, usually formal and pre-arranged.

However, Child notes that an overemphasis on control, which Seidman and Salamon, for example, would agree is characteristic of orthodox theory, may lead to the neglect of other important characteristics, such as integration of subunits. Child, concerned with the management of organizations in general and primarily studying private organizations, sees the neglect of integration as part and parcel of a generic management outlook. In fact, he notes that studies of organizations indicate that managers appear to concentrate more effort on tight control and pay little attention to the question of integration (as seen in studies of British building and printing firms by Sadler et. al., 1974).<sup>5</sup> Further, this lack of integration is important because a low degree of integration between departments has been associated both with poor profitability and low job satisfaction. Thus, subunit to core integration, according to Child, is necessary for organizations to remain viable. Perhaps as important, although Child neglects to mention this point, is the integration of subunits with subunits. It is just these types of integration, both of subunit with core and subunit to subunit that

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<sup>5</sup> Interestingly enough, the same observation has been raised in the marketing literature in regard to relationships in marketing channels (e.g., Etgar, 1976; Anderson and Weitz, 1986).

may be transformed by contractor presence in the workplace. As the A-76 process is implemented now, subunits are studied and contracted out individually so that little consideration is given to how subunit tasks are connected to core processes or to tasks performed by other subunits. For example, to contract out transportation functions may also affect the ability of supply to move some of its goods (subunit to subunit) or may affect the ability of Navy computer systems to be loaded (subunit to core function).

Child notes that when more complexity, turbulence, or more emphasis on optimal performance is introduced, a greater need will be created for management to introduce an intense degree of integration between different parts of the organization. Bringing contractors into the governmental workplace under the A-76 program certainly meets the criteria--complexity, turbulence, and emphasis on optimal performance-- that may require the introduction of intense integration. The guidelines themselves may create complexity through exacerbating divisions among programs by stipulating exactly what programs must be reviewed, i. e., transportation and supply are seen as bounded work divisions with little concern for the necessity to connect the two to each other or to other programs. Additionally, with the entrance of contractors under A-76, more complexity is created through additional units through which to pass work. Probably more turbulence is created through new personnel, questions of where domains are drawn, resentment of contractor presence, and the questioning of legitimacy of the program.<sup>6</sup> Finally, less tolerance for suboptimal performance is a theme of the A-76 guidelines to which contractors will be held; a theme probably prevalent in the government division that had just undergone the management review before contracting out.

Many characteristics of organizations, personalities, and governmental regulations could lead to the choices that agencies would make in integrating contractor tasks. First, the overall length of time contractors have been present, may influence the mechanisms used and the degree of integration

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<sup>6</sup> Although governmental organizations are usually considered to be in less turbulent environments by the Harvard Organizational Environment research (Lawrence 1980) this group, in considering sources of uncertainty, has given only the most minor consideration to questions of legitimacy. Attaining legitimacy by governmental institutions, however, has always been of top priority, and if there are questions about the legitimacy of A-76 at the policy level, then these questions certainly add to turbulence in the environment.

into the agency. Second, the organization of the work and whether a high degree of interdependence is required may be a factor (Thompson 1967). Finally, the situation at the site itself, e.g. whether a contract has been renewed or controversy has arisen, may indicate the need for different mechanisms.

The contractor-government relationship in A-76 is also one of interest because it brings to the surface the questions of both a subunit relationship as well as a contractual relationship between government-staffed units and those contracted out. Because A-76 guidelines may reflect orthodox theory, the likelihood of a lack of emphasis on integration is increased. Additionally, it is suspected that the types of governance mechanisms instituted in different contracting situations may vary by the history of the situation itself, type of task, and over time.

The final review of the effects of the contracting situations on the organizations themselves includes the perceptions of those involved of the extent to which decision making processes can take into account competing stakeholder positions, an important assessment to make for public agencies. Additionally, the type of image projected in documents and among stakeholders of both government and business is important. Stereotypes formed in relationships with contracting may color images for years to come and consequently affect business-government relationships in many facets.

Further, the tightness of coupling among the government and private agency is examined. The strength of ties between subunits within an agency and among representatives of agencies is important to understanding future organizational interaction. (Weick 1976; cf. Van de Ven and Ferry 1980, 13; Brown 1983; Hult 1987) In a summary of the literature on organizational interfaces, Brown (1983) notes that the interaction of organizational representatives may either be tightly or loosely constrained, depending on how permeable are the boundaries (whether representatives in interfaces maintain close control over materials and information) and how the interaction is regulated (whether formally or informally). Even though changes may occur in contractor government relations over time, Trist (1977) and Brown (1983) note that generally interorganizational relations

are less tightly organized and richly connected than relations within organizations, and that organizational parties are more often on their own to work out relations with each other.

In contracting out, however, control over a portion of the intersectorial relationship is expected. Contracts generally specify what tasks are expected and what outcomes will be monitored. Successfully completing work requires interaction and administrative arrangements, intangibles which are not specified by contract. Although as yet not part of the literature, just what strategies are used by contractors and government in A-76 interfaces, is a focus of the information reported in later chapters.<sup>7</sup>

Included in the assessment are the issues around which conflict arise and the amount of conflict present over time. Several attempts at describing the dynamics of representatives' interaction in interorganizational interfaces in other studies include characterizing them as the escalation of antagonism into interorganizational warfare (Trist 1979), the suppression of differences into organizational collusion (Hirsch 1975), and the withdrawal of differences into interorganizational isolation (Gricar and Brown 1981). Certainly some interorganizational relationships can involve more productive conflict. These may take the form of interorganizational bargaining where common and conflicting issues are recognized and where issues are thought of as ones in which one organization gains and the other loses (Hirsch 1975 and studies of negotiation, marketing channels). Interorganizational problem-solving is an alternative, when common issues are perceived as more important than conflicting ones (Brown 1983).

In light of these findings, perceptions of the positive and negative effects of contracting on agency employees are reported. How agency integrity is affected, as indicated by whether or not it is able to incorporate contracting into routine, is also noted. Further, the institutional images, the extent

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<sup>7</sup> Although not fully explored in this work, the strategies that evolve within and between organizations to deal with organizational interfaces may vary according to the types of organizations ("defenders, prospectors, analyzers, reactors", Miles et. al. 1978), interests perceived (similar, complementary, or antagonistic, Laumann et. al 1978), environmental turbulence (Lawrence and Lorsch 1967), and probably other organizational and personality factors (Bagonzzi 1974).

to which contracting out affects lasting images of either government or business, are considered. Finally, estimates of the effectiveness of contracting out, the extent to which it enhances or interferes with meeting agency goals, is judged.

## *Questions Raised*

These questions are currently raised in the press and in debates among unions, politicians, and government careerists. They are not new questions, but ones that have long been part of both political theory and of public administration.

Governance is, first of all, a powerful concept. Some may say it is a presumptuous concept to use in the issues involved in the contracting out of service functions. The contention of this work, however, is that it is in the working out of the myriad of details in actual situations that the issues of contractual governance arise. Behind the narrower questions addressed by this dissertation lie some of the continuing questions of public administration. What policies and procedures enhance or interfere with democratic governance, accountability, responsiveness, and representativeness? Wilson's classic essay, "The Study of Administration," contends that if "he sees a monarchist dyed in the wool managing a public bureau well, I can learn his business methods without changing one of my republican spots" (Wilson 1887). Ever since Wilson's essay, public administration theorists and practitioners have debated whether borrowing methods implies borrowing also the values and ideologies attached to the methods. Although in Wilson's essay the concern may have been borrowing from other countries, today a similar question may be asked: does borrowing management techniques or a cost-benefit methodology from the business sector obscure other values for government, such as service, effectiveness, or equity?

Another classic work, this one of more recent vintage, is a source for much of the speculation about the relationships between contractors and government. This is Graham Allison's article, "Public and Private Management: Are They Fundamentally Alike in All Unimportant Respects?" (1980). One of the most important assumptions of this article is that the public and private sectors are fundamentally different, an assumption that Allison and others have delineated in the separate spheres of external environment, organization-environment, and internal structures and processes. Interesting as those assumptions are, and even though, scholars of the last decade have attempted to document these differences, one confounding factor haunts most studies: what is it about government and business that is so different? Mandates? Environment? Organization? Personnel? Incentives?

Contracting out, as an experiment in service delivery, allows some insight into what are some of the similarities and differences between government and business. In A-76, contractors from the private sector take over very similar positions to those once occupied by government employees. However, contractors are not government employees. Thus, once contractors take over, are there differences, if any, in the way tasks are organized and the way authority relationships are structured? Or in the orientation to service?

As public administrators and system theorists are wont to say, are there unintended consequences? Some of these lie in the realm of what happens to the agency: Is more time spent reporting and monitoring due to the work being provided by the contractor, rather than provided in-house? Over time, does a strict system of quality control lead to more productive workers or evasion of surveillance? What happens to flexibility, ability to respond to emergency, and internal accountability? Other questions lie in what happens to government employees displaced by the contract. This issue raises a realm of questions as to whether government, a model for personnel relations, can both displace workers and display loyalty to them. Specifically, what happens over time to the managers of contracts in programmatic areas, managers who once motivated, planned, and acted and now monitor? What are the consequences of moving personnel, both good and bad, to other parts of the agency?

What happens to contractors themselves also becomes part of the puzzle. Military bases following A-76 guidelines with their emphasis on small business participation sometimes offer the contract to those not quite prepared to complete it. On the other hand, small businesses anxious to get their foot in the door take risks above their resources. The outcome for both business and government in these situations can be unsatisfactory and very costly. Further, performing under the same guidelines and restrictions as government employees may counter the reasons for bringing private enterprise into government in the first place: innovation, flexibility, and increases in productivity. One cannot but wonder if, over time, contractors' approaches and government's approaches do not become indistinguishable. In short, the classic questions raised here address the appropriate relationship between government and business, including unintended consequences for competition, innovation, and profit-making for business. Thus, the particular focus of this work straddles, on the one hand, some of the concerns of the "old public administration," with its attention to the natural experiments that Herbert Simon called for in "The Proverbs of Administration" (1946), and the concerns of the "new public administration" with its emphasis on public organizations and research leading toward prescriptions (H. George Frederickson 1971).

In summary, the argument is that our current concepts of contract management and contract administration do not fully capture the realities of the process created by the interfacing of the managerial, political, and legal frameworks. Nor do these narrow perspectives integrate the macro concern with privatization and the micro concern with contracts. A proposed avenue for developing such a theory is through the examination of real contracting situations to uncover the connections among the foci of the managerial, legal, and political approaches outlined by Rosenbloom (1983, 1987), the degree of parallelism between theoretical and working level assumptions, and the dimensions of the contracting decision and the implementation process.

The theory will need to contend with both the contractual and subunit relationships in governance and how these relationships are initiated and maintained. The multiple dimensions of contracting also must be addressed and the assumptions about governance held by different stakeholders in the process need to be considered. Estimates of the ability of the process to lead to accountability and

responsiveness are also necessary. Finally, questions of the effects of legal specification of duties and arrangements on managerial efficiency must be addressed: which sphere is to reign supreme if the more efficient mode of organizing is hampered by the legal process or legal standards are endangered by managerial imperatives?

To return to the three questions guiding this work, specific objectives are to be accomplished as outlined below.

1. Does the implicit theory behind A-76 account for the complexity of contracting and the assumptions of governance interwoven into the process? To find a partial answer to this question, contracting as a concept will be reviewed in relationship to the broader concepts of privatization, governance, and issues surrounding contracting relationships. The history of A-76 will be examined for an understanding of the evolution of policy and the context of A-76 contractual governance will be compared to other contracting relationships.

2. What is the relationship among the guidelines for contracting and the organizational reality in which contracting is implemented? First, insights from selected literature on privatization and government contracting will be examined as an outline for study findings. The assumptions of selected A-76 literature will be analyzed as well as the working level perceptions by different groups of stakeholders at different sites.

3. What are the differences/similarities in organizational adjustment and management techniques by different sites and tasks? The search for differences/similarities in contract management techniques will begin with an examination of the literature on contract implementation. How contracting relationships evolve and are maintained at different sites will be discussed.

## *Methodology*

As many studies, this one began out of a personal concern. As a management analyst in A-76 studies at one Navy base, I became frustrated with what seemed to be a cumbersome and unnecessarily complex process to accomplish efficiency goals. Many of the ironies and contradictions in the program and in its goals became apparent in the workaday world of collecting data on supply and transportation functions. Perhaps, even more important, I was torn in defending a neutral outside contractor systems analyst position against the questions of those who felt that as a result of the study they may lose their positions. Allegations that contracts were already decided upon and that politics in its pejorative sense was the final decision process bothered my vision of equity in government. Class distinctions among blue and white collar and the notion that blue or pink collar positions were "cannon fodder" disturbed a rather egalitarian soul. Further, some allegiance to managerial perspectives that hold out hope that government can be efficient and effective was often dashed. Thus, in an effort to understand and make sense out of my perceptions, I turned to theory and a methodology that would check my original perceptions. The beginning of the theory has been outlined. A summary of the methodology is presented below.

In doing the study, certain assumptions are made. Theoretical assumptions have been drawn from a number of schools of thought. The overall framework is one of modified structural-functionalism, modified in the sense of giving more credibility to the action of individuals in the situation, e.g., supervisors, and modified to focus on process description. The focus remains on the assumptions and perceptions made by different groups, the institutional structures created, and the processes of interaction leading to the creation of those structures. Since it is difficult to view process in any but a static way, process is viewed here by means of the residues, the administrative mechanisms, and the reports of the strategies used in resolving conflict or promoting integration.

Further, an assumption is made about the importance of understanding contracting out in terms of governance, an assumption based on the work of Seidman, Elkin, and Hult. To study the mechanisms and strategies forged between contractors and government within this perspective is to ask whether the dialogue and the resulting relationships reflect perceptions of a relationship that enhances accountability, the public interest, and dignity. The internal processes of the organizations will be viewed from a blend of the classical Public Administration literature focusing on the importance of coordination and the current emphasis from organization theory on integration and managerial strategies.

To understand contractor-government relationships at different stages in the contracting process, this study uses two basic approaches: one, assumptive analysis of policy documents and two, interviews and observations in field settings. Except for observation, the techniques used, i.e., structured interviews and examination of historical documents, are subject to bias and rely upon the veracity of words. They require subjective interpretation. As in many social science traditions, this is indeed a vulnerable position. However, an assumption is made here that the words are the truth as those who speak and write them know it. Nonetheless, to understand a consensus or lack of it, or to interpret the "truths" of the situation, will require us to investigate systematically what stakeholders in various positions and various stages of the contracting process say. Cross-validation through documents and interviewees provides some protection.

In order to investigate whether the guidelines structuring the A-76 contracting process reflect orthodox Public Administration theory, information was gathered for government on administrative assumptions throughout the contracting process, i.e., the assumptions made in setting up the contracting situation and contract as well as the ones made by managers at the installation when the contractor enters. Contracting guidelines were examined to reveal their stated assumptions. The general framework of the guidelines was ascertained, as well as whether there are assumptions of hierarchy and control, a portrayal of government and contractors as adversaries, and an implication of the politics-administration dichotomy. Contracting guidelines, such as Commercial Activities Updates and the Policy Statement for Naval Activities, were reviewed using criteria such as the

following: hierarchy -- references to specialization, chain of command, procedural specificity; control and adversative image -- references to monitoring, evaluation, penalties; politics-administration dichotomy -- references in literature that policy is made at the top and that omit reference to use of discretion.

Visiting field sites first hand was necessary to gain insight into the contracting process. Documents were reviewed and interviews were conducted with appropriate personnel at four different sites at three different bases in the Virginia-Maryland vicinity. Data were gathered from four sites in all, two locations for each of two different functions, supply and transportation. Supply represents a technology requiring much interdependence to perform workflow. For supply, the case in one location represents a new contract, which from all reports, is performing well. The other represents a more turbulent situation. In contrast to supply, transportation employs a technology where material is brought in and manipulated with some degree of independence from other workflows. For transportation, the case in one location represents an entrenched, even though turbulent, situation while the other represents a new contract following a satisfactory performance under the previous one. Thus, within the four cases are examples of two satisfactory performances in contracting situations, one interdependent and one more independent, and two turbulent ones, one where contracting is just beginning and interdependent, and one where it is entrenched and independent. These situations make for a four-way comparison of types of administrative mechanisms and managerial strategies in different contracting situations.

Interviews and documents at the bases made available for the study allow us to examine the initiation of the contractor to the naval base, assumptions about governance procedures among contractors and government in the contracting interface, and the assumptions of the supervisors and workers for both government and business. In addition, both supervisors and a selected group of workers at each base revealed their main concerns and satisfactions with A-76. Insight into the strategies of conflict resolution was also gained. Additionally, estimates of regulations and their importance for governing the situation, estimates of trust among parties, and estimates of overall

evaluation of the type and intensity of the relationship among contractors and government personnel were made from interview statements.

The general strategy of this work is to follow Robert K. Yin's advice (1984, 100-101) to rely on theoretical propositions to shape the data collection plan and to give priorities to the analytic strategies. The first thrust is descriptive. An attempt is made to capture the essential elements of Circular A-76 as a policy and as it is implemented in four contracting situations. The second thrust is comparative. First, empirically based patterns are compared with theoretically based ones. Then comparisons are made among the situations at the four sites themselves. The objective is to strengthen the internal validity of the insights (Yin 1984, 103-119). The contracting situations were selected to be similar in size and length of contracting, but varied in experience with contracting, and thus, each situation can be thought of as somewhat of a "quasi experiment." Studying the process and outcomes of each can yield insight into the problems and possibilities of contracting.

## *Forthcoming Chapters*

The forthcoming chapters are organized around the accomplishment of these objectives. In Chapter Two, literature is reviewed for insight on the frameworks and assumptions of governance. The literature relating elements of governance to the theoretical assumptions about contracting is examined. The methodology for this particular study is also included. The techniques used in archival research, structured interviews, comparative analysis of the four sites, and analysis of documents are explained. The focus of Chapter Three is two-fold. First, the history, evolution of policy, and the program of A-76 is described. Second, the theoretical assumptions in guidelines for implementation of A-76 are examined. In Chapter Four, the perceptions of two phases of the contracting process as implemented in four sites are examined. The first phase, characteristics of the contracting decision, includes an examination of the review, study, and bidding process. The

second phase, characteristics of implementation, includes an examination of transition in and implementation of contracts. An evaluation of the four contracting relationships at one point in time and the effects on the agency are explained. Finally, in Chapter Five, a summary is made of the findings for the four sites and the A-76 policy environment. The generalizations and findings are reviewed with a critical eye as to their implications for the broader questions raised in Chapter One and their contribution to a theory of contractual governance.

# Chapter Two--Background Literature and Methodology

The framework presented in Chapter One serves as a guide to an examination of the voluminous literature on contracting, governance, and Circular A-76. Studies concerning the circular itself are interwoven with an analysis of the policy environment in a later section. However, in order to interpret the policy environment and site situations more meaningfully, literature is reviewed below that may assist in understanding the two foci guiding the study: frameworks and assumptions. Literature concerning the frameworks of governance is reviewed in terms of the political, legal, and managerial dimensions. Research and theory surrounding the assumptions of contract organization are examined in terms of the nature of contracting, the nature of private and public organizations, and the nature of contract implementation. First, however, briefly summarized below is the relationship of contracting out to the broader concept of privatization.

Most of the issues surrounding the A-76 program are embedded in the broader issues surrounding privatization. Privatization, as with many concepts in public policy, has multiple meanings. A bibliography put out by the Congressional Research Service notes that "Privatization refers to the transfer of Federal assets or activities to the private sector. While not a new concept, it has been given fresh emphasis by the current drive to reduce the Federal deficit" (Congressional Research

Service 1986). Emanuel Savas defines privatization as a movement to reduce the scope or extent of public responsibility (Savas 1982) while Paul Starr (1988) notes that privatization refers to a shift from publicly to privately produced goods and services. What seems to be common to these definitions and others is a transfer of authority or goods from the public to the private sector. Yet, most of the literature has examined privatization outputs and not the process of privatizing, one of the foci of this paper.

In the privatization literature, methods or forms of privatization have been variously categorized as load shedding, contracting out, deregulation, public-private partnerships, use of private insurance to pay for public services, use of the market mechanism to make public resource allocation decisions, and the use of vouchers and private management techniques (Palumbo and Martin 1987). Dimensions, ownership, methods, and type of goods have all been used as distinguishing characteristics. A recent attempt at categorization of the different types of privatization by Dennis J. Palumbo and James C. Maupin notes that governmental activities can be classified as 1) decision making, 2) financing, and 3) providing services or goods. The two most favored models by much of the economic literature, according to Palumbo and Maupin (1987), are those where government decides and finances or where government decides only. Contracting-out under A-76 would be characterized as a case where government decides and finances, but the private sector actually produces the service and thus would fall into one of the models economists are said to prefer (Palumbo and Martin 1987). After consideration of the dimensions associated with governance, the political and legal, as well as the economic, recommendations can be better evaluated.

A further attempt to put many government and quasi-governmental activities into practice, including contracting out, is that proposed by Lester Salamon and others in Beyond Privatization: The Tools of Government Action (1988). In this book, Salamon and associates note that many types of activities can be handled through more than one type of delivery system. However, the nature of the delivery system is important, because it affects the complexity of the implementation process, the degree of control that can be exercised over program operations, and the nature of the pressures built into the program administration by the involvement of different types of organiza-

tions with different outlooks and purposes. Tools that provide a meaningful role for affected organizations are more likely to win the support of these organizations than tools that do not.

For analytical purposes, Salamon (1989) and others suggest four dimensions on which to differentiate the "tools" of government. First is the nature of the activity--outright money payments, provision of goods or services, legal protection, or restrictions/penalties. Second is the structure of the delivery system, divided into two broad groups: direct--essentially involving federal agencies alone or indirect--essentially involving nonfederal actors in the operation of the program in a fairly substantial way. A third dimension of tools is the degree of centralization of control they entail. Indirect mechanisms are likely to be less centralized than direct ones although there may be variation depending upon the particular tool used. Another dimension for distinguishing among tools is the degree to which they require detailed administrative action. Some are relatively automatic, making use of market relationships, while others require continuous detailed administrative activity.

Lester Salamon's tool categories are used to place contracting out under Circular A-76 in a typology compared to other types of indirect governmental provision tools. To be consistent with Salamon's use of the term "tool," Circular A-76 activities can be classified as a subset of a tools category, as one type of contracting tool. In Circular A-76, the nature of provision is outright money while the structure is indirect. The degree of centralization is intermediate in that much direction for the program comes from OMB and Naval headquarters directives, but implementation oversight is at the base level. The degree of administrative activity is detailed activity although the program has a market ideology behind it. This particular feature of the "tool" of a market ideology, but detailed administrative activity to enforce the program is one of the inherent contradictions built into the program.

Salamon's focus on tools opens up an important way of looking at contracting and other tools of service delivery. However, a focus on the tools does distort a focus on the agency or organization in which the tool is employed. Both are important units of analysis--the tools of contracting and contracting situations. Thus, this work attempts to combine some of the insights from both

frameworks: the particular type of tool of contracting is described within four contracting situations in organizations.

Thus, the need for an organizational perspective borrows some rationale from emerging work in the design of "organizational policy." Many have lamented the lack of a good conceptual framework for understanding the explicit efforts to redesign bureaucracies in order to achieve desired ends (Landau 1983; Hult 1987, 313). Finding both contemporary theories of organizations and bureaucratic dynamics unsatisfactory, a different approach of making conventional organization theories relevant to more political organizations such as government agencies has been suggested (Hult 1987). Quoting from Karen Hult (1988):

The resulting perspective treats organizations as governance systems. In this view, organizations develop formal and informal structures--governance mechanisms--in order to respond to inevitable and ongoing political responsibilities: for example, discovering and defining goals, choosing means, allocating power and authority, and generating legitimacy and commitment in and out of the organization. These mechanisms may be temporary or more permanent. The governance approach, then, emphasizes political structuring.

Continuing, Hult notes that the governance approach assumes that organizations and decision makers strive to reduce their perceived uncertainty and conflict (Cyert and March 1963; Crozier 1967; Thompson 1967). Yet, second, the governance approach notes that uncertainty and conflict are often fundamental and, at least in the short to middle term irreducible (e.g., Landua and Stout 1979; Dror 1986). The governance approach attempts to spotlight the ways in which organizations cope with uncertainty and controversy. As such, according to Hult (1987), it is a partial model of organizations, more relevant when ambiguity and conflict are high, when more than routine problem solving is required.

Hult also notes that the theory is still developing but has proven helpful in generating propositions about the dynamics of uncertainty and controversy, the distribution of power in organizations, and policy outcomes. These theoretical attempts try to fill the gap in our knowledge about "organizational policy."

The work of Salamon (1988) and Hult (1988) both point to the need to better explain the new organizational realities. For, Salamon the world of organizational reality now includes various temporary and more permanent third party provision of government services. For Hult, that world also includes mergers of many kinds with the resulting need to look at the informal and formal governance mechanisms that direct them. Both note that different conceptual and theoretical approaches, approaches still in their embryonic forms, are needed.

## *Research Concerning Governance Frameworks*

Describing a similar phenomenon, Barry Bozeman (1987) notes the development of "governance structures,"<sup>8</sup> the policy system elements and routines surrounding a group of organizational tasks. Policy systems elements can be viewed as reflecting the influence of the U. S. Constitution.

Quoting Peter Woll:

The effect of the Constitution is to fragment the bureaucracy. Lines of control are blurred, organizational patterns are diverse, and in general unity is absent. The Constitution has fragmented our political system generally and the bureaucracy is not an exception.

Continuing his argument, Bozeman (1987) notes that the policy system elements created under the Constitution and the policy routines reflecting such elements as separation of powers affect both the routines of government and nongovernment organizations. Some routines, "procedures, habits, and learned behaviors that are evident in the decision processes of individuals, social groups, and formal organizations" (Sharkansky 1970, 29), reflect the interjurisdictional fragmentation arising from federalism that others develop more or less independently (Bozeman 1987). Further noted is that routines emerge as simplifying or stabilizing devices, but once institutionalized, they take on a

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<sup>8</sup> Other literature focuses on the development of "implementation structures" (Hjern and Porter, 1981), but the term "governance structure" is more appropriate here to connect with the pervasiveness of political authority in the organizations studied.

momentum going beyond any initial rationale (Tolbert and Zucker 1983 in Bozeman 1987). As Bozeman notes, "A strong flavor of publicness is brought to any organization tied to the policy routines of government budgeting" (1987, 76). Certainly, then, the reflection of the Constitution's separation of powers has been noted in the organization's relationship to the external environment, i.e., the notion of serving many masters. However, what has not been examined as thoroughly is how the frameworks building upon the separation of powers can be reflected within a single process within a governmental organization and in interactions with nongovernmental organizations. Theoretical attempts try to fill the gap in our knowledge about "organizational policy." The perspective here is to understand the "organizational policy" of combining contractor and government in service production through reviewing first the research most directly applicable to the frameworks of governance, identified earlier as managerial, political, and legal. Selected literature concerning assumptions of contractual governance is then reviewed.

## **The Political Dimension**

Concerns associated with the political dimension include whether or not contracting establishes a new balance among government and private enterprise, the use of contracting to satisfy conflicting demands, and the question of resource allocation. Dennis J. Palumbo and James Maupin (1987) note that privatization may establish a new balance among government and private enterprise. Their concern, shared by others, is that privatization is not just changing the character of service delivery, but becoming a political movement to end the role of the state. They discuss three major political consequence of privatization: possible impact on social mobility, on the character of government, and on implementation of government programs. Their overall concern is the political consequences that privatization has on democratic institutions. They further note that privatization neglects that policy is made as much, if not more, during implementation as it is during the for-

mulation or agenda setting, problem definition, and policy design stages (Meier 1979 and Ripley and Franklin 1982 in Palumbo and Maupin, 1987).

In evaluating privatization from a political perspective, Palumbo and Maupin agree that privatization advocates appeal to the individualist public (Elazar 1970). Further they note that economists often take "an unequivocally instrumental view of government." But their concern is whether privatization will "affect democratic governance." Will it reduce the amount of social mobility, weaken the structure of government, lower the status of public employment, or alter the character of government services? In other words, as the authors question, do we judge the public service by economic efficiency? Further, they question whether the marketplace is capable of proportionately representing the population's needs. In their opinion, the political side is related to the equity goals of government while the economic side focuses on efficiency.

A different concern with the political dimensions of contracting is expressed by Ira Sharkansky (1980), who views contracting as one way for politicians and managers to satisfy conflicting demands. According to Sharkansky, contracting cannot be viewed in isolation. One of his answers to the question of whether the officers of government can put their house in order is that it may not be easy to do so if the core departments of government cannot handle all the activities demanded by citizens and promulgated by politicians. Another reason for contracting may reveal some measure of indifference or guile. Politicians respond to some demands out of political necessity--without caring how programs develop, according to Sharkansky (1980). If there is an available body on the margin of the government, then it may handle the new program without great risk to the politician. If the program goes sour, the autonomy of its administrators allows the government and political leaders to avoid blame. Politicians also put programs on the margins in order to keep expenses off the government's budget or to keep employees off the civil service list. Programs thus can be added without violating--explicitly--other demands to limit the growth of government. Programs on the margin also are available to patronage demands from politicians who create them. Politicians may create supporters outside the formal controls or allow service to a constituent whose case might not survive scrutiny. Thus, according to Sharkansky (1980), the

margins of government are of, but not in, the government. They promise the satisfaction of contrary demands: a typical way out for a politician's need to satisfy multiple contingencies, for example, and for a manager's need to balance working quickly with following all procedures.

Concerned about the political dimension also are Peter M. Kettner and Lawrence L. Martin (1986), who focus on the resource allocation questions involved in the political dimension of contracting. They begin with the premise that the politics of state purchase of service contracting (POSC) for social services has received little systematic research attention. Two schools of thought have evolved around contracting. The first school uses a market model of POSC, portraying contracting out as involving competition and market forces. The assumption is that POSC can lead to the same or higher quality services at lower cost. The political dimensions of contracting out are rarely considered, but the assumption is made that contracting out is good public policy. The second school of thought is essentially anti-POSC. This school is encouraged and financed by the American Federation State County Municipal Employees (AFSCME). Although the political dimension is considered in this literature, the school's motivations are suspect and the conclusions are basically the same: POSC, or contracting out, is bad public policy. Kettner and Martin question, however, whether these case studies say more about differences in contracting expertise and practices of various government agencies than about the effects of the political variable.

In an attempt to answer the classic political question of who gets what, where, and why, Kettner and Martin at the state level identify two types of political pressures operating on the decision to contract. Primary level contracting decisions involve establishing the general policy context in which POSC takes place and the establishment of general criteria guiding overall POSC decision making. Secondary level contracting decisions are the results of more obvious direct political pressures exerted by pressure groups in attempts to influence who gets specific purchase of service contracting. Primary level contracting decisions are also resource allocation decisions, although the winners and losers are sometimes less obvious. Primary level contracting decisions can determine whether whole classes of groups and interests will be winners or losers. For example, when a primary level contracting decision is made to use POSC, public employee unions lose while private

sector contractors win. Primary level contracting decisions can also influence secondary level contracting decisions by bestowing subtle advantage and disadvantages upon whole classes of groups and interests. For example, a primary level contracting decision might establish a goal of using POSC to lower the overall costs of providing social services. A change of this nature in the POSC policy context would create a competitive advantage for large social services agencies capable of providing POSC services on the margin, while handicapping small social service agencies that must recover the full cost of their services.

After identifying the two types of political and external pressures, the less obvious indirect pressure to influence the policy context and the more obvious direct pressure to influence specific contract rewards, Kettner and Martin (1986) review other studies to assess the influence of the political variable. Drawing upon data from a recent national survey of state Social Services Block Grant Administrators, they maintain that the relative influence of politics on state POSC decisions may be understated and that an accounting of both direct and indirect pressures is necessary for a complete understanding of the politics surrounding purchase of service contracting. Citing studies in the San Francisco Bay Area, Kettner and Martin found that political considerations did influence primary level contracting decisions. The researchers reported that in the POSC decision making process a constant tension exists between a concern for the technical and a concern for the political. Significant among the political was a decision as to what types of services would be contracted. Kettner and Martin also review other studies that find politics and external pressures as major factors in primary level contracting decision (for example, DeHoog (1984) and the Urban Institute). They also note that research on second level contracting decisions is abundant, studies that are usually descriptive cases and are frequently polemical.

After reviewing the results of other studies and their own research, Kettner and Martin believe that the relative importance of the political may be understated and that an accounting must be made of both direct and indirect pressures if the workings of the political variables are to be completely understood. Thus, they note that more research is clearly required to establish the total relative combined importance of political variables vis-a-vis other POSC decision factors.

Thus, in terms of the political dimension, Sharkansky's work points to the importance in the decision process of the legislature and legislative concerns. Issues with which the study of A-76 as one type of contracting will have to contend are the questions of the effects of contracting on democratic institutions and the accountability of contractors. The work of Kettner and Martin indicates that political considerations are part of the establishing of the general context of contracting policy as well as part of the stage of deciding who gets a specific contract. This work points to the need to examine in A-76 the process by which decisions are made as to which services should be studied as well as the criteria and process for deciding who gets a particular contract.

Finally, there is a need to encompass the dimension of politics in the understanding of organizational phenomenon. Those who have emphasized politics in organizations (e.g., Thompson 1967; Pfeffer 1981) have indeed treated them as the exception (Hult 1987). Politics has been treated as a signal that control is breaking down and the political means of allocation has been too often seen as an isolated phenomenon and contrasted with "bureaucratic" or "rational action." A notable exception is the work of Gary Wamsley and Mayer Zald, who pioneered the concept of viewing both politics and economics within public agencies. What is needed, according to the work of Karen Hult and Charles Walcott, is an appreciation of politics at a systems level, an appreciation that the political is involved in the efforts to determine values, set goals, generate consensus, and allocate benefits and burdens (Hult 1987).

## **The Managerial Dimension**

Efficiency is the watchword for the managerial framework. One basic argument surrounding privatization, particularly from the public choice point of view, is that privatization saves money and offers citizens the opportunity to comparison shop. Additionally, some economists argue that incentives for efficiency are virtually nonexistent in the public sector. Although a conclusive answer to these questions, either for contracting in general or for A-76, is beyond the scope of this paper,

some of the arguments are noted here in order to understand the controversy and contradictions in the managerial frameworks.

Proponents for privatization note that the private sector does have a strong profit motive and thus, will be driven to encourage efficiency. A volume of research at the local level indicates that privatization saves money by various tasks: airport fire services, prisons, parks and recreation, social services, police services, public transit, waste collection and disposal, wastewater treatment, education, and fire services. However, most of the studies report before-after cost comparisons without controlling for whether workload and conditions are the same, and, then, conclude privatization is cost effective. However, the question is not as simple as private or public, but as noted in the introduction to this section, there are various types of public and private. "Public and private" are not absolute categories, but a continuum with the hybrid models in between growing at a fast rate.

Although several researchers report tremendous savings when public is compared with private, only a few have attempted to examine the variety of hybrid categories carefully. A more careful examination of one of the studies in the transit area indicates why the research is still inconclusive. Comparing organizational form and performance in urban bus transit systems, James L. Perry and Timlynn T. Babitsky (1985) find that privately-owned and managed transit systems were significantly more efficient than any of five categories: general government ownership, public management; special authority ownership, public management; general government ownership, contract management; and special authority ownership, contract management. However, they do hasten to add that the "most important qualification is that the private organizations in our sample were subsidized systems located predominantly in the New York-New Jersey area, and therefore, may not be representative of all private systems" (Perry and Babitsky 1985).

Even more germane to the A-76 discussion is the evidence Perry and Babitsky (1985) found for the relative inefficiencies of contract managed systems. Contrary to their expectations, the hybrid categories contract-managed systems were no more efficient than publicly-managed systems. This

finding was replicated across several indicators, including output per dollar, and vehicle and maintenance efficiency. However, research by the Government Accounting Office comparing cost savings after contractor takeover under A-76 indicates that contractor managed services, including transportation, tend to save money. The GAO studies and their implications will be explored further in a later section.

Questions raised about whether privatization really saves money include the possibility that administrative overhead to administer privatization programs is not counted. Further, researchers question whether the quality of the service is the same. Also, as will be noted later in the discussion of A-76, good questions may exist of whether the work before contract takeover and the work after contract takeover are truly comparable.

Another very significant element of the managerial framework is the concern with hierarchy and the assumptions of organizational design. That literature was reviewed extensively in Chapter One as part of the overall argument that the contractual guidelines would reflect assumptions of hierarchy and control, assumptions from the managerial framework. Thus, the points about assumptions in the managerial framework will be raised again in forthcoming chapters.

## **The Legal Dimension**

Although other authors have not couched the contracting process in the same framework of governance as proposed here, many scholars have certainly noted that the issues surrounding privatization are issues of governance. Two recent articles by Ronald C. Moe (1986, 1988) note that the debate today is over the "right" configuration for the line between the public and private sectors. In fact, Moe (1988) contends that the inability of the privatization movement to come to grips with the need to integrate its economic theory with the complementary theories of public law and by extension public administration appears to be the Achilles heel of privatization (1987, 459).

Further, Moe notes that what has been neglected in the privatization debate is that the two sectors are linked and not in a zero-sum game. Noting that there is a dearth of scholars addressing the questions of what criteria should be used to decide what is appropriately privatized, Moe maintains that no one has yet answered Wilson's first question: "It is the object of administrative study to discover, first, what government can properly and successfully do, and, secondly, how it can do these proper things with the utmost possible efficiency and at the least possible costs either of money or of energy" (Wilson 1887, 197).

According to Moe, promoters of privatization have a world view that sees few limitations. The privatization movement sees the public sector as too large and contends that service delivery through the private sector directly or indirectly leads to efficiency and effectiveness. Ignored are problems with legal status or organizational structure. According to Moe, a line must separate that which is public from that which is private. The fundamental basis of this line is to be found in public law. Using the example of the Federal Assets Disposition Association (FADA), Moe argues from *McCulloch v. Maryland*. The Constitution, statute law, and the political culture all tend to promote and reinforce the separate and distinct basis for the governmental and private sectors, he says. According to Moe, the lesson from *McCulloch* is that a sovereign cannot be taxed by a subordinate unit since to do so would permit another body to determine the fate of the sovereign. Thus, there are limits to privatization. Moe further notes that, at the present time, functions are assigned to the public or private arenas without criteria and with consequences expensive to both sides. He recommends the criterion of sovereignty. The federal level has the rights and immunities of the sovereign while organizations do not. The federal government possesses the legitimate right to use coercion; is immune from suit except by permission; is indivisible; and may disavow debts. Thus, the question becomes: Does the performance of a function necessarily involve the powers properly reserved to the sovereign? Questions concerned with the "economic costs" ought to be secondary to the resolution of more fundamental legal issues. For example, privatization clearly has limits when national security factors are present (Moe 1988, 457). Another practical limitation is concern for public safety, e.g., responsibility for disposing of chemical weapons. Public officials

should be held accountable for their actions and through these officials to the public. Private contracting is thus a lessening of accountability, as others such as Lester Salamon have noted. Further, Moe notes a risk of corruption. Case studies of many federalized services suggest that a shift was made from private provision to full public sector performance after an exposure of corruption.

Thus, Moe's admonitions about privatization point out the necessity for carefully reviewing whether the rights and immunities reserved for the sovereign are in any way violated by the the A-76 process. Also, Moe cautions to note the limits of privatization where national security is present, where safety is concerned, and where there is a potential for corruption. These issues are also potential ones in A-76.

## *Research On Assumptions Of Contractual Governance*

As noted previously, contracting relationships do take place between and within organizations. Among the assumptions behind the A-76 process are some very basic ones about contracting and public/private relationships. Reviewing literature in these areas before examining the specifics of the A-76 process establishes a perspective from which to view both the contracting process and the contracting situations.

### **Assumptions About the Nature of Public and Private Organizations**

Among the reasons for the increase in comparative studies of public and private in public administration and management are their potential relevance to understanding the proper roles of the public and private sectors, the implications of imposing public purposes on private corporations,

and the transferability of management techniques, such as MBO, between business and government (Perry and Rainey 1985). Practically and theoretically, if there are differences, then, what these differences are between public and private matters not only to organizational theorists but also to the decision to contract out services.

Conceptual and definitional problems abound in this research (See Perry and Rainey for a complete listing). Perry and Rainey, elaborating on the work of Bozeman (1986), agree that three directions are evident in past research. First they assert that for most organization theorists, the meanings of "public" and "private" are either subsumed within other environmental variables or are not considered relevant for the development of a general theory (McKelvey 1982). At the other end of the continuum, political scientists, public economists, and public administrators, concerned with developing a theory of public organizations, have usually begun with assumptions about the general environment of public organizations or assumed distinct attributes as a logical consequence of the absence of economic markets and organizations. Finally, the third, the "normative" school, has included political and social theorists interested in developing normative theory about the role of the state and the role of citizens. They have concentrated on the effects of "public" and "private" on all social behavior, not simply that occurring in organizations or a subset of organizations.

As noted by Perry and Rainey, the differences among these approaches concern the organizational properties which are considered most important and the degree of emphasis on normative versus descriptive inquiry. Further, the most important limitation of this myriad of research (Rainey, for example) is that it has usually been related only imprecisely to theoretical frameworks. Instead, there has been an increasing accumulation of findings on the relationship of the public-private dimension that relate to a confusing variety of dependent variables: employee work-related attitudes; managerial roles; structural variations; managerial perceptions of external control; external control processes; strategic decision processes; and performance norms and outcomes. Thus, although research abounds, so does controversy about the public-private distinction. The answer to how and where public and private organizations are different is not yet readily available. Nevertheless, policy

continues to be made as if market mechanisms and private organizations are different from political tactics and public organizations.

Bozeman has refined the public/private dimension through creation of a model of how to determine where an organization fits on the public-private dimension. Publicness is defined by Bozeman not as an absolute quality but as a dimension. The dimension is defined by the organization's mix of economic and political authority as a basis of its activity. According to Bozeman (1988, 80), the model is just as applicable to business and third-sector relationships. Although usually economic and political dimensions are treated as if they are separate, Bozeman notes that at its deepest level political and economic cornerstones of a society are built on common cultural ground. For this reason, if for no other, one would expect significant mutual influence between political and economic authority. When we further consider that much of public policy--perhaps most domestic policy--is rationalized in terms of economic goals, we can see the difficulty of separating one social instrument from another. For our purposes, Bozeman serves as a good summary of the distinctions currently made between public and private and the implications of those distinctions for the incentives each sector may have for productivity.

The public choice school, business scholarship, and studies in public administration have all speculated on efficiency incentives. Implicit in the research is a view of the role of government. One such view is the "minimalist" model, a view of government as a support for the marketplace (Friedman 1984). A more aggressive role for government is argued by economic planners such as Galbraith (1967), who notes that the character of industrial technology and production is such that many alternative suppliers are not desirable because of scale economies. The most common view, however, is that of market failure, which suggests that certain activities are performed by government because of exclusion costs, transactions costs, or free-rider features (Bozeman 1987). According to Bozeman (1988, 49), "The market failure model underpins much of the reasoning of public goods, public choice, and public expenditure theory. Many of the assumptions of the market failure model color another body of economic theory relevant to publicness--property rights."

Bozeman (1988, 52-59) outlines some of the assumptions of property rights based on the works of A. A. Alchian and H. Demsetz (1972 and 1973) and L. De Alessi (1969, 1973, and 1980). A brief summary of the main tenets of property rights from Bozeman (1988, 55) includes the following:

According to property rights theorists, the most important distinction between private and government organizations lies in the inability to transfer the rights of ownership in government organizations from one individual or group to another. Since there are no shares of government stock, the individual cannot alter his or her 'portfolio' of investments in government programs or exchange ownership rights.

When ownership rights are transferable, there is a clear connection between decision and reward. The absence of property rights leads both to a need to substitute regulations and to monitoring for valuations and reward systems based on property rights. Further, in the absence of direct financial stakes, the mission of the public agency is more easily subverted.

Summarizing the work of other scholars (e.g., Shelton 1967 and Clarkson 1980), Bozeman notes that in private firms, entrepreneurs and wealth-sharing managers are able to exert pressure for the combination of economic input that maximizes productivity. However, even if entrepreneurs were able to restructure government organizations for maximal productivity, they would benefit no more than other taxpayers. Nor is there much prospect for individual taxpayers to be rewarded for time seeking efficiency. Thus, in government, managerial activity centers around other benefits, i.e., "side payments" such as political power, budget expansions, and increments in personnel (e.g., see Downs 1967, Niskanen 1971).

A further group of related studies reviewed by Bozeman (1988) suggest that market forces conduce coordination and meaningful evaluation of work. In their absence, the individual public employee will have motivation to "shirk," to shift the work burden to others. Thus, in order to combat shirking, the work group must be closely monitored. In view of property theorists, the cluster of proprietary rights (owner control, right to residual profits, right to transfer or sell ownership, right to assess work and hire and fire employees) in the classic free enterprise firm serves as the most effective means of holding shirking to a minimum and optimizing technical efficiency. Even in the case of large private organizations where ownership becomes diluted among many owners, manag-

ers are motivated to serve as owner-surrogates in cases in which the managers' income is tied to the organization's profit and capital value.

Bozeman (1987, 55) sums the difference between public and private as follows:

"In summary, the property rights theorist point to differences in property rights--particularly the right to sell ownership shares--as the primary difference between public and private organizations. The owner of the private organization has virtually unrestricted right to sell or transfer ownership. The transferability of organization ownership, combined with the owner's right to the profit and capital value of the organization, gives the owner an incentive to oversee the organization's operations and maximize the technical efficiency of the organization. The owner of the public organization cannot sell or transfer ownership shares....The owner and manager have less incentive to oversee organizational operation, less incentive to maximize the organization's present and future performance, and less incentive to maximize technical efficiency and minimize shirking."

Most studies of public and private organizations have been limited to comparisons of technical efficiency (See Bozeman 1987, 55-56). However, one study comparing public and private hospitals (Clarkson 1972) has indicated that less time was spent on supervision by managers in nonproprietary hospitals and that proprietary hospitals were less likely to use formal budgets and fewer written regulations and fewer regular staff meetings. However, formal controls are seen as a poor substitute for automatic controls of the market.<sup>9</sup> According to Clarkson, the manager of the nonproprietary organization will tend to deemphasize unpleasant tasks (such as monitoring and supervising subordinates) even when shirking the unpleasant tasks has a negative effect on productivity. Finally, Clarkson argues that rules, monitoring procedures, and factor inputs vary most across nonproprietary organizations because there is no incentive pushing toward the most efficient production technique (Bozeman 1987).

One major limitation of property rights studies is that few studies go beyond cost comparisons or technical efficiency. Nevertheless, public and private organizations may be incommensurable. In the public sector, cost effectiveness goals are balanced against such concerns as employment equity, representativeness, and distributional equity. Others (Berle and Means 1932; Galbraith 1967; and

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<sup>9</sup> Another approach to this same observation would be that of Williamson et. al. who would note that "transactions costs" are kept at a minimum.

see Bozeman for a review) have argued that in the modern corporation ownership and management have been separated, professional managers establish goals; and stockholders exert no more control than taxpayers.

The question of "political authority" is somewhat more difficult to summarize than that of the "property rights" argument of economic authority. Bozeman recognizes the difficult questions of legitimacy and related concepts of consent, intersubjective differences in perception of obligation, and dialectical nature of legitimacy. Further he stresses the importance of questions of legitimacy for the study of public organizations: one, the character of the state influences the behavior of any particular organization and two, one can speak of the legitimacy of particular organizations apart from the legitimacy of the state. Three types of political authority are summarized. Connecting with consent theory, primary political authority is defined as flowing from individual citizens and is ultimately rooted in grants of legitimacy by individuals (Holmes 1976). Secondary political authority, related to institutionally oriented and legal positivist theories of legitimacy, is exercised by public officials, both elected and nonelected (including civil servants), charged with acting on behalf of the citizenry. Tertiary political authority pertains to nongovernment organizations and private citizens; it is delegated authority twice removed.

Tertiary political authority, the vesting of political authority in private organizations, differs from the much more common vesting of economic interests (Roy 1981; Bozeman 1988). In the case of political authority, the private party is actually endowed with formal political authority, which is exercised directly while in the case of economic authority, the agency indirectly represents the interest of private groups and organizations. Thus, some private organizations are constrained by secondary political authority and are endowed with tertiary authority.<sup>10</sup> Because of the rise of new organizational forms, such as contractor run public organizations and public enterprises, etc., questions of tertiary political authority become even more important to the understanding of gov-

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<sup>10</sup> This situation is similar to that of many government organizations which are endowed with secondary authority, but at the same time, are subject to the constraints of authority dictated by government superiors.

erning. Just as property rights theory is applicable to any organizational form, so the flow of political authority would be expected in all organizations, private or public sector.

With this understanding of political and economic authority as basic to all organizations, Bozeman's theory of publicness argues that an organization is more public to the extent the ratio of political authority increases vis-a-vis economic authority. Political authority carries with it diverse constraints, prerogatives, even symbols (Pool 1952; Goodsell 1977). Organizations subject to political authority may, as a result, become more or less powerful, more or less effective, and/or more or less adaptive, but they are sure to be changed.

Thus, according to Bozeman, all organizations are public, because political authority affects the behavior and processes of all organizations. This implies that public pertains to the effects of political authority. Organizations can be more public in respect to some activities and less public in respect to others. Finally, in Bozeman's words: "All organizations are public, but some are more public than others." Continuing his explanation, Bozeman lists several publicness corollaries:

1. Publicness is not a discrete quality but a multidimensional property. An organization is public to the extent that it exerts or is constrained by political authority.
2. An organization is private to the extent it exerts or is constrained by economic authority.
3. An organization can be viewed in terms of an authority mix: the proportions of economic and political authority.
4. An organization can be more influenced by political authority in some of its processes and behaviors than in others.

Publicness affects organizational behavior, then, in many ways. It is a function of the following factors: 1) the authority mix--the proportion of economic and political authority constraining the organization; 2) the intensity of authority brought to bear on the organization; 3) the ability of the organization to mediate via its buffering devices (technology, boundary spanning, mediating authority, resources); and 4) the authority exerted by the focal organization on its environment.

Bozeman argues that the goal of publicness affects interdependence. Government managers assume accomplishment of any significant goal requires managing interdependence. Managers in private organizations strongly affected by political authority find themselves in a similar position but often have less experience with the challenges and frustrations of seeking goals that depend on the cooperation of numerous semi-autonomous actors. One distinction between government and private organizations is that the former are often established with one or more transitive goal, i.e., goals whose referents are outside the organization in question,<sup>11</sup> usually stated in the enabling legislation. Government organizations are supposed to transcend narrow self interest while businesses are not. Thus, goal publicness leads managers to assume the accomplishment of any goal means managing interdependence. Since combining public and private in joint cooperatives results in a degree of goal publicness and interdependence, the questions then become: How to cooperate and be autonomous?

Thus, although research abounds, about the public-private distinction, so does controversy. The research on the differences among public and private organizations is still somewhat fragmented and is not yet in a useful enough form upon which to build policy. However, building on the work of a host of others (e.g., Wamsley and Zald, 1973), Bozeman succinctly outlines some propositions about public-private distinctions. The cornerstone of his argument is that all organization forms and members are subject to a blend of political and economic authority, the consequences of which may mean differences in the way in which the organization structures its relationships to the external and internal environment and in how its members behave. Further noted is that the degree of political authority changes the organization and that the goal of publicness generates interdependence.

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<sup>11</sup> Goals which require an intended impact of the organization upon the environment (Mohr 1973). Reflexive goals, by contrast, are internally oriented, concern system maintenance, and involve inducements aimed at evoking member contributions to the organization (Mohr 1973; Bozeman 1988, 103).

## Assumptions About The Nature of Contracting

Contracting as a legal and political process has attracted the attention of a multitude of scholars. However, our purpose here is to draw briefly from the theory of contracting to highlight some of the philosophical, sociological, and political questions surrounding the process. To do so, the work of Ian MacNeil (1980) is used as illustrative of selected questions raised about contracting and to indicate the dimensions on which recent models of contracting build.

In The Nature of the New Social Contract, MacNeil (1980) notes that the most forgotten fact in the modern study of contracts in law and economics is that the fundamental root, the base, of contract is society. Never has contracting occurred without the common needs and tastes of society, without language, and without social structure and stability. Further, the author contends that as basic as the primal root of society is to contracting, the second primal root is specialization of labor and exchange. For specialization to work, there must be some process of reciprocal distribution of product. Further, contracting implies a sense of choice, the concept of some freedom to elect among a range of behaviors and an awareness of future. Only with a conscious awareness of a future does contracting come into full bloom. In defining contract, MacNeil notes that contracting means no more and no less than the relations among parties to the process of projecting exchange into the future.

Although recognizing the importance of the more traditional definitions of contracting based in law, MacNeil maintains that if we wish to understand contract law, we need to think first about exchange, which includes the concept of promise, and the law only second. According to MacNeil, promise is an illusive concept. Promise implies an affirmation of the power of the human will to affect the future. The first two elements of promise in its contractual context are the wills of two or more individuals with beliefs in the power of one to affect the future--subject to the linkage of the social matrix essential to exchange. An element of promise is doing something now to limit the

choices otherwise available to the promisor in the future. Two other closely linked elements of promise as an exchange-projector are communication and measured reciprocity (MacNeil 1980).

One of the key elements in MacNeil's essay for this work is that promissory projectors are always accompanied by nonpromissory projectors, a condition emanating from the interplay of promises themselves. According to MacNeil, given the great range of nonpromissory exchange, the projectors into the future include custom, status, habit, command in hierarchical structures, and expectations created by the dynamics of any status quo, including markets. Thus, promises can never encompass more than a fragment of the total situation. At least as fundamental, according to MacNeil, the amount of information available about the future is always only partial, and promises, however sweeping, can be understood only against this background. This observation is, of course, similar to the condition of what Herbert Simon calls bounded rationality. Further, MacNeil notes the promise made is never exactly the same as the promise received: every promise is always two promises--the sender's and receiver's. Promise, then, from this point of view, is always accompanied by significant nonpromissory projectors of exchange. This accompaniment gives rise to troublesome questions concerning relations between the promissory and nonpromissory aspects of any given contractual relations. As MacNeil observes, where these two deep ocean currents, the promissory and the nonpromissory cross, the waves and storms come (MacNeil 1980).

A further distinction is made by MacNeil between the discrete and relational contract. A discrete contract is one in which no relation exists between the parties apart from the simple exchange of goods...the paradigm of neoclassical microeconomics. In a pure form, the discrete contract is rare. Thus, every contract is necessarily partially a relational contract, that is, one involving relations other than simply a discrete exchange. Starting at the simple exchange of a discrete contract, MacNeil explores two kinds of relational contracts. One is the modern contractual relation and the other is all the intertwined exchange behavior of a primitive community---a community involving an independent economy with relatively little specialization, relative stability, and little fundamental change.

Several dimensions distinguish discrete relationships from relational ones. These are briefly listed in the accompanying diagram, Figure 4, which shows a continuum from a discrete transaction to a relational one. Discreteness may be defined as the separating of the transaction from all else between the participants concurrently and before and after. Enhancing discreteness requires ignoring the identify of parties to a transaction, lest relations begin to creep in. Thus, discreteness calls for limiting the sources of communication and of the substantive content of the transaction in order to sharpen the focus as much as possible. The contract marked by discreteness presupposes the status quo and goes on from there. Avoided in the discrete contract, but particularly important to the relational contract is presentiation, the bringing of the future into the present (MacNeil 1980, 60).

Figure 4 indicates that the discrete transaction is basically a nonprimary relationship under measured, specific conditions conducted under the assumptions that planning can be complete and specific, obligations are minimal, and the time frame is short from agreement to performance. On the other hand, the relational contract assumes specificity is difficult to measure, planning is woven into adjustments in customary relationships, and obligations are holistic and binding. The expectancy of the continuance in the relationship in relational contracting induces cooperation beyond any legal obligations.

Further, note that the terms of the exchange depend on relative balances of dependence and of power. Contractual relations constantly generate masses of dependence and interdependence. The relative balance of dependence in discrete transaction is static, but the balance of dependence in relations is in significant measure a product of the relations themselves, similar, according to MacNeil, to the term "obligational market contracting" coined by Wachter and Williamson.

The notion of power is different in discrete and relational contracts. In the discrete transaction, bilateral power is exercised initially at the time the deal is made, the exercise being affected by whatever the power status quo is at that time. Modern contractual relations create unilateral command powers, not only directly through promises, but also through hierarchical structures.

TYPE OF CONTRACTING RELATIONSHIP

CHARACTERISTIC	DISCRETE-----	-----RELATIONAL
Relationship	Nonprimary	Primary
Specificity	Measured, specific	Hard to measure, general
Time frame	Short from agreement to performance	Assume adjustments over time
Planning	Planning-complete specific	Planning by custom, adjustments
Obligations/transfer	Only responsible for performing	All take the risk
Attitude toward trouble	Not supposed to happen	Expected, will adjust
Numbers desirable	Small	Expands to include group
Solidarity	Not as important as legal specificity	Embedded in social relations

Figure 4: Characteristics of MacNeil's Types of Contracting Relationships

Thus, in contractual relations, bilateral and unilateral power is present, but the status quo is dynamic, and power relations are always in a state of flux. Given the presence of continuing command and hierarchical structures, coupled with the ongoing conditions of dependence, power becomes a far more complex phenomenon internally. Power of this kind is a dominant feature of modern contractual relations. Some of the dimensions of power and authority in modern contractual relations are explored in the section describing perceptions at contracting sites.

A particularly important concept that MacNeil relays, neglected in much of the research, is the development of supracontract norms. As contractual relations expand, they take on more and more the characteristics of minisocieties and ministates. Thus a whole range of social and political norms, e.g., contractual solidarity and flexibility, become pertinent in ongoing contractual relations. In addition, according to MacNeil, within the contractual relationship we find such broad norms as distributive justice, liberty, human dignity, social equality and inequality, and procedural justice, to mention some of the more vital (MacNeil 1980).

This brief review of the theory of contracting reveals two significant aspects of contracting that have general applicability to A-76. One is the distinction between discrete and relational, a distinction pertinent to understanding the types of possible relationships in contracting. The other is the recognition and delineation of the norms that come into play within contracting relationships. Many of these norms are discussed in the section comparing contracting sites and, in fact, MacNeil's observations fit nicely with the concepts of governance frameworks. Others who have attempted to delineate the characteristics of contracting include Peter Kettner and Lawrence Martin (1987, 37), who have attempted to isolate analytically the dimensions of two models of contracting and that of Ruth Hoogland DeHoog (1991), who has described three alternative models for contracting for services. Their models are summarized in Figure 5.

Kettner and Martin note the differences between the market model and the partnership model. In the partnership model, government and the private sector are seen as a part of a comprehensive services system, in which the determining factor in selection of contractors is a concern for the de-

CONTINUUM OF CONTRACTING RELATIONSHIP

COMPETITIVE-----COOPERATIVE

MODELS IN LITERATURE

MacNeil (1980)	Discrete  Nonprimary Legal specificity		Relational  Primary Permeates all action
Kettner and Martin (1986)	Market  Develop Specific Criteria Effectiveness, Efficiency IFB, Unit Cost, Fixed Fee Incentive 1 yr Contracts	Partnership  Flexible, Negotiation, Working Relationships RFP, Cost Reimbursement Multi-year Contract	
DeHoog (1991)	Competition Many suppliers High resources Low uncertainty	Negotiation Fev suppliers Medium resources Medium resources	Cooperation One supplier Limited resources High uncertainty

Figure 5: Contracting Models in Relation to Contracting Relationship Continuum

velopment and maintenance of that system. They further emphasize that the public contracting agency pursuing the partnership model stresses strong working relationships between government funding agencies and contractors and is flexible and compromising in the development, negotiation, and administration of contracts. The partnership model is characterized by the use of request of proposals (RFP), cost reimbursement contracts; multiyear contracts; and generally is used with government and nonprofit contractors. The market model is a second type defined by Kettner and Martin (1986, 35). It is a set of policies and practices on the part of the public contracting agency that encourages competition among potential contractors and competitive pricing.

They note also that an agency following a market model would emphasize development of criteria for measuring efficiency and effectiveness and negotiate with a high degree of specificity on issues of performance expectations, program design, budget, and cost. Agencies would be expected to decide primarily on the basis of cost and price and would encourage experimentation with alternative methods of service delivery. Under this model, resources would be marked for the recruitment and development of a pool of potential contractors, according to Kettner and Martin. The market model is also characterized by the use of invitation for bids (IFB): unit cost, fixed fee, and incentive contracts; single-year contracts; and government, nonprofit, and for profit contractors. Single year contracts are typical in the market model since they ensure competition on an annual basis. The inclusion of for-profit contractors is defined as being more characteristic of the market model because contracts are awarded to the lowest bidder providing highest volume and best quality of service. Multiyear models are associated with the partnership model because of the increased stability they bring to the human services system.

Working from an assumption that government units should adapt their contracting procedures to both internal and external conditions to implement service contracting, DeHoog notes the primary factors to consider are the characteristics of the external environment (particularly the number of service suppliers); the level of organizational resources (e.g., personnel, funds, time, expertise); and the degree of uncertainty about funding, future events, service technologies, and causal relationships. Using these dimensions, she describes three contracting models: competition, negotiation,

and cooperation. The competition model is appropriate when there are many suppliers, high resources, and low uncertainty while the cooperation model is appropriate when there is one supplier, limited resources, and high uncertainty. The negotiation model fits in-between when there are few suppliers, limited resources, and medium uncertainty (DeHoog, 1991).

Based on the work of Kettner and Martin and DeHoog, contracting decisions fall on a continuum between the competitive (marketplace model) and the cooperative model. It is important to note here that the Kettner and Martin model and to some extent, the DeHoog model, speak more to the decision making process of contracting than to the more formal mechanisms binding the two parties. However, contracting relationships, as all organizational and work relationships, do evolve over time, and as later chapters will show, the more successful contracts under A-76 may be characterized by the competitive model and shade over into the negotiation model after implementation.

### **Assumptions about Contract Implementation**

Not only has there been concern about the dimensions of the contract, but several authors have attempted to put contracting situations within government into a perspective. One scholar, Ira Sharkansky, notes there have long been organizational entities on the margins of government (Sharkansky 1980). Sharkansky lists some of the functions that are contracted out, e.g, problem analysis, computer services, and janitorial and security services; in short, virtually any work, except the actual approval of public policy, is contracted out. Also Sharkansky (1980, 417) lists some of the latent functions of contracting. He sees employing contractors as a way to get around governmental hiring freezes, purchase services more cheaply, weaken the power of unions, evade regulations of various sorts, provide certain personnel attributes, reward favors, provide programs experimentally, and save money on the costs of building.

As do many authors, Sharkansky explains that both control and accountability are strained by the autonomy of contractors. He sees these strains as both good and bad. Further, he notes that flexibility is seen as a common feature of contracting. Policy makers are thought to be able to select just the kind of contract that seems to be suitable to needs and fine-tune details of organizational structure, goals, and personnel. From the consumer's side, there can be multiple providers of a service within reach. However, critics charge that contracting does not offer all the flexibility that its boosters contain. Consumers need assistance in sorting through a variety of options, yet flexible procedures for arranging contracts permit great abuse. Also, it is seldom easy to shift from one contractor to another once an organization or community commits itself, and reduced costs may mean reduced services. Conflict of interest is a frequent companion of contracting and, in fact, some contracting is made suspect by cozy dealing. At the state level, governments have learned to write contracts from one state agency to another in order to make it look like one of them is spending real money for services. In other words, money is not really spent, but simply transferred from one account to another or overhead is committed to make it look as if actual money is being spent in order to meet program requirements, but both still get the service they desire.

Sharkansky sees some advantages in contracting in social services, the subject area of his investigation: diversity, clients freed from dependence on government agencies; clients benefitting from competition. However, some of the dilemmas created include coordination among separate agencies, challenges to autonomy of voluntary agencies, and lack of public control. According to Sharkansky, the common denominator for many of these problems is autonomy outside the conventional orbit of the legislature and executive or the core departments of government.

Finally, Sharkansky wonders if it is possible for reforms to emerge from outside government. Citizen involvement is one way. Ombudsmen are effective for intervention after the fact. Finally, he sees that political accountability may come not only through conventional linkages, but perhaps only a private person--someone who works for a fee and has an incentive to learn the shortest cuts through a service maze can render advice truly in the client's interest. In cutting through the red tape, he sees analogs to the contractor of tax preparers and travel agents.

Sharkansky's observations of the pros and cons of contracting, one of the earlier conceptual delimitations, reminds us of the marginality of contractors and the dilemmas created by being on the margin: questions of accountability, coordination, and public control. Nevertheless, he also points to the possibility of contractor innovation and improved client service.

Two in-depth analyses of contractor-government relationships would seem to refute Sharkansky's supposition that the contractor may have an incentive to cut through the service maze. One, Contracting Out For Human Services by Ruth Hoogland DeHoog (1984), is an analysis at the state level in Michigan; the other, The Politics of Privatization (1986), by Kate Ascher, compares contracting at the local and national levels in Britain. Although neither study focuses on the integrative mechanisms necessary to forge contracting relationships or emphasizes the interface, both yield insight into contracting arrangements.

Ruth Hoogland DeHoog, in her studies of contracting in the Michigan Department of Social Services and the Michigan Department of Labor, analyzes the process of contracting out through exploring the fit between four theories of the political economy of organizations and the contracting process: public choice, market imperfections, cooptation, and organizational decision-making (DeHoog 1984). Her descriptive data alert us to the following characteristics of the contractor-government relationship at the state level. Lack of competition is one characteristic observed. A sequential search process (the incremental approach) usually is employed; decision makers retained previous services and contractors routinely; new alternatives were sought only when additional funds were allocated. The contracting process progressed smoothly because of the lack of competition even though politicians "interfered" with the process rather routinely. A second characteristic of the process is lack of coordination. Organizational divisions between program staff and contract administrators resulted in each not taking advantage of the other's expertise and in the lack of coordination in monitoring. Further, monitoring and evaluation of contracts were not sufficient; program and county staff felt as if they were funding services, instead of buying them. There was little external evaluation. Third, lack of choice is also evident. Officials felt they had few real choices--previous contractors got renewals and new contracts were awarded to the only available,

reputable agencies. Finally, DeHoog observed that significant cost reductions were probably not realized due to high administrative costs.

With her descriptive data as a base, DeHoog arrives at conclusions regarding the explanatory powers of the four theoretical models. The public choice perspective is deficient in that proponents had not foreseen the critical role the service environment can play in contracting out: both in terms of providers and in terms of the input and feedback of service consumers. Also, despite its major theoretical contributions to public bureaucracy, the public choice school overlooks the motivational and organizational contexts of contracting. Thus, contracting out did not mimic the market and created additional bureaucratic problems. These deficiencies in the match between the theory and the data led DeHoog to note that contracting out involves issues far more complex than the public choice school contemplates. Contracting, in fact, involves multiple participants whose actions are often uncoordinated and contradictory, and emphasizes proper procedures to the extent in some cases of "goal displacement" (DeHoog,1984).

Examining the other alternatives, DeHoog notes that when applying the theory of market imperfections, the theory helps to explain the consequences of lack of competition in the environment. Yet no attempts at collusion or market control were noted. The cooptation model predicts that some of the decision-making providers will become more involved than clients and taxpayers in planning and contracting. However, the most successful framework for explaining the contracting situations found in these human service cases is the organizational decision making model, according to DeHoog. This model stresses cumbersome procedures, conflicting goals, unclear lines of accountability and the difficulty of working with contractor bureaucracies. A focus on process rather than effectiveness was often the result, a condition different from what the public choice theorists would predict.

Kate Ascher's book The Politics of Privatization (1987) describes the contracting out process in Britain through a detailed comparison of contracting in the National Health Service initiative, the local authority initiative, and the central department initiative. Industries compared were cleaning,

laundry, and catering. Ascher notes the changes occurring in the National Health Service when the competitive tendering mandate was initiated. In her summary of the process, she notes that the House of Commons Select Committee on Social Services' reported that only 222 of an expected 2000 tendering exercises had been carried out and that almost half of all health authorities had yet to put out their first service out to tender. The report concludes that "This whole exercise, which has now been underway for around four years, has involved a considerable amount of management time and effort; has caused disruption and discontent, not exclusively among National Health Service (NHS) staff directly employed in these services; and to date has not brought home the bacon. The real impact of competitive tendering, for better or for worse, has yet to be seen" (Ascher 1987, 188-190).

According to Ascher, some obvious reasons for the unexpectedly slow progress of the initiative were authorities' disapproval of the policy, anger over the lack of consultation during its development, and the lack of guidance offered by central sources (Ascher 1987, 149). Also, she notes that one of the ironies of the current process is that the Government has based the entire exercise upon its ability to produce savings and has emphasized repeatedly the need to award the contract to the lowest tenderer, but the economics of contracting out have actually played a limited part in contract award decisions. Further, Ascher observes that if bureaucratic interests are as one-dimensional as the "new right" suggests and if the growth of private provision and competitive tendering has as negative effect upon these interests as claimed, it would be logical to expect strong bureaucratic opposition (Ascher 1987, 249). However, this was not the case in either NHS or local government tendering.

Ascher concludes that opposition to tendering has been limited and has not had a significant impact on the terms of the national debate. Thus, she asserts that her evidence supports Patrick Dunleavy's thesis (1986). Dunleavy offers an explanation for the specter of privatization movements under "new right" governments and the relative lack of upper management protest of the privatization of lower level governmental jobs (Dunleavy 1986). He notes that although public choice theories of bureaucracy have been influential in stimulating the drive toward privatization,

these accounts are strangely silent about why changes in state agency practices have come about under conservative regimes. Accepting implicitly some of the "property rights" arguments, Dunleavy notes that a radical reconstruction of instrumental models of bureaucracy explains the privatization boom in terms of the bureau shaping motivation of policy-level bureaucrats. Privatization is seen as a development of earlier strategies (such as the separation of control and line agencies, the creation of 'dual state' structures, and automation). These strategies are described by Dunleavy as ones which advance the class (and frequently gender) interests of senior policy-level bureaucrats against those of rank and file state workers and service consumers. One basic premise of the new right (by which Dunleavy means public choice) is that bureaucrats are open-ended budget maximizers with political sponsors who have little detailed control over budgeting because of bureaus' monopoly control of information about marginal costs and benefits in particular output ranges. By contrast, policy-level officials have strong, bureau-shaping goals subject to a contingent budget constraint. Dunleavy's rather powerful argument represents an alternative hypothesis to the propositions of balancing governance values and assumptions about contract organizations explored in this paper.<sup>12</sup>

Several insights from DeHoog, primarily descriptive of social services at the state level, and from Ascher, primarily concerned with the contracting out of cleaning, catering, and maintenance at the national and local levels in Britain, are instructive. Both question whether contracting is truly cost-effective. Also both found internal procedures not well matched to contracting and noted that the assumptions of public choice were not met, seeing politics as playing a critical role. Further, their descriptions lend some credibility to the idea that the contracting out process may be structured differently at the local, state, and national levels of government. The national level in Britain resulted in tighter specifications, more competitive prices, and more strictly commercial relationships than was described as characteristic of contracting at the American state and British local

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<sup>12</sup> As for inappropriate privatization, the new right sees little of it as occurring since, from their point of view, only minimal privatization can succeed against bureaucratic and interest group resistance. However, according to the new right, the coincidence of partisan, corporate and bureaucratic pressures creates a privatization boom similar to those preceding earlier "policy booms".

levels. Literature on the A-76 process in the United States government may indeed describe a process parallel in some ways to the process described by Ascher at the national level in Britain. However, as of yet, no evidence on A-76 portrays two characteristics Ascher mentions about the competitive tendering process: politics playing a smaller role in contract award decisions than economics and the greater strength of the unions at the national level. Generally, then, the research on contracting indicates that the process is not fixed, linear, or one-dimensional and that the variety of participants may represent a multitude of different assumptions and of different strategies about governance. However, only research of the actual contracting situation at the federal level can confirm what is characteristic of contracting under the A-76 mandate.

## *Techniques of Data Collection*

In order to study both the tool of contracting and compare actual contracting situations and their effects on organizations, a combination of techniques for data collection was employed. Explained below are my approaches to library and archival research, assumption analysis, and open-ended interviews.

The study began with a comprehensive literature search emanating from the Public Administration Information Services data base, selected social science indices, and computerized business and legal data bases focusing on contracting out. To understand the policy environment of Circular A-76, a concerted effort was made to scan pertinent historical documents--the Bureau of the Budget Bulletins preceding Circular A-76, the Circular itself, and supplements to it; pertinent GAO reports on implementation; Congressional hearings; arbitration hearings; pertinent federal register entries; OMB publications; and other executive and congressional reports. The focus of the archival search was to capture a picture of the policy environment-- 1) an understanding of the history of the program; 2) the main stakeholders and their stances; 3) the degree of consensus in the policy envi-



ronment; 4) the degree of stability in the policy context; 5) the degree of technical cert:  
6) some of the underlying assumptions and issues throughout the Circular's history. In addi.  
academicians who had an interest in contracting were consulted.

Open-ended interviews were also conducted with personnel in the Office of Management and Budget, one Senate and two House Subcommittees, Commercial Activities Naval Headquarters, contracting and functional area personnel at all four bases, and the Norfolk Commercial Activities Training Headquarters. Interviews focused on current issues, problems of implementation, and resulting strategies to accomplish objectives of the program. Insights from written documentation and interviews were combined to gain a better picture of the important dimensions of the policy and its evolution. Appendix B includes a listing of personnel interviewed.

In order to ascertain more fully the basic assumptions underlying the Circular A-76 guidelines, the Circular itself, supplements, and specific guidelines for implementation were reviewed for an understanding of the assumptions of organizational type, assumptions of control, assumptions of integration of subunits, assumptions of the relationship between contractor and government, and images of government and contractor portrayed in the documents. The objective in the analysis was to capture the assumptions of governance and the implicit theoretical stance. Findings would then be compared later to working level perceptions.<sup>13</sup>

As stated earlier, the study was conducted at four contracting situations at three geographical sites. Two motor vehicle operations were included, one at the Naval Air Test Center, Patuxent River, Maryland and one at the Naval Ordnance Station at Indian Head, Maryland. In addition, two supply functions were included, one at the Naval Surface Weapons Center at Dahlgren, Virginia, and one at Patuxent River, Maryland. The two functions chosen, vehicle maintenance and supply,

<sup>13</sup> To uncover assumptions, the following documents were reviewed closely: Circular A-76; OPNAVNOTE 4860; CA Overview, CNO, Op-443, 11/87); OPNAVINST 4860.7B, A Guide for Writing and Administering Performance Statements of Work for Service Contracts (OFPP Pamphlet #4), (1987); SecNAVINST 4200.27A and reports of arbitration from Naval counsel and the administration of contracts from Naval Headquarters.

are functions that generally require some interaction with other areas in order to complete their workflow. Thus, they are good examples to view intra and interorganizational mechanisms for integrating contractors.

More specifically, the functions were chosen because they reflected different workflow arrangements. The two functions do differ somewhat in that transportation is usually organized as mediating technology, i.e., where the dominant form of workflow interdependence is pooled--each part renders a discrete contribution to the whole. In this type of workflow organization, parts of the workflow are generally independent of each other. With relatively low demands on decision making and communications, organizations operating with mediating technologies are usually most effective if they adopt a relatively bureaucratic structure incorporating standardization as the dominant or integrative mechanism (Miles 1980). ✓  
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In contrast, long-linked technologies are characterized by a higher degree of workflow interdependence, including sequential interdependence among task elements. The process is usually explained as one where Operation X must precede Operation Y before it is possible to perform Operation Z. The best example is the production assembly line. More complex organizational structures involving coordination by both standardization and plan are required. The "scientific management" model which emphasized the "planning" role of management, assisted by staff experts, tends to be effective for synchronizing the operation of a long-linked technology. Supply employs a long-linked technology. Materials come into the receiving area similar to a loading dock; packaging and mailing slips are validated and sent to receipt control where invoices and other documents are matched to the packing slips. Copies of vouchers are given back to receiving to deliver with the materials and remaining paperwork is then forwarded to accounting to complete payment. The work is interdependent and crosses many units. Thus, two types of tasks are present in the sites visited in this case.

Nevertheless, a third type of technology is mentioned by Thompson, that of intensive technology. In intensive technology, feedback from the object itself directs what process is used. Examples of

technologies are hospitals, construction firms, and research teams. In these cases, management must develop complex coordinative mechanisms involving mutual adjustment between operators or units in response to feedback from the "object" undergoing transformation. Thus, these situations require more organic organizational structures that allow people close proximity and spontaneous work-related contact. Although the contracting out of an intensive technology was not chosen as one of the field research cases, this type of situation is very characteristic of the study process of Circular A-76, a research team approach. Examples of the problems and possibilities of contracting out this function are described in the section on the study process.

Further, the cases chosen allow for some variance in the time contracting began or in reports of their site situation. Although the supply sites are both about the same size (40-60 personnel), their experience varies. Dahlgren just converted to contract in the summer of 1989 after a very close competition with the in-house bid while Patuxent River has released its first contractor, gone to an interim contractor, and will rebid supply again in the future. Although both transportation functions were contracted out at about the same time and are of relatively the same size (60-70 personnel), they are different in the contractor-government experience. The situation at Indian Head Maryland is one where the transportation function was contracted out four years ago, but the contractors unionized after winning the contract. Costs escalated, but the contractor remained even though there were protests, both from a second contractor and from the union. Patuxent River, on the other hand, was contracted out for approximately three years to the same contractor, who had performed satisfactorily, but who lost the bid to a new contractor in the Fall of 1988.

At each site, interviews were conducted with the Commander of the function,<sup>14</sup> the Deputy Commander or Executive Assistant; the Contracting Administrator and assistants; commercial activities analysts; the civilian head of the function under question; heads of related functions; quality assurance representatives; and employees displaced to other functions. Contractor viewpoints were available for two sites, Dahlgren and Patuxent. At Dahlgren interviews were conducted with the

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<sup>14</sup> Except for the Indian Head Transportation site where the Commander was unavailable.

Contractor, his assistant who had previously worked for the government, and another employee. At Patuxent River, documentary evidence was available to substantiate contractor interactions and opinions. Return interviews by visit or telephone were conducted with several of the above. See Appendix B for a listing of the positions of people interviewed at all bases.

The interview schedule was open-ended and focused on the participants' experience with contracting; how contracts were initiated; their involvement in contracting and with the contract; their assessment of the contractor cooperation; the concerns and benefits of contracting; their evaluations of the part played in the contract by regulations and quality assurance plans; their assessment of how the contractor does the job differently; how problems are solved; their feelings about the decision; and changes they would make. Each participant signed a "Permission to Use Interview Notes." In the case of those requesting a review of the notes, notes were sent to them for review and their comments were respected. In all cases, the comments returned were in no way censorship, but an amplification and extension of materials. 

The intent of the interview was to capture perceptions and, thus, statements were taken at face value. Factual material was cross-checked across documents and/or other interviews. At each base, an attempt was made to strike a balance between the consensual validity of a large number of similar comments on each item and the validity of a key informant who had deep knowledge and an understanding of the intent of the project in relation to practitioner knowledge. 

Working within the general category of cross-site analysis, the information collected at each site was summarized. In addition, the types and frequency of mechanisms and strategies and a summary of interview statements describing the character of the relationship for each site were compiled. Categories corresponding to the framework were constructed: decision making processes; images projected of business and government; type of function under consideration; and supervisory tactics. Finally, a description of each site's contracting relationships and the effects on the agency were compiled. Categories here included decision making processes; images projected; tightness of  

coupling; type and level of conflict; and effects on the agency's effectiveness, integrity; and images of the institutions of government and business.

## *Summary*

The overall focus of this chapter has been to review literature pertinent to the understanding of the theoretical framework and selected issues surrounding A-76. First, a brief overview of Circular A-76 was given. Then the assumptions surrounding the policy were examined in light of pertinent literature. From the broader literature, the conceptual difficulties surrounding the concept of privatization were noted and the significance of the privatization movement for governance was stressed. Issues surrounding contracting as a process were also described. Organizational relationships among public and private were briefly reviewed. Contracting as a concept was explored by noting some of its theoretical antecedents, understanding its place on the margin of government, reviewing selected contracting studies, and describing some current models of contracting in the literature. Throughout this section, the multitude of dimensions found in contracting relationships was observed. Figure 6 assists in putting some of the dimensions in perspective.

Figure 6 returns us to our frameworks of contractual governance: legal, managerial, and political. However, once discussing the assumptions and dimensions associated with private and public organizations and contract implementation, the necessity to contend with a different orientation, that of the market, becomes apparent. Thus, contracting models are put into perspective in regard to their orientation to the competitive model (market); the frameworks' elements of contractual governance; or to the cooperative model (relational). First, policy issues surrounding contractual governance arise out of literature on privatization. Here, Savas, Starr, and Palumbo and Martin were used as examples. Asking a slightly more defined question, Salamon asked us to pay attention to the direct and indirect tools of government. Palumbo and Martin assert the necessity of con-

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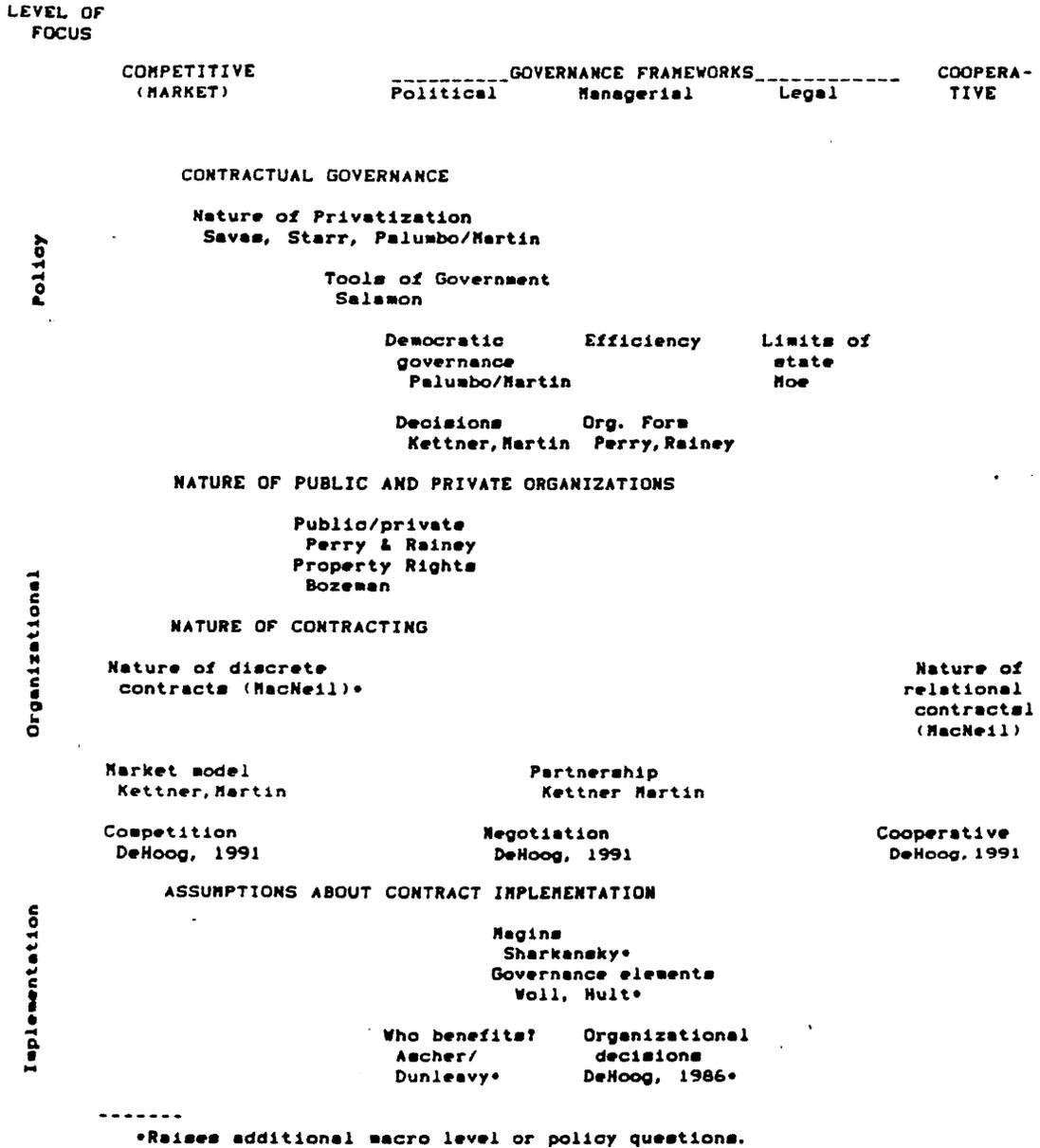


Figure 6: Contracting Literature In Relation to Frameworks' Emphases

sidering democratic governance while whether public or private is more efficient is the focus of a host of scholars. Moe reminds us that there are limits to privatization. Shifting more toward a concern with contracting at the organizational level, Kettner and Martin ask us to consider the political nature of contracting decisions at the policy and organizational levels. Once focusing on the organizational level, Perry and Rainey and Bozeman draw our attention to what is the difference between public and private. If public and private are to be combined, then the differences and similarities between the two should be addressed. The nature of contracting becomes a crucial question for this work and the models of MacNeil, Kettner and Martin, and DeHoog reveal the variety in contracting relationships in the literature. The private sector orientation of competition as one method for procuring services is reflected in the models of discrete relationships (MacNeil); competition (DeHoog 1991); and market (Kettner and Martin). Several of the models actually reflect, without a direct statement of this intent, attempts to understand contracting as both political and managerial: DeHoog's negotiation (1991); Kettner and Martin's partnership model and some of the authors whose ideas on contract implementation are highlighted here: Sharkansky's emphasis of contracting as on the margins of government; Woll's earlier work on governance; and Hult's work on "governance elements." Finally, DeHoog (1991) speculates on the nature of cooperative contracting, a bridge barely touching MacNeils's observations on the dimensions of relational contracting, a primary relationship concept far removed from the other end of the continuum, that of a private sector marketing concept. Falling into the political framework, Ascher and Dunleavy emphasize the political questions of policy and who benefits while DeHoog, after assessing a multitude of theories, considers organizational decision making a prime candidate for research exploration.

Although our emphasis here is to give an overview of the literature through concentrating on the assumptions of the models, the vertical dimension of Figure 6 allows a few other observations to be made. Vertically, a continuum is established from a focus on policy questions at the top, organizational questions in the middle, and implementation questions at the bottom. On the top left of the chart, discrete/market relationships are viewed primarily as a relationship that can occur

anywhere. Relationships are viewed by all three authors as specific and discrete with competition as the major means of interaction. Moving across the top of the chart to the framework of contractual governance, the questions of the limits of the state, efficiency, and the perennial political question of who benefits also revolve around larger policy questions of a universalistic nature. Toward the middle of the chart, model assumptions focus more on organizational relationships, questions of the "middle range." Questions of public/private relationships, nature of contracting, negotiation tactics, and partnerships are asked at the organizational level. At the bottom, implementation raises questions of contracting on the margins and the presence of governance elements in organizations. Featured are how the questions of who benefits and how decisions affect implementation.

## Chapter Three--Characteristics of the Policy

### Environment

As noted previously, contracting as a means of providing government services has a rich and varied history in the United States. Contracting under A-76 shares both a history with contract legislation and with the procurement process.<sup>15</sup> Today's procurement system has many of the same objectives as mandated in the Purveyor of Public Services Act in 1795: "maximize competition, obtain fair prices and assure accountability of public officials for public transactions" (Schaffer 1985, 4). The assessment of the Office of Federal Procurement Policy (OFPP) is that the policies and procedures designed to reach these objectives have usually been developed in a haphazard manner. Thus, in 1982, OFPP presented a comprehensive proposal directed at: 1) simplifying the system and making it more flexible, including the implementation of the Federal Acquisition Regulations; 2) providing for "front end" procurement planning; 3) expanding competition; and 4) enhancing the professionalism of the workforce (OFPP, 9).

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<sup>15</sup> Enactment of the Purveyor of Public Supplies Act in 1795 made the Treasury, established in 1789, the government's first official purchasing agent (Schaffer 1985, 4; U. S. Logistics Management Center 1983). In 1972 the commission delivered a report to Congress recommending 149 changes to the federal procurement system (Schaffer 1985, 12; Office of Federal Procurement Policy (OFPP) 1984). One of its primary recommendations was the development of a uniform procurement system directed by the Office of Federal Procurement Policy.

OFPP stated that "the preferred method of competition now required by statute is so rigid that it actually inhibits the government from taking advantage of the competitive marketplace" (OFPP, 41). Formal advertising, because it requires precise specifications, terms and conditions, tends to diminish the base of suppliers. OFPP proposed to set new standards for competition which recognize not only the price factor, but also the lowest total life cycle cost to the government and multiple factors such as design, capability, service and delivery performance. Formal advertising and competitive negotiation become equally valid methods of solutions.

## *History of Circular A-76*

Circular A-76 forms an interesting and significant part of federal efforts to introduce competition to procurement. Its impact could be significant. OMB estimates that nearly \$20 billion of commercial goods and services are produced by the government. The Congressional Budget Office (CBO) estimates that federal government contracting for commercial services could affect as many as 1.4 million employees, but this estimate includes positions now protected by legislation. If all of these services that could be contracted are considered, the value of government-operated commercial services could approach 40 billion annually, according to the CBO. OMB also estimates that about 750,00 positions, 450,000 of them within the Department of Defense, were eligible for competition with the private sector. Nearly half of these positions are accounted for by 28 job categories ranging from pipe fitters and motor vehicle mechanics to librarians and automated data processing specialists. These job categories are the ones OMB has directed federal agencies to give priority as they conduct Circular A-76 cost comparisons.

Some of the significant events in the evolution of the Circular are depicted in Figure 7 beginning with one of its early predecessors, the Air Corp Act of 1926. Note that the 1950's is the era of origin for A-76 with a public statement from President Eisenhower on government competition with pri-

vate enterprise and A-76's birth as Bureau of the Budget Bulletin Number 55-4 on January 15, 1955. Following this regulation were two more, Bulletin Number 57-7 (1957) and Number 60-2 (1959), culminating in the Office of Management and Budget's Circular A-76 in 1966. The Seventies are a time of great institutional interest in the Circular. Supplements and revisions abound; Congressional hearings air both the pro and con side of contracting out; and GAO investigates whether cost savings are truly occurring. Interest continues into the 1980's with reforms, a comprehensive revision, hearings, and continued investigations by GAO.

Explanation in more detail of some of events on the chart gives a fuller picture of A-76. The Air Corps Act of 1926 is seen as an early predecessor because this act directed the Government to buy competitive military aircraft designs from private enterprise, rather than having public employees design the planes. The Air Corps Act of 1926 allowed the government to stimulate innovation by establishing aircraft design competitions and by giving agencies the discretion to weigh performance, as well as price, in contract awards. Thus, the Air Corps Act of 1926 was probably the first formal recognition that sealed bid procurement cannot always generate effective competition or ensure that the government get the best product at the lowest price (Schaffer 1985; OFPP, B-2)

Circular A-76 as it currently stands emanates from a series of bulletins of the Bureau of the Budget.<sup>16</sup> The first of the series, Bulletin No. 55-4, was issued by the executive branch on January 15, 1955. The policy proposed was as follows:

It is the general policy of the administration that the Federal Government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels. Exceptions to this policy shall be made by the head of an agency only where it is clearly demonstrated in each case that it is not in the public interest to procure such product or service from private enterprise (GAO 1978, 91).

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<sup>16</sup> The Bureau of the Budget was predecessor to the Office of Management and Budget. The name was changed in 1970.

OMB	CONGRESS	GAO
(Messages, Circulars, Orders, Reports)	(Statutes, Hearings)*	(Reports, Studies)
	1926: Air Corps Act (Early establishment of competition)	
1955-BOB 55-4 1957-BOB 57-7 1959-BOB 60-2 (Predecessors, Cir. A-76)	1960-1980: Hearings focus on effectiveness, specific sites., inconsistencies	1960-1980: Reports on specific agencies
1966: Circular A-76 (Rely on private enterprise) 1967: Memo #1 (Establishes inventory procedure)		1970's: Reports on individual agencies
1979: Revision (Focus on comparing business/gov't. and outputs)		1978: Comprehensive Review (Lack of make/buy policy, status of Circular)
1983: Revision (Major revision)		1983, 1985: Synopsis of past cost comparisons--DOD
	1984: HR POCS (criteria, effectiveness, effect on mission, workforce) 1985: HR POCS (cost overruns, assumptions)	1980-1990: Reports on individual agencies
1987: Ex. Order 12615 (3% goal, each agency) 1988: Pres. Commission on Privatization Advocates competitiveness policy	1988: HR Armed Sers (Nichols amendment) 1989: S PCS (disposition of savings)	1986: Assessment of overall productivity
1989FY: Mgt of U.S. (Advocates Cir. A-76)	1990: HR POCS (oversight, appeals, effect on workforce, broader impact)	1990: Forthcoming: Comprehensive review of costs/benefits

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 \*HR=House of Representatives; S=Senate; Armed Sers=Committee on Armed Sers, POCS=Post Office and Civil Service Committee.  
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Figure 7: Selected Policy Events, Circular A-76

The bulletin noted that the relative costs of Government operation would be a factor only when the agency head could not make the purchase on a competitive basis at a reasonable price. Some of the reasons for this relative costs factor are that the cost of government operations are not comparable with corresponding business costs; comparison of the operating costs of Government and business is not possible since government accounts are not kept in the same manner as business; and that the decision of whether to continue or discontinue a government activity solely on cost runs counter to the concept that the Government ordinarily has no right to compete in a private enterprise economy. The bulletin further asked agencies to inventory all commercial activities and to evaluate which industrial activities should be discontinued. Evaluation by the GAO was that the agency response was inconsistent and the bulletin was largely ineffective.

The same statement of policy as in Bulletin No. 55-4 appeared in Bulletin 57-7, two years later (February 5, 1957). This bulletin provided instructions for evaluating commercial services and policy and procedures for terminating existing activities and starting new ones. In refining cost criteria, commercial prices were considered reasonable when the price to the Government was not greater than the lowest price obtained by other purchasers. If the service or product could not be purchased on a competitive basis, or a reasonable price on a noncompetitive basis, a comparison of prices with the costs of Government operations was necessary.

Agencies were instructed to discontinue commercial activity as soon as reasonable, give the local community and employees advance notice, and assist affected employees in finding employment. No new activity was to be started until agency heads ascertained that the product or service could not be supplied on a competitive basis or that it was not in the public interest to procure from private enterprise. A review of evaluation reports indicated that in most cases the agency continued the activity even when justifications were not persuasive or did not put into practice decisions made to terminate or curtail the activity (GAO 1978, 93).

As a result of their experience, OMB personnel felt that the bulletin was important to agency heads in procurement decisions and helped stimulate improvements in management and operations.

However, it was concluded that more specific criteria must be developed for the application of the policy. Thus, in 1959, the Budget Director issued Bulletin 60-2, which was the forerunner of the current Office of Management and Budget (OMB) Circular A-76. One major change in this bulletin was the recognition that compelling reasons may make it necessary for the Government to provide services. These reasons include national security, relatively large and disproportionately higher costs, and clear infeasibility.

Once the policy was established, government managers had few systematic guidelines to follow about cost comparison procedures. Thus, on March 3, 1966, the Bureau of the Budget issued Circular A-76 to establish formal rules governing cost competitions and defining protections to mitigate any adverse effects on government employees.<sup>17</sup> The Circular (Appendix A) contained the following statement:

The guidelines in this circular are in furtherance of the Government's general policy of relying on the private enterprise system to supply its needs. The exception criteria were provided in more specific terms and the Circular 1) distinguished more clearly between existing Government activities and new starts; 2) assigned the agencies full responsibility for implementing the policy; 3) set a continuing review of activities on a three-year cycle; and 4) described a cost differential favoring private enterprise in cost comparisons for new starts. (GAO 1978, 96).

Transmittal Memorandum No. 1 of August 30, 1967 transmitted guidelines for inventorying and calculating costs of activities. Six more transmittals gave further guidance to practitioners in surveying and computing costs for activities. Under the Carter administration, in 1979, a Cost Comparison Handbook was issued. Its guidelines attempted to define the rules for preparing and comparing the competitive bids of government and commercial sources. Thus, competition for the performance of commercial/industrial type functions in support of government activities was not only feasible, it was to be the method of determining whether the public or the private sector was to perform work put up for bid.

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<sup>17</sup> The 1960's reveal a concern for establishing better contracting and procurement procedures throughout government. The increased use of negotiation and contracts which were based upon contractor's costs instead of a fixed price generated concern over the nature and efficiency of the controls in the acquisition process. The Truth in Negotiations Act was passed in 1962 to strengthen safeguards and clarify procedures pertaining to negotiated procurements, particularly by the Department of Defense. Oral and written discussions had to be conducted with all firms within a competitive range on negotiated procurements by the Department of Defense and the National Aeronautics and Space Administration. (OFPP, B-3)

The spelling out of cost comparison procedures in A-76 introduced a revolutionary approach to the way government conducted its business. It established competition between government and commercial concerns for the public largess and concomitant opportunities. However, according to one student of the process, the guidelines were ignored so that in later years, an analysis prepared by the Comptroller General's Office and presented to the Congress reveals that comparisons using those guidelines were seldom done and decisions to contract out were based upon subjective rather than objective economic considerations (Norman 1984, 6). Government officials filled in the blanks and submitted the data they felt would be most beneficial to the activity (Norman 1984, 6).

Part of the shift's purpose was to focus more on outcomes, a shift to specifying what needs to be done rather than a procedural emphasis on how things are done. This competition would be based on a performance-oriented statement of the government's work requirements, thus shifting the emphasis from "how the government does business" to "what the government needs done." The intent of the shift from "how" to "what" did more than provide an opening for private firms to compete with government operations; it was also to give government managers incentives to review their organizations to develop more efficient procedures (Linowes 1988, 130).

Because of increased interest in contracting out and political pressure during 1976 and 1977, Congress placed a short-term restriction on contracting out certain work in DOD (Section 809, Public Law 95-79). In addition, the Congress placed a moratorium, for fiscal year 1978, on the conversion of certain base operating support service to contract (Section 852, Public Law 95-111). Even though this Congressional concern would indicate otherwise, most observers (Norman 1984; Linowes 1988) believe that A-76 was ineffectual until the Carter/Ford Presidential campaign made the inefficiencies of the bureaucracy a political issue. Reforms were again proposed by OMB in 1981 and a comprehensive revision of the document came about in August 1983 (Appendix A).

Hearings throughout the 1980's (U. S. Congress 1984a, 1984b; 1985; 1988a; 1988b; and 1989) raised some recurring questions and cast some old ones in significantly better ways. In the July 11, 1984 Hearings before the House of Representatives Subcommittee on Human Resources, Committee

of Post Office and Civil Service (U. S. Congress, 1984a), the focus was on the Navy's implementation of Circular A-76. Issues included the decision criteria for and effectiveness of Circular A-76; flexibility for managers; and the equity of the process for federal employees. Hearings before the same subcommittee (U. S. Congress 1984b) focused on the questions of the impact of contracting out on agencies' ability to perform their missions; the accuracy of Circular A-76 cost comparisons; and the effects on the Federal workforce. Representatives from industry, Congress, OMB, and governmental agencies testified or submitted statements. The purpose of the hearings before the same committee in 1985 (U. S. Congress 1985) were to investigate "cost overruns, incomplete performance work statements, and disruption to Government services" (U. S. Congress 1985, 2). Particularly in focus was the Army's inspector general review of the Army's A-76 program at 17 representative installations throughout the country. Again, representatives from industry, Congress, OMB, and governmental agencies participated.

Executive Order No. 12615 signed by the President on November 19, 1987, articulated a new policy requiring federal agencies to meet specific annual study goals. Beginning in fiscal 1989, agencies were to conduct annual A-76 cost comparisons at a rate of not less than 3 percent of each agency's total civilian personnel (Linowes 1988, 135). According to the President's Commission on Privatization, Executive Order No. 12615 and the guidance already published by OMB make contracting for current commercial services established policy and provide ample instructions to government agencies for implementing that policy. The issue is one of executing, rather than establishing policy, according to the Commission.

Approximately one month later, Congress placed a new provision in the DOD authorization bill permitting base commanders to establish their own policies regarding OMB Circular A-76 and presidential contracting policy. Although service headquarters opposed such a measure, fearing that it would bring A-76 competitions to a halt, some base commanders indicated that, given such discretion, they would use it for activities different from those promoted by headquarters.

Further, 1988 sees a significant change in the authority relationships in implementing the program within the Department of Defense. In 1988, hearings before the Investigation Subcommittee of the House of Representatives' Committee on Armed Services (U. S. Congress 1988a and 1988b) focused primarily on policy changes in Circular A-76 affecting the Department of Defense, particularly the attempt to reconcile Section 1111 of the Defense Appropriations Act (the Nichols' amendment) and Executive Order 12615. As Chairman Nichols' noted in his opening statement,

On one hand, Congress was telling the Department of Defense to delegate authority for the implementation of commercial activities to the base commander ( The Nichols' Amendment--Section 1111 of the Defense Appropriations Act) so he could make a decision based on his best judgment on how to carry out the mission in his particular installation. On the other hand, the President was telling the DOD that it has to triple the number of commercial activity reviews of functions in accordance with OMB Circular A-76. During the course of that hearing (April, 1988), the subcommittee indicated pretty strongly where the Department should put its primary emphasis. We believe now as we believed then, that the law takes precedence over an executive order (U. S. Congress 1988b).

The Nichols amendment caused tremendous comment from both those in the field and those in D. C., as it does delegate more authority to the base commander. Whether or not much change has really taken place, however, is still not determined.<sup>18</sup>

A significant change in A-76 is discussed by the Senate Subcommittee on Federal Services, Post Office, and Civil Service (U. S. Congress 1989) in connection with S. 909, the Commercial Activities Contracting Act of 1987 of the Committee on Governmental Affairs. The bill requires that all amounts saved as a result of federal government contracting pursuant to Office of Management and Budget Circular A-76 be returned to the treasury, that manpower savings resulting from such contracting be made permanent, and that employees of an executive agency be consulted before contracting determinations by the head of that agency are made pursuant to that circular. As may well be imagined, debate centered on incentives or lack thereof if money is returned to the treasury rather than to agencies. Admission was made in the subcommittee hearings that knowledge of where the savings have gone was not codified, but instead had been left at the agency level. Further, the lack of appeal for employees affected and the lack of procedures for employee input were also

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<sup>18</sup> Because of the way both the military and Commercial Activities programs are structured, many decisions probably still go through the central commercial activities program for the service, e.g., NOP 443 for the Navy.

issues. The question of Congressional oversight versus executive implementation is raised strongly and ties the program into the broader issue of the politics-administration dichotomy. In addition, the image of governmental agencies as competitors for budgetary resources or as part of national public service becomes apparent.

A still broader perspective is placed on Circular A-76 in hearings taking place in 1989. Academics, such as Paul Starr, Harold Seidman, and Donald Kettl, explored the meaning of Circular A-76 in terms of current research and thinking on privatization and contract management. Representatives of federal agencies, contract associations, OMB, GAO, and congress testified or submitted statements. Focusing on the need to give a broader picture of contracting out, Chairman Paul E. Kanjorski noted that five critical questions about contracting out would be addressed:

1. Do agencies have enough oversight over contracts and contractors?
2. Do agencies use contracting out to circumvent personnel ceilings?
3. Is the A-76 program efficient and what are some of its problems?
4. Do government contractors have too much influence over agency policy and public policy?
5. What effect does contracting out have on our economy?

In the opening statement, Chairman Kanjorski noted that one concern is that contractors make up a majority of employees at some agencies where they become de facto decision makers. A related concern is that agencies do not have enough qualified civil servants to fill contract management positions. Further, he notes that at some agencies, such as the Department of Energy, the ratio of contract employees to federal employees is 9 to 1. According to Kanjorski, numbers such as these make him wonder not only "Who's minding the store?", but also, to an increasing extent, "Have we sold the store?"

This review of the history of Circular A-76 policy indicates that although the original intent of the policy to rely upon the private sector for goods and services is constant through the years, significant shifts do occur in both the understanding of its intent and in application. The most significant is that of 1979, when in an effort to clarify and make more specific the instructions to agencies, a subtle but important change becomes apparent. The early BOB bulletins stress first and foremost that it is not governmental intention to provide commercial activities and industries except under

specified circumstances. The shift in the late 70's through specification of procedures is toward an understanding that government would not provide services if private enterprise can outbid the government function by function. Throughout the 80's, more and more attention in the executive agencies is given to the nuances of cost comparisons and study procedures, i.e., an emphasis on method and not goal. It appears that method--a well documented and correct study and an appropriate bidding process--begins to displace the goal of "the Government's general policy of relying on the private enterprise system to supply its needs" (Circular A-76 1966).<sup>19</sup>

Many assessments of those in government (Linowes 1988, 129) and some of those in private enterprise (Russell 1985) note that although the policy has been reaffirmed by every Administration of both political parties since 1955, the principle has not been applied effectively. The assessment of one observer is that all administrations tinkered with procedures and voiced commitment to the principle, but end up accomplishing little to contract commercial functions to the private sector (Linowes 1988). A review of the effort by both the executive and the legislative branches to correct and enforce the policy, but still not accomplishing the results needed, opens up the need for examination of the basic assumptions behind the policy guidelines, one aim of this work.

## *Policy Issues*

Contracting, in general, and A-76, in particular, are practices with wide reaching impact on both government and business. As noted earlier in this work, the procedures under Circular A-76 raise not only questions of governance--the interaction of the legislative, judicial, and managerial dimensions--but also questions of specific issues that cut across the traditional areas of public administration: management, personnel, and budgeting. Thus, reviewed below first is an overview

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<sup>19</sup> Interestingly enough, this same critique of method displacement of goals has been waged against much of the academic work of the 1970's and 1980's.

of selected stakeholders in the process. Second, selected political, managerial, and legal issues are reviewed. These issues were chosen as important because of their salience to the arguments made in this paper, the intensity with which they have been held by advocates pro or con of contracting out, or the number of people mentioning this particular issue.

## Stakeholders

The many stakeholders in the process hold positions which vary depending upon the particular issue being addressed. Stakeholders' positions draw upon all three frameworks, the political, legal, and managerial. However, stakeholders often act within the political process as interest groups. Reviewing their positions here emphasizes their statements as interest group statements.

### Citizens, Recipients of Services, and Government at large

The issues and activities of Circular A-76 necessarily draw the researcher's attention to questions of relating governmental departments and government and business. However, implicit throughout the dissertation is a concern that citizens are better served through the best programs government can create. Additionally, in our concentration here on quality control and contractor-government relationship, it is important to remember that service to the recipients of the goods or functions, whether they be other governmental units or other citizens, is of utmost importance. Concern with government's implementation of the Circular is a focused concern representing an overall commitment to better governmental service and a vigorous, effective cadre of professionals in government. Finally, it is important to note that businesses are "citizens" too and play an important part in contributing to an economy in which democracy can flourish. Their needs too must be considered.

### Office of Management and Budgeting

Circular A-76 originated within the Office of Management and Budgeting and this office has had continual authority over the program. Attention to the program and political advocacy of it has been sporadic through the years. A General Accounting Office assessment (GAO, 1989) notes that OMB's attention to and management of Circular A-76 has been one evolving from laissez-faire to over restriction. As could be predicted, presidential preference has affected how the program was emphasized. For example, under Carter the guidelines became oriented toward methods and under Reagan the program became one of a general privatization strategy with an executive order emphasizing goals for all agencies.

### Congress

As could be expected, diverse opinions have been expressed by members of Congress for the last ten years (GAO, Hearings, newsclippings). Since 1955, as evidenced in requests to GAO, Hearings, and other publications, Congressional stakeholders have included both Republicans and Democrats, conservatives and liberals, and various committees, such as Committee on Post Office and Civil Service, Select Committee on Small Business, House Committee on Appropriations, Senate Committee on Labor and Public Welfare, Committee on Science and Technology, and Committee on Armed Services.

Generally speaking, Congressmen speak out for the need for efficiency and economy in government without preference for either sector. When it comes to contracting, concern has been expressed for the need to control rising costs and protect free enterprise as well as fear of the loss of control by government and the opportunities for corruption. Concerns raised particularly about A-76 have been lack of monitoring by OMB, need for periodic review, the use of personnel ceilings to control the number of in-house personnel (but not contractors), loss of agency control over contracted activities, and the need to consider possible adverse costs of contracting: higher costs, personnel confusion, poorer management, and service deterioration.

### Employees Unions

Further resistance to A-76 has come from government employees and their unions who, in general, consider cost competitions a direct threat to benefits, seniority, or jobs. Federal employee unions have lobbied vigorously against contracting out and have opposed competition for existing functions and for new government requirements. This lobbying has resulted in some restrictions on contracting for commercial services at the federal, state, and local levels. At the federal level, many of the congressionally imposed restrictions on contracting for commercial activities are, in part, responses to concerns expressed by federal employees.

A common theme has been the lack of consideration for the potentially displaced Federal employees. The unions also are wary of the cost comparisons, believing that agencies should be required to perform an accurate cost comparison on an incremental basis to justify converting from in-house to contractor performance and that Social Security costs should be added to the contractor's costs. In a 1978 study by GAO, contractors also wanted to include a range of retirement cost factors rather than one average factor for in-house personnel.

#### Private Industry

Private industry has expressed concern that A-76 with its current emphasis on cost comparison does not lend enough credibility to the idea of reliance on the private sector to produce commercial products. Also, business is wary that cost comparisons favor the government, e.g., the constant controversy over what the Federal retirement factor should be and how Governmental overhead should be counted. In general, as could be expected, business expresses concern over holding down the size of Government and of not enough reliance on the private sector. Additionally, business touts the flexibility of contracts because, in their opinion, they can be stopped or changed on short notice.

#### Executive Agencies

Nearly all of the executive agencies have had sporadic interest in Circular A-76. However, certain agencies have been involved more continuously, e.g., the Department of the Defense and the armed services, the General Services Administration and the National Oceanographic and Atmospheric Administration. The official viewpoint of most executive agencies is support of A-76's basic intent. However, most have noted difficulties with the program. These include the need for clarification, difficulty in administration, fear of losing management flexibility and operational stability, effects of personnel, economy of operations, and conflict with other policies and regulations.

### Government Managers

The resistance of government managers stems from three concerns (Linowes 1983). First, they fear that contracting out will to some degree erode managerial control, causing performance to suffer and diminishing effectiveness. Second, managers are concerned that jobs lost through contracting could lead to reductions of their grade levels, because the number of employees supervised is often a factor in job classification. Finally, managers want to protect their employees from adverse actions.

Managers opposed to contracting can obstruct implementation. The procedures of study themselves cause considerable concern. Government managers understandably are concerned about staff devoted to planning, conducting, and deciding cost evaluations related to cost competitions when they are diverted from other activities. Even when a government agency's MEO wins a competition, the agency sometimes retains its original organization rather than completing managerial reforms identified in the MEO. According to Gene L. Dodaro, Associate Director, an Army Audit Agency analysis of 25 commercial activities that had remained in-house found that the MEO was not implemented properly or promptly in eight cases (Linowes 1985, 136). Further, when government managers believe their functions might be contracted out, they tend to use their discretion to drag out the competition with the private sector. GAO's review of DOD contracting between October and December 1986 revealed that approximately 40 percent of A-76 studies required more

than two years to complete and some took as long as eight years. Dodaro observed that these lengthy studies can result in lowered morale and reduced productivity.

## Issues of Governance

A summary chart of this section, Figure 8, reveals how the selected policy issues in Circular A-76 spread across the continuum from the market orientation through the dimensions of legal, managerial, and political of Contractual Governance. Under the market orientation, questions of what are the guidelines for competition and how to increase the policy's focus on private sector reliance are raised. In trying to resolve some of the questions raised by the private sector, constituents, and citizens, the relationship between the private and public is often couched in questions of which services should be part of the program, what is inherently governmental, and how are control, accountability, and competition meshed. The legal framework reflects a concern with due process and protection of the rights of all groups within procedural guidelines. Thus, in Figure 8, the lines beside the policy questions indicate that the question requires engaging concerns from the frameworks through which the line crosses. As the chart indicates, the important policy questions in Circular A-76 are not just political or managerial, but cross all the frameworks of governance, the market, and sometimes questions raised in relational contracting.

### What Is A-76?

Some of the controversy surrounding A-76 centers on speculation about and formal definitions of what A-76 is. Various stakeholders characterize the program in different ways. The Office of Management and Budget sees the program as another management tool (OMB 1989) while other stakeholders, e.g., some DOD officials and some agency officials, categorize A-76 as a budgeting technique. Still others, of course, believe A-76 is an anti-union movement (AFCME) while Con-

FRAMEWORKS IN CONTRACTUAL GOVERNANCE

COMPETITIVE (MARKET)      ----- GOVERNANCE FRAMEWORKS ----- COOPERATIVE  
Political      Managerial      Legal

-----What is A-76?-----

-----Is A-76 cost effective?-----

-----What is inherently governmental?-----

-----Is the process a fair one?-----

-----Government as an employer-----

-----Accountability?-----

-----An appropriate tool?-----

Figure 8: Selected Policy Issues Related to Frameworks' Emphases

gressional statements have viewed A-76 either as a private enterprise program or a possible productivity program. Most characterize it as a contracting out program. Perhaps some of the difficulty in implementation, particularly in interweaving A-76 requirements into standard governmental contracting, accounting, and management practices, lies in indecision over what type of program it really is.

An earlier review by GAO (U.S. General Accounting Office 1978) noted that the policy of relying on the public sector was still unchallenged, but that need clearly existed to clarify A-76's relationship to other important considerations, such as:

{ the best interests of the Government and the taxpayer;  
the amount of flexibility agencies need in controlling their missions and operations;  
the functions that should be considered governmental in nature;  
the role of the Government as an employer, in general, and as a model employer of women, minorities, veterans, and the handicapped; and  
the significance of the roles assigned to cost comparisons and personnel ceilings in the operation of Government activities (GAO 1978, 13).

Twenty two years later, these issues are still the salient ones.

#### Is A-76 cost effective?

More has been written about this particular aspect of A-76 than any of the other dimensions. According to the Report of the President's Commission on Privatization, "the evidence clearly indicates that contracting out has resulted in substantial savings" (Linowes 1988). In agreement, a GAO report reviewing a sample of contracted sites in 1985 claimed considerable savings (GAO 1985) and in a plethora of other reports state the same (GAO 1983-1986). On the other hand, the American Federation of Government Employees (AFGE) contends that contracting is not so cost-effective as its proponents claim and cite cost overruns, community impact, transition costs, and administrative costs as evidence. Further, in publications in the late 1980's, GAO (1988c and 1989) did question some of the cost savings. A report in 1987 by the Congressional Budget Office (CBO 1987) forecasted savings from the A-76 program over both the short and long run. CBO estimates potential long-term savings from the A-76 program on an accrual basis, the accounting method used in generating cost comparison information under A-76 (Tingle 1988). The accrual

method accounts for costs in the period in which they are incurred without regard for when payment on the contract is actually made. "Thus, estimates of savings generated by A-76 using accrual accounting reflect, for example, savings in pension costs that result from federal employees who are laid off because their jobs have been contracted-out" (Tingle 1988, 237).<sup>20</sup>

A review article by Michal Laurie Tingle (1988) reveals the complexity of obtaining truly good cost comparisons. Difficulties in methodology abound: e.g., savings data for activities converted to contract are often based on an estimate of past savings not verified and may never have materialized; in-house savings are often based on estimates in the MEO's (not the agency's actual performance after an A-76 review); baseline savings may underestimate the amount of work federal employees perform in providing a good or service; and, under competition, the contractors' bid may be a "buy-in" and thus suspect data to use in a cost comparison.

Other than the long-term debate about comparisons using the accrual method of accounting, government's more common method,<sup>21</sup> four broad accounting challenges are behind the several different issues in contention. One is the difficulty of obtaining true cost comparisons between the cost of government provision and that of contract provision. The second is how to obtain precise comparisons between the amounts awarded in contracts and the cost of services when they are delivered. Whether positions saved is a legitimate criterion to use in showing cost savings is a third issue and how to measure quality and quality costs is a fourth.

In the first case, the difficulty of comparing costs among government and contractors, one of the difficulties is whether both are considering the same workload in their bidding. The bidding process itself is supposed to give equal chance for both government and business to estimate and project what it costs to do the work. Nevertheless, those who have been involved in the construction of

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<sup>20</sup> A report due out in Spring, 1990 by GAO should add a firmer basis on which to base some of these conclusions.

<sup>21</sup> A recent issue of *Governing* notes that considerable pressure is being placed on government accounting procedures to be converted to the cash method, the method most used by business.

management studies and the bidding process realize that government's bid is influenced by its knowledge of what all the work entails, not just their estimate of what the costs is according to the performance work statement. A further consideration is whether the costs of doing the studies themselves, some lasting over three or four years, are truly recouped by instituting management efficiencies. Also, one issue that has been particularly upsetting to the unions and government employees is what they consider the high fringe factor that must be counted into the government bid.

In the second case, the question of cost increases after contract award is the center of the debate. Generally, cost increases have been found in contracts (U.S. General Accounting Office 1985 and U.S. Department of Defense 1984). However, government data (U.S. General Accounting Office, Office of Management and Budget) do indicate that in most cases savings to the government occurs. What is in contention, however, is whether the cost increases are a natural outgrowth of labor increases and modifications in work requirements or a result of "buying in," allegedly the practice of contractors to bid low on work with the knowledge that modifications can be sought later. According to the Office of Management and Budgeting 1986 review of contracting under Circular A-76, costs increased for 95 of the 609 contracts awarded by 10 civilian agencies between 1982 and 1986.

In the OMB study, however, actual costs for all four years were found to be .2 percent less than the amounts awarded in the contracts. As to the cost increases, OMB maintains that wage determinations by the Department of Labor, required under the Service Contract Act, often force employers to pay higher wages than they had anticipated in their bids. Moreover, according to the Office of Management and Budgeting, in many contracts the government requests additional services or modifies work requirements after the contract is awarded, making cost comparisons with the previous work invalid. The same point is made by the President's Commission on Privatization in reporting on a review of contracts submitted by the Department of Defense to Congress in 1984 and 1986. The analysts in this review discovered that contract costs rose over the one to three years following the awards by 11.2 percent in the first report and 9.7 percent in the second report.

However, according to the Commission on Privatization (Linowes 1988), "the savings are understated...because, in calculating costs for postcontract workloads, the government includes only wage increases and does not attempt to estimate the full costs to the government of work requirements added to the original contract."

A third area of supposed cost savings often used in government reports is the number of positions contracted out or shifted to higher priority needs. For example, Robert F. Bedell, Administrator of the Office of Federal Procurement Policy in OMB, testified that these studies resulted in savings (or shift to higher-priority needs) of 45,737 positions. The resultant cumulative cost reduction for the period totaled \$2.8 billion according to Bedell (1988). However, a factor here is that second-level effects of knowing positions will be lost after contract in a particular area do occur at the agency level. Interview and testimonial evidence indicates that morale is low in the transition period between the decision to contract out and the actual entrance of the contractor. Productivity thus goes down in this period. In addition, interviews with base personnel indicate that a common practice is for other units to "hold back" on filling positions when they know another area is going contract, a practice that recognizes the human consequences of contracting out. This practice may, nevertheless, mean that other units as well as the unit to be contracted may not be operating at full efficiency, factors that must be considered when one concludes that using positions saved is a measure of costs saved.

A fourth question considers how to measure quality and the costs of quality. Questions of loss in quality of service delivery as well as the ability to control that quality are also questions raised by those concerned with contracting out. Although a good performance work statement and a good quality assurance plan should answer many of these questions, some have contended that the political nature of contracting or the lack of the ability to describe the work fully will not allow full consideration of quality as a dimension. In other words, the contracting situation itself as well as the assumption that private enterprise's concern with profit will preclude quality are given as reasons why even good quality assurance plans will not succeed.

### What is Inherently Governmental?

One of the major issues addressed by opponents of the A-76 process is the confusion on what is inherently governmental. According to Gary Ackerman, Chairman of the Committee on Post Office (Committee on Post Office 1985),

One of the most controversial aspects of the A-76 Program is the definition of what is inherently governmental. A 1985 IG's report<sup>22</sup> states that of the 17 installations inspected, few were able to verify that their activities had been properly classified as commercial or non-commercial. This inability makes the accuracy of the CA inventory suspect and leaves the Army open to criticism from Congress, OMB, courts, unions, and private enterprises for its inconsistent application of the rules.

The issue of what is inherently governmental revolves partially around the question of national security. Of course, national security is a priority in any decision of the Department of Defense, but, the question of contracting out certain functions, e.g., those concerning databases, is a concern of nearly all agencies. For example, in the Hearings of A-76 in 1985, Congressman Owens notes that

Allowing access to our on-line data base is allowing organized access to all of the seemingly trivial information which helps to give a military or economic competitor an advantage (U.S. Congress 1985).

### Is the Process A Fair One?

Several subquestions are built into this question. The first is whether competition is possible. As noted in the history of A-76, contracting under A-76 falls under both the guidelines for A-76 contracting and the general guidelines for procurement. All the laws and regulations which govern federal procurement are derived from the Constitution which gave Congress the power to "raise and support armies" and a Navy.<sup>23</sup> The basic objective of procurement is to obtain supplies and service of the requisite quality on time and at reasonable prices to meet the government's needs (Schaffer, p. 28). Conflicting goals built into the multiplicity of stakeholders in the procurement process in-

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<sup>22</sup> The report of the Inspector General, U.S. Army.

<sup>23</sup> Army Logistics: There have been some 4,000 laws on the books related to government acquisition (OFPP).

clude agency and governmental mandates to encourage competition in contracting to reduce costs, whereas users of supplies may think quality performance or timeliness is more important than costs. For example, efforts to develop competition take time, which in turn hinders supply availability, a major logistics goal (Schaffer 1985, 28). Emphasizing one goal may be at the expense of other goals. Along with questions of adverse effects on employees and questions of labor management relations there are concerns for competing priorities among different and sometimes contradictory legislation, e.g., questions of personal services contracts, legislation to obtain goods/services, small business policy, DOD policies for assigning military or civilian personnel, legislation relative to the use of Government arsenals, and Federal printing policy.

How restricted is competition is another question which surrounds the procurement process. In order to meet other socioeconomic goals, over forty separate nonprocurement programs are implemented through the procurement process (Schaffer 1985, 61). Set asides for small businesses, firms in labor surplus areas, or firms owned by designated minorities are all part of major programs affecting the procurement process.

Other problems operate in the procurement process to hinder competition. One is the occasional reluctance to approve an alternative supplier of goods or services if one source has already proved reliable. A second is high transaction costs. Finding additional sources takes a considerable amount of work and sometimes the buyer's performance is measured by the number of contracts issued. Time taken to seek bidders may be seen as "wasted" (Schaffer 1985, 19). Further, set-up costs of retooling or learning a new area have already been expended by sole source contractors and it is easier for the primary contractor to make a "best and final" offer.

In A-76, as in other competitions, "let the buyer beware" is the norm. Although efforts are made to screen potential suppliers, government buyers may not have the expertise or sufficient information to know what they are buying. As noted in a study on competition in the acquisition of spare parts, Robert John Schaffer (1985, 33) notes:

Lack of time, lack of money and lack of manpower can impede any goal, including competition. Lack of manpower especially inhibits competition. Effective competition is labor-intensive. It requires more work up front in the early steps of the acquisition process, in provisioning and developing specifications. Some functions that a prime contractor would otherwise perform must be provided by the government when competition is present. The items offered by alternate suppliers must be reviewed and tested by government engineers and technicians. Automation cannot perform most of that work. If trained personnel are not available, competition will not grow.

### Role of Government As Employer

The role of government as an employer is one that is challenged by the controversy surrounding Circular A-76. Issues have included whether contracting adversely affects minorities and women, and thus, the extent to which agencies model the diversity of the nation. Others have been the effects of Circular A-76 on morale, severance pay, and the entitlement of workers to continue in jobs for which they are classified.

The main center of attention has been the rights of employees who may be adversely affected by contracting decisions. As mentioned previously, employees displaced are entitled to "right of first refusal" privileges to go to work for the contractor if the agency's bid loses. If they do this, employees must be paid at a comparable wage, as provided under the Service Contract Act. Employees who chose to remain with the federal agency after a contract award receive priority for transfer to positions within the agency and cannot lose their grade for a two-year period. Their salary will not be reduced, but they could lose cost of living increases until the wages of the lower grade exceed their pay at the higher grade. If placement within the government is not immediately possible, adversely affected employees receive priority consideration for new positions within their agencies and are eligible for out-placement assistance, including reasonable costs for training and relocation.

Another issue of importance has been establishing the line between management's rights and employees' rights. Michael T. McNerney, Labor Relations Specialist, Department of the Navy, notes that labor union interest and intervention into the Commercial Activities (CA) program have arisen

in essentially three broad forums. They include: 1) the filing of Unfair Labor Practice Charges; 2) filing of negotiability petitions seeking determinations by management regarding the usurping of management rights; and 3) arbitration involving issues relating to management decisions to contract-out work performed by bargaining unit employees.

McNerney notes some of the more common allegations likely to arise in A-76 negotiations. These include: 1) the arbitrability of grievances under OMB Circular A-76; 2) allegations of discrimination on a protected class of bargaining unit employees; 3) failure to provide information to unions to review and compare in-house or contractor bids; 4) improper use of this standard industrial classification manual and size standard for small business size considerations; 5) failure to adopt the optimum proposed "most efficient organization"; 6) failure to calculate the bid figures properly; and 7) improper administration of an existing commercial contract.

According to McNerney's analysis, the Circular reflects the position of federal agencies that issues involving actions, alleged inactions, and determinations made under the procedures governed by the Circular are not subject to grievance and arbitration provisions contained in labor-management agreements. The Circular expressly provides that it:

not be construed to create any substantive or procedural basis for anyone to challenge any agency action or inaction on the basis that such action or inaction was not in accordance with this Circular, except as specifically set forth in Part I, Chapter 2, paragraph I of the Supplement, "Appeals of Cost Comparison Decisions."

Nevertheless, many local unions have disagreed with this determination, and have referred a substantial number of grievances involving contracting-out issues to arbitration.

A third issue has been the effect of the loss of jobs by government employees on the community. Both the government and local unions usually conduct community impact studies during an A-76 study. The purpose of these studies is to estimate the likely financial change for the community should the function being considered actually be contracted out. For example, the American Federation of Government Employees, Local 3202, Fort Knox, Kentucky, in a publication for the unions, notes the loss of usable income due to conversions (in this case estimated at \$14,560,000),

loss to area school systems (\$252,000), and loss to area hospitals (\$300,000) and to area doctors (\$750,000). The total estimated economic loss was \$15,862,000 as a result of the impending privatization of 1500 Federal employee positions at Fort Knox. However, no conclusive data indicates what the true impact is. The issue, as one might suspect, quickly becomes political. Attempts are made by the unions and others to involve local political figures as well as senators and representatives at the national level in the controversy. Members of Congress presented with arguments about the loss of income for their districts or the loss of jobs for Federal employees in their districts usually respond.

### Accountability

One of the major arguments against contracting out is the loss of selected elements seen as crucial to the effectiveness and integrity of governmental operations. The most important is concern for meeting the agency's mission. One part of mission readiness is that of institutional knowledge and expertise. For example, in the House Hearings of 1985 on Circular A-76 (Committee on Post Office and Civil Service 1985), Donald King, President, King Research, Inc., notes that certain library functions should not normally be contracted out. He quotes research indicating the considerable value to professionals, both in time and money, of information obtained from six libraries under study. In particular, he notes that reference and research functions require competencies that are likely to be sacrificed if contracted out. To perform those functions adequately, certain knowledge is essential: knowledge of the disciplines of the users served, user information needs and requirements, various projects and key personnel within the organization, the structure of the organization, and its history, mission, goals and objectives. Experience in the organization yields this depth of knowledge which will be lost unless persons with both subject knowledge and reference expertise can be found and until sufficient experience in the agency can be gained by such persons (U. S. Congress 1985). In the same vein, managers in other areas, such as supply and transportation, wonder where the institutional experience will be developed in the future for contract representatives and quality assurance if functions are continually contracted out. Thus, one of the questions

at the heart of those who generally approve of contracting for efficiency is that of how to protect the loss of institutional memory important to the successful completion of the everyday work of the government.

Another crucial question related to accountability is that of whether A-76 is susceptible to undue political influence or is motivated by desires to "bust the unions." Innuendoes referring to political influence have been made both in Hearings and in selected interviews. For example, Congressman Owens in the 1985 Hearings on A-76 noted that "The contracting out process, in my opinion, is a process which is designed to maximize the patronage opportunities of the administration in process." The allegations insinuate that selected contractors, who have had undue political influence, cannot easily be held up to quality assurance standards.

Unions and executive agencies have raised the accountability issues and have cited several disadvantages to contracting as was noted in a 1978 GAO report (GAO 1978) and in subsequent hearings and periodicals through the 1980's. These include the issues of loss of governmental accountability and control, difficulty of converting back to in-house from contract, lack of accounting for indirectly added contractor employees to the government payroll, and potential creation of illegal employer-employee relationships.

### An Appropriate Tool?

Whether Circular A-76 is an appropriate tool to use for gaining efficiency is one that has been debated since program inception. Issues include the ability to write performance work statements, incentives, whether monitoring can successfully accomplish program goals, and whether outside contractors can be integrated into agency workflow.

Also, the question of uniform/consistent execution of policy has been one of the crucial questions facing A-76. Another has been that A-76 is not integrated well into the main decision making processes. The existing agency budgetary and accounting systems in most agencies have not taken

either the data or cost comparison needs of the program into consideration. Further, long-range cost raises for contracting and concern about poor quality work have been continual issues for a number of stakeholders. These questions will be discussed in more detail in Chapter Four.

One question about the appropriateness of Circular A-76 as a management tool revolves around how to factor in the type of contract, e.g., "cost plus" or fixed fee payment. Personnel at both DOD and OMB are wrestling with this question and GAO reports have considered it (GAO 1989c).<sup>24</sup> Due to the nonavailability of workload data, particularly in management studies completed before 1988, many bases felt that their only recourse was to utilize a cost-plus-award-fee contract.<sup>25</sup> As quoted in a letter from Thomas H. Tait, Commander, Department of the Army, to General Carl E. Vuono, Commanding General, U. S. Army Training and Doctrine Command, "we (the Army) need to get smart on how to capture workload data so as much of the workload as possible can be fixed." This sentiment has been echoed through the services and, in fact, is the subject of both Department of Defense and General Accounting Office investigations. Generally, if workload (and that is a big if) can be adequately described, most bases prefer the "firm fixed price" contract, a type of contract where contractors and government bid on a specified workload. In this type of contract, contractors are seen as taking more of the risk whereas in a "cost plus" contract, the government may take the risk of added costs.

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<sup>24</sup> Interviews with Doug Hanson, DOD, and Dave Muzio, OMB, 1989.

<sup>25</sup> One 1988 study by the General Accounting Office (General Accounting Office 1988) reveals that in at least one cost plus award fee contract at Fort Eustis, Virginia, if Fort Eustis had considered all probable costs of contracting out for the the Directorate of Logistics support services during the cost comparison process, the estimated savings would have been \$7.1 million instead of \$13.5 million. However, these estimated savings were not realized. In fact, contracting out probably resulted in additional cost to the government of about \$600,000 over the cost of in-house performance.

In fact, since the Federal Acquisition Regulation (FAR) encourages the conversion of cost-reimbursement contracts to fixed-price contracts as quickly as possible, GAO recommended in this case that Fort Eustis should have made the effort to convert the DOL functions to a fixed-price basis for the planned follow-on contract. A cost plus award fee contract is a cost-reimbursement contract that provides a fee consisting of 1)a base amount fixed at the inception of the contract and 2)an award amount, based upon a judgmental evaluation by the government sufficient to provide motivation for excellence in contract performance.

Another area in question is that of furnishing equipment. Two concerns include unpredictable costs for government and liability. In the first case, several examples exist where the contractor rejected some of the government equipment as unserviceable and would not accept it and, thus, government had to absorb the costs. In the second, possible suits and/or questions of the locus of responsibility arise from the liability of government in the case of supplying equipment that is faulty or in the case where the contractor used the equipment in the wrong way.

Several legal issues about the appropriateness of the tool have been raised in the arbitration of contracting-out cases and have thus far involved virtually every phase of the Commercial Activities process. These issues, discussed in more detail below under each phase of the study, include the following: 1) grievances during the review over the right to conduct a study or to set aside an acquisition for small businesses; 2) grievances during the study process over whether studies have been properly conducted or unions kept properly informed; 3) grievances concerning the bidding stage where allegations center around improper calculation of bids; and 4) grievances during contract implementation over whether bargaining was appropriate or whether "personal services" work relationships were established with contractor employees.

## *Findings* ***Observations on Program Assumptions***

So many controversial issues raise questions about the program's assumptions. However, before turning to an examination of some of the specific assumptions behind the naval guidelines, some comments on what has been described so far should be helpful in understanding the program's intentions. First of all, our historical review revealed the lack of consensus surrounding Circular A-76. As mentioned earlier, this lack of consensus is important because it leads to questions of legitimacy. When legitimacy is questioned, some degree of turmoil is caused both at the policy

making and implementation levels. To understand the dimensions around which controversy forms, both stakeholder positions and policy issues were described.

Second, stability of the policy context, roughly measured by the clarity and comprehensiveness of guidelines to implement the policy, is crucial to smooth implementation. The historical review above indicates that in the case of Circular A-76, the policy context was not stable. Not only was there confusion from its inception (GAO 1978), but the number of revisions and questions raised in Congressional hearings between 1985-1989 indicate that many questions remained unanswered in the late eighties also. Technical questions, such as computations of cost guidelines and coordination with other related directives, were still controversial in the 1980's after more than three decades of policy formation.

Third, the ability to link objectives and implementation ("technical certainty") has not been conclusive in the implementation of Circular A-76. Techniques of writing performance work statements and cost comparison are known. However, this technology is not well disseminated in the field, particularly to functional area personnel asked to do the computations. Perhaps, even more important, a lack of incentives and the political controversy surrounding the program blocked understanding of how to link techniques to the overall objective of cost-saving and private, rather than public, provision.

Fourth, study goals have not been met. OMB projects that 47,000 positions, including 25,000 DOD positions, were eligible under A-76 in fiscal 1988. In 1986, fewer than 11,000 positions were put into competition, approximately 80 percent by DOD. In 1987, 12,068 positions were competed, 78 percent of them from DOD. Between 1981 and 1987, federal departments and agencies studied only 72,068 of the 757,000 positions that OMB estimated possible for cost competition with the private sector. Further, OMB required all government-operated commercial activities that remained in-house be reviewed and cost-competed on a 5-year cycle. The goal was not met at the scheduled end of the first cycle in September 1987. This level of resistance to the centralized management of contracting studies (Linowes 1988) indicates a need for a better system of penalties

and incentives if performance under A-76 is to improve. The lack of success in meeting OMB goals may indicate both unrealistic goals and lack of incentives.

Fifth, proposals for change are often delayed. Partially in response to the likelihood of not meeting Fiscal 1988 goals, OMB indicated an intention to propose administrative modifications to Circular A-76 in its fiscal 1988 management guidelines. These included OMB requiring (rather than permitting) commercial activities with 10 full-time-equivalent (FTE) positions to be contracted out without competition, extending the 45 FTE discretionary range now used by DOD throughout the government, and allowing OMB to direct agencies to contract services performed by organizations with more than 500 FTE positions when similar organizations had been studied over time and agencies had lost more than 75 percent of competitions. More than a year later, OMB had not implemented these proposals.

Sixth, incentives for agencies often conflict with other political goals. As noted earlier, S. 909 was considered by the Subcommittee on Federal Services, Post Office and Civil Service of the Committee on Governmental Affairs. From the perspective of base personnel, S. 909 reduces incentives. It requires that all amounts saved as a result of federal government contracting be returned to the treasury instead of a portion being returned to the agency in question; that manpower savings be made permanent; and that employees of an executive agency be consulted before contracting determinations.

Another conflict was brought about by the Nichols amendment giving base commanders more authority. In contrast to the decentralization of authority required by the Nichols' amendment, Executive Order No. 12615 was passed requiring agencies to meet specific study goals, a contradiction to the intention of the amendment. However, as an incentive, Executive Order No. 12615 issued in the Reagan administration contains a provision allowing agencies to plan on the basis of funds that reflect "retention of expected first year savings...for use as incentive compensation to reward employees covered by the studies for their productivity efforts, or for use in other productivity

enhancement projects" (Linowes 1988, 138). The President's commission sees "such incentives are a precondition to making contracting out work in the public interest."

In realization of the lack of incentives to either agencies or their employees, additional options to Circular A-76 are being considered. Office of Personnel Management (OPM) Director Constance Horner testified in support of a modified employee stock ownership plan (ESOP) that would provide opportunities for federal employees to join corporations that bid for government-operated commercial activities, or to become owners of any company that won a contract. Known as the Federal Employee Direct Corporate Ownership Plan (Fed Co-op), the plan contains procedures for current federal employees to buy firms that win contracts to perform their work (Linowes 1987, 141). Management resistance to A-76 competition may be reduced if agencies had better incentives to promote contracting. Unless managers are induced to support contracting, it is unlikely that needed improvements in efficiency will be achieved.

## *Assumptions in Naval Guidelines*

This brief review of the issues indicates a policy with unmet goals, field resistance, a lack of "technical certainty," confusion in the mandates, and disagreements among the executive, legislative, and judicial. This state of affairs leads us to question the underlying assumptions of the program itself. To explore these assumptions, the specific instructions used by one agency, the United States Navy, in four sites will be examined for their underlying orientation. In this section, the assumptions in the Circular A-76 specific guidelines as used by personnel at the different bases are examined for each stage in the contracting process. For the first stage, the review of activities to be contracted out, an overall view is given of the general guidelines as revealed in memoranda from Naval Commercial Activities Headquarters. For the other stages of the Contracting Decision, study and bidding, and also those of Contract Implementation, transition and institutionalization, the primary

assumptions as revealed in the specific guidelines specifying how to conduct these activities are noted.

## The Contracting Decision

Earlier work indicated the parts that different stakeholders have played in the A-76 process, but the agency itself, the U. S. Navy, has also had its own decision-making process in response to both the initiatives of Congress and OMB. Generally, at the base level, commercial activities analysts along with functional area personnel study the functions to be put up for bid. After work is complete (including a performance work statement, a most efficient organization, and the bid preparation), and, if a successful audit has occurred, solicitations are issued and bidding takes place. The Implementation Process as described in Naval guidelines is illustrated in Figure 9. The Navy itself has offered official comment on the CA process as noted below and generally cites Office of Federal Planning and Procurement guidelines in conjunction with their own stipulations as the ones to follow. Below the Navy's official position and the guidelines are reviewed.

In July 1986, a memorandum from the Naval Commercial Activities Headquarters (U. S. Department of the Navy 1986b) defines A-76 as the Navy's "best efficiency program for generating savings to meet emerging resource requirements." According to the document, the process saves \$8 million and almost 500 positions for every 1000 positions studied.<sup>26</sup> Further, the memorandum notes that CA has saved the Navy over \$250 million and over 9,000 personnel spaces since 1979. However, the report noted that halfway through the current fiscal year, the Navy was lagging behind the targets set by claimants and field activities.

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<sup>26</sup> This number of positions includes those units that stayed in house, but went to Most Efficient Organization.



On a very positive note, the memorandum lists the lessons that had been learned about efficiency. Winners used the following approaches: equipping workers with vehicles and radios; using multi-skilled, cross-trained workers, not specialists; giving workers goals; using working leaders and extending the supervisors' spans of control; simplifying products and eliminating unnecessary work; consolidating shop locations; using overtime to meet periodic peaks; and automating routine clerical work.

Further, noted early in the CA process is that the cost comparison process does not stop with a final decision. According to the report, several activities have noted difficulties with new contracts because the Government did not have a contract administration/quality assurance staff fully in place at turnover. To quote the report:

Conversion can be a complicated period and can set the tone for the Contract-Government relationship. Time spent staffing the Government's contract administration team during this period would be time better spent working with the contractor, the functional manager, and the customers to ensure a smooth transition.

Thus, in 1986, a need is expressed for plans of action and milestones for CA cost comparisons to provide for sufficient time to staff and train the contract administration and quality assurance positions prior to conversion to contract performance.

A November 1987 CA program overview (U. S. Department of the Navy, 1987) indicates a commitment by Naval Commercial Activities to the program and lists its accomplishments. Incentives are also noted: savings of over 15 percent are retained by the activity and operating costs are reduced regardless of study outcome. In light of earlier discussion on incentives, note their importance to the agency.

Further noted by the report is that a key ingredient for successful CA studies is the active participation by commanding officers and executive officers:

Commands have found themselves highly competitive when they get out of the rut of traditional ways of doing business and really search for ways to improve efficiency. Successful Navy commands have described the process as "throwing out the book" and looking for innovative approaches to accomplishing missions. Ask yourself, "How would a smart business

person unencumbered by our ingrained policies and procedures organize to perform this task?" The answers to this question typically leads to innovative, cost reducing measures.

Since commanding officers have many competing claims upon their time, these statements can be seen as an attempt to gain higher priority on the Commander's agenda. Memoranda from Naval Headquarters indicates an official endorsement of the Commercial A-76 policy.

Nevertheless, unions have protested that policy. Legal issues have been raised about the right of a base to conduct a study. The questions have indeed been those of fairness and representation in the process. According to Michael McNerney, in one case a union grieved management's decision to conduct an initial study, contending that it was conducted in part during a congressionally mandated moratorium on such studies. In another case, the union alleged violation of procedures in determining the set aside for small business consideration as well as improper use of Standard Industrial Classification Manual (McNerney).

In addition, the administration of contracts is a subject that Naval Audit Service Headquarters has addressed in one study of post decision reviews in October, 1983. Reviewing the outcomes of 15 contracting decisions, Naval Audit Service Headquarters concludes that although contracts and MEOs are cost effective, there is need for better administration and for naval bases to think more competitively when preparing their bids. The study revealed that activities are not developing the systems needed to administer contracts adequately. In front end planning, a plan for early staffing of the contract administration function should be considered. Further, MEO development tends to be too conservative. Where the contractor wins, he or she does so with fewer people, multiskilled workers, part-time and temporary employees. "We need to think more like contractors to improve our competitiveness," according to the advice in the memorandum.

Contracts and MEOs reviewed have proven cost effective, according to the study, and some have resulted in greater savings than anticipated. Although the study did conclude that performance by contractors is generally satisfactory, one deficiency observed was the failure of quality assurance plans to document unsatisfactory performance.

The importance of an early liaison between the requiring activity and the contracting office was also emphasized. Failure to meet with the contracting officer early in the process to determine what precisely is required to ensure a contractible performance statement (PWS) and an enforceable quality assurance plan (QA) is a "surefire recipe for extra effort and frustration for all parties," according to the report. Finally, the Navy's estimate is that the vast majority of contracts resulting from CA cost comparisons have produced savings close to the amount estimated during the cost comparison process. Concern was expressed about contractor problems and emphasis was placed on the methods available to correct these problems. Suggested solutions included direct conversion of units of smaller than ten personnel instead of a study; better supervision in the shops; proper job estimating, proper reporting of hours, and good variance analysis; and incorporating time standards into worker performance evaluations.

### The Study Process

The basic document guiding the study process in the Navy, as in all agencies, is the Office of Planning and Procurement's A Guide For Writing and Administering Performance Statements of Work for Service Contracts (U. S. Executive Office of the President 1980).<sup>27</sup> The pamphlet is one that has been prepared primarily for Specification Writers and the Quality Assurance Evaluators (QAE's), but does not establish official contract policy.<sup>28</sup> The process described is recommended for developing specifications for CA cost studies. Advice is given on types of contracts available, order of contracting, and planning the timing and number of contracts awarded. The document notes that "Each year the government contracts for a large part of its mission support. As a result, civilian contractors have assumed a major role in day to day operations in the area of services."

### Program Assumptions

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<sup>27</sup> Listed in the Navy as OPNAVINST 4860.7B, OFPP #4

<sup>28</sup> The official Naval Facilities Engineering Contracting Manual, P-68, is the manual establishing contract policy.

The basic design behind writing and administering performance statements of work assumes that the contractor and government are linked together in a system or systems of jobs, including system components of input, work, output, and control loops. Within that system, the contractor's role is seen as that of taking people, facilities, material, and the Statement of Work and "inputting it" into a work process. The result of this work is a "contract output" (U. S. Executive Office of the President 1980). Figure 10 illustrates the image of the contractor operated system according to the pamphlet.

Note that the system conceived is one of interdependence within the contractor's workflow, within the government's workflow, and between the government's and contractor's workflow. No mention is made of some of the human frailties that could interrupt workflow: lack of cooperation, unclear performance statements, and debates about what is in the contract. An assumption, instead, is made that all the units that need to be connected are described and that integration among workunits will not be a problem. The process is envisioned here as almost automatic, one whose progress can be charted, one that does not meander through more than one workstation with several U-Turns, and one that does not conceive a conflict between how private and public do it.

Further, specific guidelines are given for conducting the most time-consuming phase of the process, the management study and construction of the Most Efficient Organization. The intent of the study is to document all the essential functions to be performed in order to develop a complete work performance statement, construct a good MEO, and to provide the information to determine the most efficient and effective in-house performance. Figure 11 shows the responsibilities of different personnel from the time of the study to contract implementation. Note that the functional area chief is responsible for preparing the statement of work, surveillance plan, and surveillance, inspection, and acceptance of the work. Responsibility for the cost study rests with the manpower or management engineer. Note that the contracting office is responsible for buying, analyzing bids, and awarding contracts. In addition, the administration of the contract, making modifications, and conducting progress meetings is the responsibility of the contracting office, although inspection and acceptance of work is the responsibility of the functional area chief.

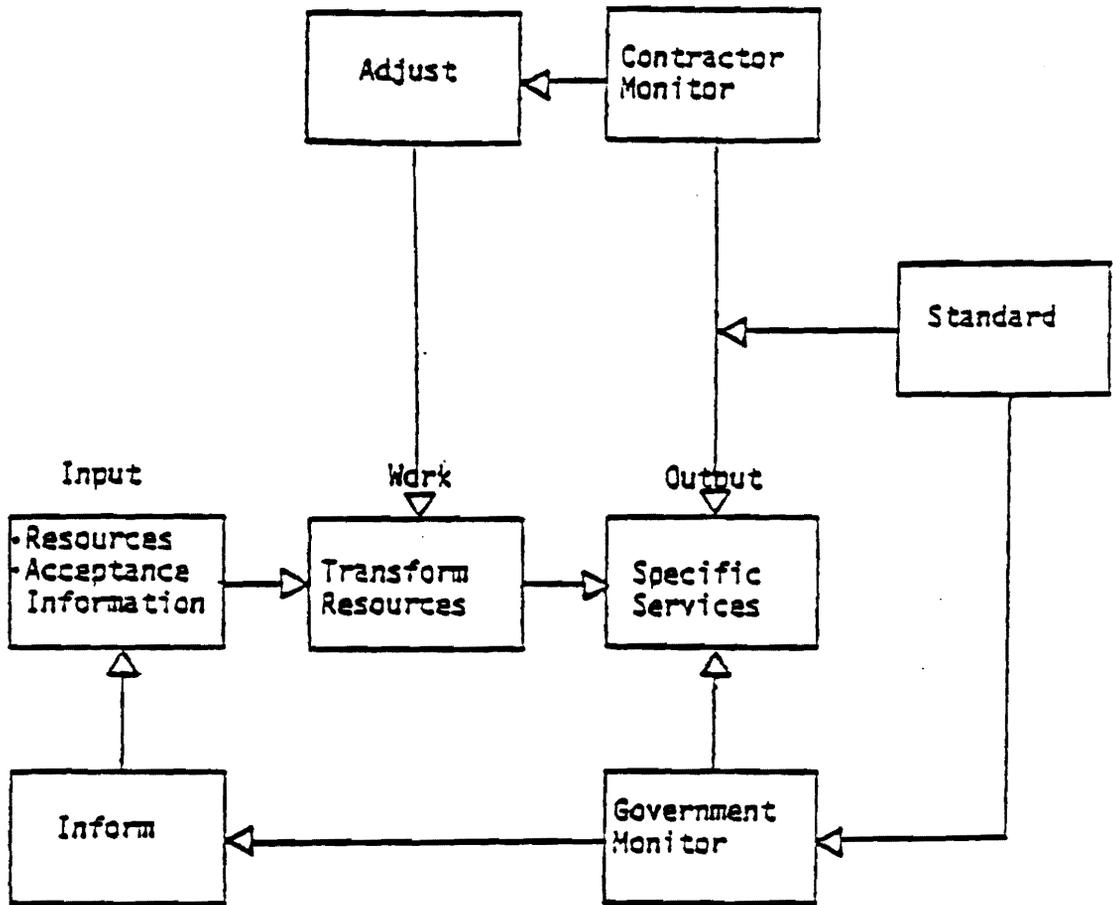


Figure 10: Contractor Operated System  
 Source: OPNAVINST 4860.7B, 18 MAR 1986

Functions and Actions	Functional Area Chief	Manpower/ Management Engineer	Contracting Office
<u>Define</u>	////////////////////////////////////		
Prepare SOW	Responsible	Assist	Assist
Prepare Surveillance Plan	Responsible	Assist	Assist
Perform Cost Study	Assist	Responsible	Assist
<u>Source</u>	////////////////////////////////////		
Develop Sources	Assist		Responsible
Prepare Solicitation	Assist		Responsible
Conduct Prebid Conference	Assist		Responsible
<u>Buy</u>	////////////////////////////////////		
Analyze Bids	Assist	Assist	Responsible
Conduct Preaward Survey	Assist		Responsible
Award Contract	Assist		Responsible
<u>Qualify</u>	////////////////////////////////////		
Surveillance of SOW	Responsible		Assist
Request Modifications	Responsible	Assist	Assist
<u>Administer</u>	////////////////////////////////////		
Make Modifications	Assist		Responsible
Non-SOW Surveillance	Assist		Responsible
Conduct Progress Meetings	Assist		Responsible
<u>Release</u>	////////////////////////////////////		
Inspection	Responsible		Assist
Acceptance	Responsible		Assist

Figure 11: Responsibilities of Personnel in Commercial Activities Study  
Source: OPNAVINST 4860.7B, 18 MAR 1986

Questions to be answered in the final report include an assessment of whether the organization is appropriate to the function, if authority and accountability are properly balanced in the organization's hierarchical structure, and the adequacy of operation procedures, staffing, position structure, technology, workload data, material analysis, and facility analysis. An argument for the optimum structure is then requested. According to Naval guidelines, (U.S. Department of Navy 1986c):

The management study, ideally, is a team effort which utilizes the talents of individuals with expertise in management analysis, staffing, position classification, work measurement, value engineering, industrial engineering, cost analysis, contracting and the technical aspects of the functional area under study. The objective of the management study team is to find new, innovative, creative ways to provide the required products or services.

In other words, the effort is to be a temporary project matrix of specialists from many departments who will conduct a mammoth study of what is and, then, find innovative, creative ways to provide the required products or services within a specified time. However, no contingency plan for smaller operations which do not have this expertise is listed. The most frequent solution to this problem is to use Commercial Activities analysts while assigning functional area personnel to do the actual study. If, however, the base should decide, as many do, to contract out the study itself, it is difficult to find contractors with both 1) a range of knowledge including an understanding of essentially "blue-collar" functions and "white-collar" analytical skills, and, 2) a lack of a vested interest of bidding on the contract itself. Further, asking personnel to spend months, and usually years, describing "what is" leaves little incentive for coming up with "what should be." Once in the analytical frame of mind to specify functions carefully and quantify procedures and outputs, base personnel have difficulty shifting gears to the concept of innovation. Further, contractors who perform A-76 studies usually do not possess the functional area knowledge to suggest creative ways of accomplishing tasks.

Preparation for the MEO includes a cost comparison as shown in Figure 12. The estimated costs are based upon the costs of: personnel, materials and supply costs, other specifically attributable costs (depreciation, rent, maintenance and repair, insurance, utilities, travel, and miscellaneous); overhead costs (operations overhead and general and administrative overhead) and additional costs.

Agency \_\_\_\_\_ Location \_\_\_\_\_ Function \_\_\_\_\_

**COST COMPARISON FORM**

In-House vs. Contract Performance

Performance Periods

<u>In-House Performance Costs</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>Add'l</u>	<u>Total</u>	<u>Reference</u>
1. Personnel Cost						
2. Material & Supply Cost						
3. Other Specifically Attributable Costs						
4. Overhead Cost						
5. Additional Costs						
6. Total In-house Costs	_____	_____	_____	_____	_____	
<u>Contract Performance Costs</u>						
7. Contract Price						
8. Contract Administration						
9. Additional Costs						
10. One-time Conversion Costs						
11. Gain or Loss on Disposal/ Transfer of Assets						
12. Federal Income Tax (Deduct)	( )	( )	( )	( )	( )	
13. Total Contract Costs	_____	_____	_____	_____	_____	
<u>Decision</u>						
14. Conversion Differential					_____	
15. Total (Line 13 & 14)					_____	
16. Cost Comparison (Line 15 minus Line 6)					_____	

Do the cost comparison calculation only for the total column.  
Positive result on Line 16 supports decision to accomplish function in-house.

17. Cost Comparison Decision (check block)            / / Accomplish In-House  
   / / Accomplish by Contract

	<u>Name/Title/Organization</u>	<u>Signature</u>	<u>Date</u>
In-House Estimate Prepared By:	_____	_____	_____
In-House Estimate Reviewed By:	_____	_____	_____
Cost Comparison Accomplished By:	_____	_____	_____
Cost Comparison Reviewed By:	_____	_____	_____
Cost Comparison Decision Approved By:	_____	_____	_____

**Figure 12: Cost Comparison Form**  
Source: OPNAVINST 4860.7B, 18 MAR 1986

As later critiques will reveal, questions about what should and should not be included in the cost comparisons abound, some from a perspective of best accounting practices and some from a more politicized perspective. Methods and sources for figuring and projecting costs and benefits and their relationship to budgets and inflation are included. Costs of contract administration are also computed on a ratio (e.g., 1 per 11-20 in-house staff under study; 2 per 21-42). Despite the criticism, the guidelines are detailed and understandable and are considered, at least by one source, worthy of emulation by business (Tyson, 1988).

Also included in them is the stipulation that knowledge of the final cost figures will be withheld from functional area personnel, management analysts, and contracting officers as a part of the effort of Government to ensure fairness in the contracting process, a measure important for preventing conflict of interest. However, this requirement does not encourage cross-fertilization between and best advice from all those involved in the study.

This stage also has been contested. Legal questions coming to grievance concerning the Study phase include allegations that studies have been improperly conducted. At the U. S. Naval Academy, the union contended that the contractor's bid had won because it was based upon a different "performance work statement" than that used by the activity. Similarly, in a number of cases the union has urged arbitration to delay or rescind commercial contracts as a remedy for alleged failure to provide necessary information to the union during the study process (McNerney, 5).

### Bidding

Guidelines for bidding reflect tremendous concern that all parties have equal access to appropriate information. Detailed procedures exist to determine whether or not the program should be small business set-aside, what information is to be given to potential bidders, and the prescribed time span for advertising. A preaward survey of potential bidders determines whether or not the contractor is "responsible," i.e., has the financial backing and technical expertise to accomplish the work. Any

estimate that requires staffing of 20 percent variance from the government's MEO is considered suspect.

Note that the process reflects the need for equality among bidders in access to information and attempts to ensure representativeness of small and large businesses. The process is carefully stated, as one may suspect, so that no improprieties cancel the bid. The procedures seem defensively written to protect against "loophole finders," a protection that seems warranted. In fact, the union has argued successfully in one case (Headquarters, 97th Combat Support Group (SAC), Blytheville AFB) that the employer had improperly calculated its in-house labor costs in that it had used an erroneous wage inflation factor and had disregarded the additional cost of security clearances for contractor personnel, thus overestimating the in-house cost of performing the work. In another (Naval Ordnance Station, Indian Head, Md.), the union also asserted error on the part of the activity in not reflecting accurate cost figures by disregarding additional security clearance costs; negotiating changes in contract specifications before award; and providing materials and parts to the contractor not required or reflected in cost figures or the contract.

## **Implementation**

Control is seen as lying in the standards of acceptability that are formulated for both contractor and government quality assurance. In the words of the guidelines (U. S. Executive Office of the President 1980),

The contractor quality loop feeds back information from the output into the work process so that the contractor can adjust performance to meet the standard specified. On the other hand, government quality assurance looks at the output and determines its acceptability. This information then becomes an input for contractor management to adjust the quality control function.

Note here again a system that assumes almost complete order and the obvious hierarchy of government controlling the work. No room is allowed for bounded rationality in this statement, but

instead an assumption is made that the contractor understands the work well enough to follow the quality assurance guidelines. Also, the inspectors and government manager are assumed knowledgeable about the work. Again, these loops have no people in them and no room for errors of judgment, contractor harassment, lack of coordination, lack of integration with other units, or confusion of inspectors about the role between teaching contractors the tasks and evaluating them. In the arbitration arena, in the period between bid-opening and prior to final award, several cases have focused on attempts to postpone the contract. In the Naval Ordnance Station case, the union sought contract termination, arguing that the Employer had negotiated substantial changes to the specifications after bid-opening and prior to final award in violation of A-76 procedures, Federal Acquisition Regulations, and published Comptroller General Decisions. Further, other cases have contended that the contract awarded was modified before the implementation date (NAS Whiting Field) and contract implementation was inappropriate because base contracting officials had improperly refused to bargain concerning the impact and implementation of the commercial contract (McNerney, 6).

In accordance with the systems approach, lines of authority and responsibility are designated and carefully constructed as shown in Figure 13. Under the surveillance guidelines, the following language describes the process:

When a service is rejected,<sup>29</sup> a decision must be made as to who is at fault (the contractor or the government). A decision table is used for this purpose. The decision table identifies different kinds of unsatisfactory performance, probable cause factors, and the things from which these factors could result.

The guidelines further specify how a survey of the work activities is to take place and how the standards for quality assurance are to be set. Additionally, the responsibility is outlined for the contract administrator to monitor how well the Quality Assurance Evaluator (QAE) is performing his or her duties. The contract administrator must also make some independent checks of contractor performance, preferably by using the same techniques that go into the design of the Quality

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<sup>29</sup> When the contractor has not performed adequately on a particular task according to the government quality assurance evaluator.

Assurance surveillance plan. As a minimum, this plan must call for a quarterly review of the QAE's use of sampling guides and an annual review of surveillance activity checklist items.

Contractor-government relationships are best defined in the surveillance plan. A surveillance plan of the contractor's work is to be carried out within a monthly schedule. Part of the QAE's responsibility is the assessment of who is at fault if there is an unsatisfactory performance. Further noted is that conditions may warrant placing the fault on either government (e.g., delay in acquiring parts) or the contractor (ordering the parts late).

When poor performance is found, the QAE, the functional area chief, and the contract administrator meet to determine the appropriate action. Specific actions are indicated depending on the frequency and seriousness of the discrepancy between performance and pre set standards. Actions range from a warning, monetary deduction, cure notice (a detailed list of poor performance which requires the contractor to satisfy the government that corrections have been made, usually issued after the third contract discrepancy report), a show cause letter (a regulation requiring the contractor to show cause why the performance has not been corrected) if the response to the cure notice is unsatisfactory, and finally termination of the contract.<sup>30</sup>

Further clarification specifically for the Navy is given in Service Contracts: Specifications and Surveillance. One suggestion made here is to make surveillance findings, good or bad, available to the Contractor on a daily basis. This practice keeps the Contractor advised of the Government's perception of the quality of the performed work, even if it does not relieve the Contractor of his quality assurance efforts.

The outline provided in Service Contracts: Specifications and Surveillance emphasizes a structured approach to surveillance that permits management control of Quality Assurance and, based on a

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<sup>30</sup> Note that in the original instructions, all that is said about contract termination is "next consider terminating the contract." Although specific guidance for terminating contracts is specified by regulations, confusion exists because base personnel may not understand that the guidelines for terminating contracts fit A-76 contracts as well.

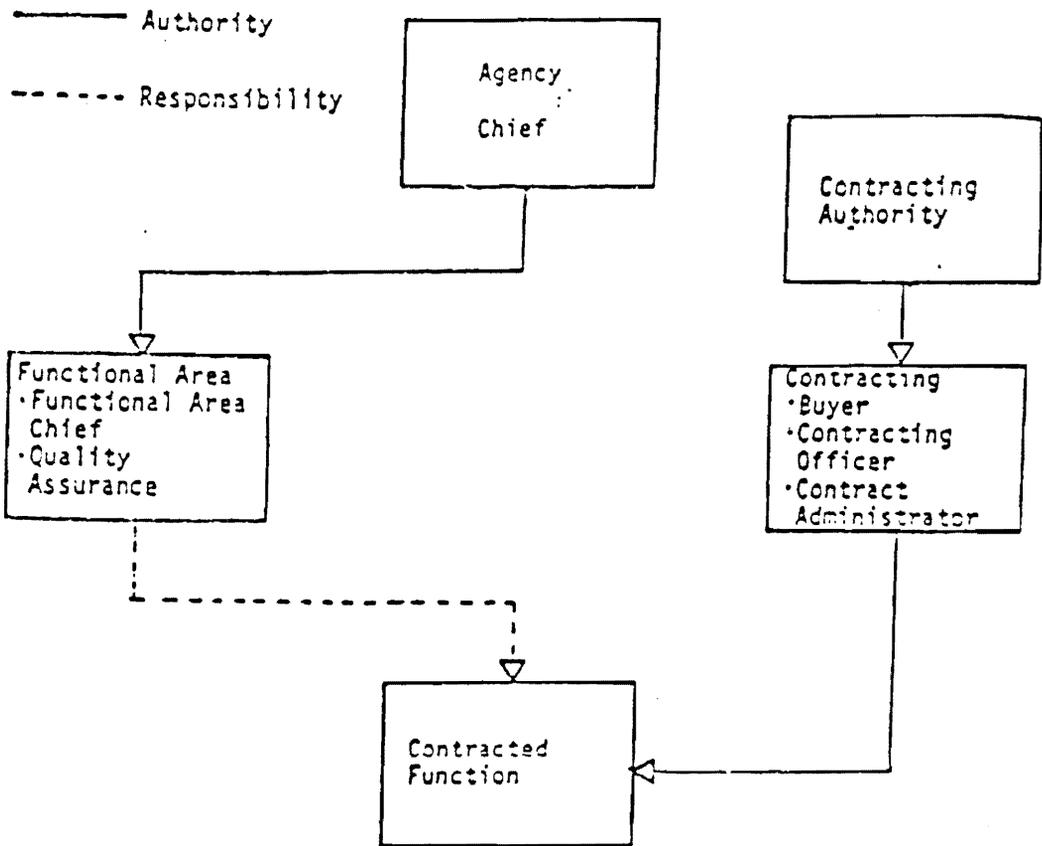


Figure 13: Relationships in Contracting According to Guidelines  
 Source: OPNAVINST 4860.7B, 18 MAR 1986

written plan, is keyed to performance oriented specifications. The Quality Assurance plan for service contracts emphasizes the quality of contract outputs, rather than a focus on traditional surveillance methods which emphasized the work process (adherence to specified steps and frequencies). Thus, the new QA methods include the use of preplanned inspections, validation of complaints, and unscheduled inspections. Under this plan, three key ideas are the basis for contract surveillance. These include:

Outputs: The output service can result either from a Contractor developed procedure or from a Government specified procedure. When the output is based on a Contractor developed procedure, the procedure is examined on an exceptions basis; that is, satisfactory service output as specified in the contract normally indicates that the Contractor is using satisfactory procedures. The government should be concerned with Contractor procedures only when services are not adequate. When the procedure is specified by the Government, compliance with the procedure is the desired output service.

Compliance: Contractor's compliance is monitored through the performance indicators and standards which are specified in the Performance Work Statement. Performance indicators are measurable attributes of the outputs, whereas standards are the gauge that Contractor performance is compared against.

Cause of Problems: When observed performance indicators show output not to be in compliance, the QAE must identify the problem. The QAE looks beyond service outputs to determine if the problem is caused by the Contractor or Government. Methods of surveillance are identified and include: one hundred percent inspection, planned sampling, random sampling, validated complaints, and unscheduled inspections.

Although a systems approach is developed and specified as the most important model to use in specifying the work, performance values are not to be assigned for outputs that relate strictly to internal Contractor management. For example, work scheduling is required to get the work done;

however, the Government is interested only in getting the work done and is not generally concerned with how it is accomplished. The emphasis is on end performance, not procedure.

Further, the guidelines specify that there are two basic approaches in PWS preparation for Naval Facilities Engineering Service Contracts: performance oriented and method oriented. The first and, most preferable, according to the guidelines, is "performance oriented." What this means is that outputs (results of work performed) are specified. The contractor is free to choose the work method. Using this approach, the Contractor is responsible for the quality of the service provided. The other approach is "method oriented." This approach specifies the work method to be used and, in effect, tells the Contractor "how to" do the work. As long as the Contractor performs the work in compliance with the specified method, he is not responsible for output quality.

The Specification Writer must insure that the Performance Work Statement does not violate personal services. In other words, the Government may not contract for work in such a manner that contract employees receive directions and/or supervision from Government personnel. There are four key items that may constitute, individually or in combination, personal services: 1) payment based on per hour or per day basis; 2) no end product specified; 3) government administrative control over work; and 4) sharing government provided facilities and/or equipment with Government employees.

Pitfalls to avoid are also included in the guidelines. These include the government furnishing materials, which makes the Government responsible for the poor performance of the contract items; omitting report requirements; unrealistic specifications; mixing government and contractor forces performing the same or similar work; and interfering in the management of the contractor. Added also is that the method of work performance should be left to the Contractor in most cases.

One of the greatest pitfalls to avoid is errors in contract management. Several hearings have been conducted concerning the employer's administration of commercial contracts after the contract has been implemented. For example, the union has contended (Naval Ordnance Station) that two

incidents of potentially unsafe acts by contractor personnel during the initial phase-in period subjected bargaining unit employees to hazardous working conditions. In one case (U.S. Naval Academy), the Union contended that the contractor's performance following contract implementation was less than satisfactory and that the contract should be rescinded. Additionally, in Naval Training Center, Great Lakes, the Union contended that the contractor could not perform the work for the price quoted in its bid. Unions have additionally raised claims that the employer had established "personal service" work relationships with contractor personnel in administration of its commercial contracts. The union has additionally asserted (Pacific Missile Test Center, Point Mugu as cited in McNerney) that the employer's decision to contract out constituted discrimination against a protected class of bargaining unit employees who were performing the work in-house.

McNerney gives advice to all CA management in how to handle demands for arbitration. As indicative of the need for top level management to be aware of issues, he first advises giving notification to all internal levels of authority upon receipt of a demand to arbitrate a CA-related issue. Second, he stresses the importance of raising the question of whether a threshold issue of arbitrability is valid. Third, the pinning down of the specific alleged improprieties in order to narrow the representative's area of case preparation is advised.

McNerney proposes an approach for management to take when facing a possible protest. He advises management to try to raise the threshold of the grievability/arbitrability argument by ascertaining that it is not the arbitrator's authority to decide. For a reply to alleged discrimination on protected class of bargaining unit employees, he suggests that managers argue that A-76 guidelines not use this as a criterion and that the "reduction in force" guidelines have set standards for how employees are to be dismissed. To answer questions of whether the union was kept informed, management should demonstrate the steps used. In response to the alleged improper use of the Standard Industrial Classification manual and the size standards for small business size considerations, McNerney says that a good argument would include that the use of the SIC Code is advisory, not mandatory, and that in borderline cases the use of similar contracts and the deference of cost officer's judgment is permissible under SBA guidelines. In terms of an accusation of improper

calculation of bid figures, McNerney advises that the manager must be limited by the official guidelines. McNerney's advice on the response to alleged failure to calculate bid figures properly is that management must note that they are limited by the official guidelines.

According to McNerney, management is not under an obligation to act upon a union's recommendation of how to organize an activity. Thus, the alleged failure to adopt the optimum proposed "most efficient organization" is not arbitrable. He further notes that precedence assumes that the administration of a commercial contract does not involve matters affecting unit employees. He recommends that such issues be considered nongrievable and nonarbitrable. To quote:

administration of a commercial contract does not usually involve matters directly affecting the working conditions of unit employees. That is, regardless of whether the activity ... supervisors are improperly directing contractor employees, for example, such events would have no discernible effect upon unit employees. Consequently, it may be argued that the arbitrator exercises no authority under the parties' labor agreement to examine the employer's dealings with a third party (i.e., the commercial contractor); therefore, all such claims should be held nongrievable and nonarbitrable.

Further, McNerney notes that considerable support for this position is found in decisions of the Federal Labor Relations Authority. The Authority has determined that a proposal requiring management to furnish an updated inventory of existing commercial contracts and a request for data for existing commercial contracts is non-negotiable. According to McNerney, it follows that grievance concerning employer-contractor relationships should not be viewed as involving the working (i.e., employment) conditions of unit employees, and should not, therefore, be held grievable or arbitrable. Also, McNerney notes that even if an impropriety, such as "improper services contract" relationships, could be found, that it would not empower the arbitrator to order the employer to cancel the contract. Such decisions rest solely with the employer.

## Summary of Assumptions in the Guidelines

This examination of the U.S. Navy's guidelines emphasizes A-76 as an efficiency program. Accomplishments and incentives are noted. Lessons learned in behalf of efficiency are explained. Of particular interest is that as early as 1986, official recognition is given to the problems of conversion. A need is expressed for time spent working with the contractor, the functional manager, and customers as well as a need for plans of action and for time to staff and train contract administration. An acknowledgment that government red tape may interfere with efficiency is acknowledged by the statement that "Ask yourself, How would a smart business person unencumbered by our ingrained policies and procedures organize to perform this task?" According to the report, asking this question typically leads to innovative, cost reducing measures. An inherent bias toward business being more efficient is apparent even at top levels. Nevertheless, the question of whether business could be more efficient under the same rules and regulations if such regulations could not be immediately changed is not addressed. The guidelines are very complete and are well constructed to the tasks required. They do reveal, however, certain assumptions that may or may not be the same as working level assumptions or may interfere with establishing contractor-government relationships to get the work done.

Teasing out these assumptions from the guidelines will enable us to compare them later with the perceptions at the working level. A cluster of assumptions for each phase of the decision and implementation stages can be examined. In the stage of the contracting decision (review, study, and bidding), assumptions in the guidelines center around an image of internal procedures which are rational, universal, and provide guidance for routine processes. The emphasis is on internal organization in preparation for a solicitation which can guide either inhouse or contractor provided services in a clearly defined process. Specific assumptions for the decision making stage include:

- 1) Circular A-76 is a logical, rational process.
- 2) Universality is present, i.e., the overall process should fit each situation and stakeholder.
- 3) A team approach for data collection is best.
- 4) The

contracting process is clearly defined. 5) A systems approach leads to the leanest bid. 6) The bidding process is routine and 7) bidding is managed.

In the implementation stage, many of the same assumptions carry over even though the actual interaction becomes interaction between two sectors, private and public, not only inhouse personnel. The flavor of the guidelines is that of concentrating still only internal design with a reliance on good specifications and monitoring for interorganizational connections. In implementation, including the phases of transition and institutionalization, the emphasis is on the capability of procedures and planning, confidence in specifications and quality control, and in the universality of an image of A-76 as a management tool. Specifically, the assumptions are: 8) Procedures and planning permit a smooth transition and 9) outputs can be specifically determined. Each unit is 10) separate and 11) obligations are minimal and specified. Further, 12) quality performance is specified, 13) a unilateral power structure exists and 14) contingency plans can be made. Finally, 15) A-76 is a management tool leading to cost savings and more efficiency and 16) innovation will be the result of private sector participation.

A systems approach permeates the guidelines. The systems approach used in analyzing organization today is usually a variation of the "open systems approach," an approach which includes a focus on the environment. However, the guidelines here treat the organization as a more "closed" mechanical system and focus primarily on principles of internal design, a legacy of blending a systems approach with many of the assumptions of the classical management theorists. In other words, the guidelines, perhaps partially because they are describing the systems in functions that are of a technical trade nature, reflect a blend of concentration on internal design with an emphasis on typical "scientific management or classical management" concepts: unity of command, scalar chain, span of control, authority and responsibility, and some centralization of authority (Morgan, 1986, 22-38). This focus sets a framework for the government organizations, the Naval bases, to organize rules and procedures as if the contractor shares the same framework, rather than realizing some of the difficulties of combining work units, one private and one public, in productive relationships.

Thus, the workflow is described in a machine-like, closed-system manner. Hierarchy is assumed and a penchant toward order is evident. Before bid, government and business are seen as competitors, as adversaries during bid, and essentially connected only by surveillance in the transition and institutionalization of the contract. The contractor simply follows the plan and "takes inputs and produces outputs." In the assumption that all functions will be described, neglect of the need to establish integration among subunits is apparent. An assumption that detailed work statements can capture the working flow required to accomplish most tasks is apparent, an assumption that may not be reflected in a negotiated environment. Little is mentioned of the possibility that contracts and expectations may leave some decisions to contractor discretion. Surveillance is the bond that holds contractor and government together, entities thought of as having different objectives, entities connected in a work-a-day world through legal stipulation of the contract. One is lulled to complacency by an image of a smooth, precise contracting process with contingency plans, order, and control, in short, an image of a well-oiled machine, an image contested by some of the working level perceptions portrayed in the next chapter.

## Chapter Four--Procedures and Process in Contracting

Part of the focus of this work has been the contention that contracting is a process and, as such, involves an interweaving of governmental actors with differing perspectives as well as an interweaving of the public and private sectors. In this section, the relationship between the implicit assumptions in the guidelines and the perceptions of some of multiple actors in the process will be examined in the four sites from a description of base documents and interviews. First, the history of each site is given, then the Contracting Decision and Contract Implementation by site are discussed.

### *History of Four Contracting Situations*

Four contracting situations have been examined through site visits, interviews, and examination of documents and reports. All four situations were located in environments that can be considered similar: rural populations, small towns, same geographical locations, bases of similar size although

different functions. Dahlgren Naval Supply Weapons Center is located on the eastern coast of Virginia, approximately 30 miles from Fredericksburg. The base is primarily devoted to research and development. Patuxent River Naval Air Station, site of two of the contracting situations reported here, is located in St. Mary's County in the southeast corner of Maryland. Much of the Navy's training of test pilots takes place here. At Indian Head, Maryland, located approximately 70 miles south of Washington, D. C., the mission is ordnance manufacturing and testing. The sites were chosen as shown in the four-fold table below, Figure 14, to include two cases of intermediate (mediating) technology, transportation, and two of long-linked, supply. One of the transportation cases was considered to be in a smooth contracting situation, the other in a turbulent one. So too with supply.

Smooth and turbulent contracting situations were defined using the basic arguments and findings of researchers involved in studying uncertainty (e.g., Dill, 1958; March and Simon, 1958; and Thompson, 1967) and those concerned with characteristics of environments (e.g., see Emery and Trist, 1965, Terreberry, 1968; and a summary of organizational theorists and researchers in Miles, 1980). The specific terms of smooth and turbulent can be traced back to the concepts of smooth and placid of Terreberry (1968) and a host of similar terms used by other scholars (e.g., see a summary of concepts in Miles, 1988). Robert H. Miles (1988), summarizing the dimensions of organizational environments, collapses the voluminous organizational-environment theory and research into three clusters of dimensions. These are environmental statics (complexity, routine, interconnectedness, remoteness); dynamics (change rate and unpredictability of change); and receptivity (resource scarcity, output receptiveness, and domain choice of flexibility). Further, Miles' schema emphasizes that variability in the three dimensions affects executive decision-making uncertainty.

For this particular study, three of the environmental statics dimensions identified by Miles as prevalent in the organizational-environmental literature were used--complexity, routineness, interconnectedness--to categorize the environments. Miles' other characteristic, degree of remoteness, was not used since the situations did not vary much in this regard. Complexity in-

TYPE OF CONTRACTING ENVIRONMENT	TYPE OF TECHNOLOGY	
	Long-linked	Intermediate
Calm	Dahlgren Supply	Patuxent River Transportation
Turbulent	Patuxent River Supply	Indian Head Transportation

Figure 14: Contracting Situations by Type of Technology and Environment

creases in environments when more organizationally relevant attributes are added and thus increases decision-making time. Although the environments of all four contracting situations became more complex with contracting, the environment's complexity increased slightly more for the ones adjudged turbulent when additional actors (e.g, lawyers, hearings officers, newspaper representatives) were brought into the environment under certain circumstances. In other words, the more turbulent situations were more complex than the calm supply situation which, as a second uncontested contract, did not have as many different actors in the environment. They were not necessarily more complex than the calm supply situation, which was protested, and did bring these additional actors into the base's environment. Nevertheless, in the case of the turbulent situations, it is the combination of the complexity, lack of routineness, and lack of interconnectedness as explained below that sets these situations off from the calm ones.

Routineness, the degree to which relations with environmental components are formalized and reactions to changes are programmed in advance, was a second dimension. Although all four contracting situations did indeed have relationships formalized by the contract, unique circumstances for the two turbulent contracts brought situations to the forefront for which procedures were not formalized. For example, in the turbulent supply case, a situation of an underbid contractor in a highly politicized environment with unforeseen difficulties in working with another contractor led to situations where procedures were not in place. In the transportation case judged turbulent, procedures were not adequate to reconcile difficulties arising from questions of the contractor's legitimacy and of transportation's relationship to supply. Further, the turbulent transportation situation was the oldest contracting situation studied and, thus, began contracting before A-76 procedures were fully established. In all four cases, but much more pronounced in the two turbulent cases, resistance to the idea of contracting prevented the formation of informal relationships, relationships which could buffer and expand the workability of formal procedures.

The third dimension, interconnectedness, refers to the degree to which formal or informal agreements exist to govern interactions among components of the environment itself. As noted in the first chapter and as will be seen in descriptions in this chapter, one of the difficulties involved in these

contracting situations is that the many components of the environment (e.g. the contract administrators, contract management of both sectors, other subunits with which the contractor interacts) are either not connected or are connected only by procedures, e.g., surveillance, that may interfere with flexible and productive relationships. Thus, the Patuxent River Supply situation, where a contract was in the process of being discontinued, and the Indian Head Transportation case, where the contractor's credentials had been questioned and the continuance of the contract protested, were judged to be more turbulent on the basis of the interaction among complexity, lack of routineness, and lack of interdependent ties.

## **Dahlgren Supply**

The current Supply Contract's history can be traced back to January 1982 when the first solicitation was included in a base operating support (BOS) package. However, the original Base Operating Support solicitation package, issued on July 22, 1983, was cancelled on January 8, 1985 after it was determined to be fatally flawed. The cancellation resulted from a pre-award survey of the apparent winner which showed the winner had apparently bid on different amounts of work than were certified in the solicitation.

The Naval Surface Weapons Center (NSWC) at Dahlgren then undertook an effort to correct and reissue the solicitation. A Naval Audit Service audit of the second-round BOS package during May and June, 1985 led to the determination that NSWC's management study was insufficiently documented and the audit was suspended on July 3, 1985. Then, on December 30, 1985, NSWC received permission to separate the BOS package into its separate functions in order to complete individual management studies. NSWC reviewed all of the work which was performed in connection with the supply operations functions including the two previously developed MEOs. In addition, NSWC obtained contractual support to review and document work load and performance data, work processes, procedures and data to be included as attachments to the solicitation.

A bid opening on the current solicitation was held March 30, 1987. After the low bidder was determined, RIF procedures were implemented and all employees were informed of the RIF actions being taken. On July 1, 1987, management was made aware by the winning contractor of an error that had been made in calculating the contractor employee's fringe benefit package. The contractor had used \$1.08 per hour as the fringe benefit rate, because of information furnished by the U.S. Navy. Just before that, a change had been made at the Department of Labor in their official wage determination, which had adjusted the fringe benefit rate to \$1.84 an hour.

According to calculations of the Union, had the \$1.84 rate been used for cost comparison purposes, the function would have remained in-house. According to Union's report (Arbitration Hearing, Case No. 87-28066):

During a subsequent meeting, Management offered to allow the contractor to proceed if they, the contractor, would absorb the difference of 76 cents per hour in employee wages. The contractor declined that proposition. The contractor then counter proposed, stating they were not required to include supervisory and certain other personnel in the computation of the fringe package.

On this basis, a later correct Department of Labor wage determination was incorporated into the official package and applied first to 66 and then to 63 contractor employees. (Although according to Union's calculations, there were actually 73 contractor employees, the new computation was applied first to 66 and then to 63).....The old fringe benefit of \$1.08 per hour is still being applied to six or seven other contractor employees. As of this writing, the contractor is the apparent winner and performing the work by being approximately \$5,000 under for the performance period of 38 months -- this is on a \$6 million contract -- is \$5,000 under the government's bid, instead of \$391,000 under the government in-house bid, as is set out in the original computations.

## **Patuxent River Supply**

For the Patuxent River Supply (Pax Supply) storage and warehousing function, proposals were received April 1, 1986; the results of preaward surveys announced July 21, 1986; the contract was awarded November 1, 1986; and contract began in December, 1986. In June of 1986, about six months after the contract began, the government sent a letter of concern about poor performance

to the contractor. A second letter asking for the contractor's proposal to comply with recurring problems was issued in August of the same year. In response, the contractor, citing an unpredicted increase in workload, submitted requests for equitable adjustment in July, August, September, October, November and December. In January 1988, a meeting was held between contractor personnel and Supply personnel to discuss poor performance and to request the supporting documentation for the contractor's "claims". The contractor was given 30 days to submit the requested information; a Cure Notice (requiring the contractor's plans to remedy poor performance) and a Show Cause notice (a requirement that the contractor show how he will complete the work or be subject to dismissal) were issued to the contractor. Supply viewed the response to Show Cause as unacceptable in March 1988 and set a date of termination for the convenience of the government as April, 1988. Another contractor was awarded the contract May 6 and started the effort May 16, 1988. Finally, after the interim period, rather than rebidding the contract, a successful case was made to bring the function back in-house. Thus, in the Patuxent River Supply contract, the original contract was discontinued for the convenience of the government; an interim contractor was hired; and eventually the function returned to in-house provision.

## **Patuxent River Transportation**

Transportation at Patuxent River (hereafter referred to as "Pax Transportation") was on its second contract at the time of the study. The first contract had been based upon a low bid approach and the first winner was a company which, according to the reports, from both the Contract Manager and the Naval Commander performed satisfactorily. However, another company won the second round of contracting in 1987 and is currently performing the contract according to specifications. Although base personnel had protested the original contracting out, a hearing was not part of this contract's history. Instead, the first contract was implemented with minimum difficulty and the second went even smoother.

## **Indian Head Transportation**

Bids for the transportation contract, set aside for small business, for Indian Head were examined April 15, 1983. However, on April 29, 1983, the Union filed an appeal under Circular A-76 requesting the Employer to set aside the award to the winner. In May, Naval Sea Systems Command issued a decision which found that the cost of the subject contracting out had been underestimated by \$238,278.00. However, this error did not change the balance in favor of contracting out enough to change the decision to contract out the specified functions of the Transportation Division of the Public Works Department. After the final award to the contractor in 1984, a grievance was filed in which Union representatives asked for termination of the contract and reinstatement of all Employees. The grievance was denied. Thus, the contractor took over the function amidst hostile feelings, feelings still present years later.

## ***The Contracting Decision: Comparison of Assumptions and Perceptions***

In the introduction to the framework, one goal expressed was comparison of the program assumptions found both in the policy environment and in specific guidelines with the perceptions of participants in the contracting situation. In this section, selected program assumptions are compared with the perceptions of those involved in contracting decision in each stage of the contracting process. As is described below, some of the observations are common across sites and others are peculiar to a contracting site's history and circumstances. Thus, the focus is on the assumption

comparison overall, not on the situation at each base. In a later section, the resulting contracting relationships at each base will be reviewed and compared with the other situations.

To understand how perceptions in the contracting situations compare to the program assumptions, the assumptions of the program as gained from analysis of the documents produced both by OMB and the Navy are compared with the government participants' perceptions as understood from interviews and documents in the contracting situation. The perceptions of contractors in the two situations in which they were available are summarized after the comparison of the assumptions and perceptions. The program assumptions are briefly repeated in each instance prior to discussing the counterpart perceptions. Specifically, in this section concentrating on the assumptions in the contracting decision stage (review, study, and bidding), the focus of the guidelines is on internal procedures and processes with an image of rationality, universality, and routineness. Participants' perceptions, however, emphasize the particular situation at each base, the lack of a clear definition due to the balancing of multiple interests, and the adversarial nature of the process.

### **The Review Process: Assumptions/Perceptions**

1A) Program Assumption: Circular A-76 is a logical, rational management process. Guidelines depict a process that proceeds step by step with little mention of possible consequences to base morale or ways in which A-76 may be viewed differently by participants in the program.

1B) Participants' Perceptions: Circular A-76 raises resistance and may have unintended effects.

Contrary to the picture of a process that is to save money and is to allow government to extricate itself logically and efficiently from activities in which it should not be engaged, base level personnel point out some of the incongruities in the process as formulated versus that as implemented. A-76 is not seen as a rational, logical process. Instead, contracting can become emotional, especially the Commercial Activities process which requires government to contract out previous government

functions. In fact, one distinction that has set off A-76 from other contracting situations is the greater likelihood that contractors will encounter resistance upon entrance. The long, arduous process has usually created ambiguity about the future and very low morale. Although certainly other contracting situations may have antagonistic predispositions toward contractors prior to contractor entrance, the A-76 process practically guarantees resentment at the working level prior to a changeover. Other contracting situations are usually supplementary to the regular workforce, but Circular A-76 is viewed by those involved as a process that replaces regular workers. Interviews at all four sites indicated that the preparation of the Study and the Bid were events that reopened traditional rivalries between labor and management as well as exacerbating rifts among different units.

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Some of the confusion surrounding the A-76 process has already been documented. Many of the same themes reported at the federal level appear at the base level, indicating both that the program has reached an age where some consensus about it is shared and that there is some transfer of information across both the branches and levels of government. In fact, the overall assessment of the CA process by many interviewees is consistent on some points with that of opinions expressed in the President's Commission on Privatization (Linowes 1988). Several felt that the goal of protecting taxpayers dollars was admirable. However, most agreed that the process was too cumbersome; somewhat inhumane; and too drawn out.

2A) Program Assumption: Universality From the systems level point of view, the overall process should fit each situation and stakeholder.

2B) Participants' Perceptions: Particularism Those involved in Commercial Activities noted that the CA process as it is now constructed may not fit each base. For example, a question of how many different individual functions can be contracted out independently at each base and have each base still be sufficiently effective in reaching its mission was raised. According to interviews with Commercial Analysts at one base, the guidelines would imply not only that Commercial Activities could be implemented at each base in a similar manner, but that each base is mostly of one mind.

Not so, according to many of those who have worked around the bases for many years. There are different environments: on the military side, there is a need for discipline with a base usually viewed administratively as a ship. When viewed as a ship, then one commander is in control and all should follow orders. At the same time, there are civilian rules and regulations. However, contractors bring an added dimension, that of a business orientation. Although government and business managers have to make some of the same decisions, e.g. how to allocate resources, the perception is that the profit motive leads to business not having the same commitment to task completion. On the other hand, one interviewee questioned whether specifications can be written that give contractors a fair chance, an admission by a government employee that business may not be favored in the contractual process.

A further insight offered by a CA analyst is that contracting out may have an unintended consequence--it may mean more military influence at the base itself. For example, at Dahlgren, the increase in contract personnel concurrent with an increase in military staffing for another naval instrumentation program means more of a military environment at the base. Thus, increasing contract personnel may mean that there are less civilian personnel to serve as a balance in the military environment.

## **The Study Process: Assumptions/Perceptions**

3A) Program Assumption--Team Approach for Data Collection: Guidelines require a project matrix structure of management analysts, functional supervisors, and others cooperating to collect data.

3B) Participants' Perceptions--Temporary Coupling of Different Interests: Important to note here is that the actual functions with which we are dealing, supply and transportation, are functions

where decision making is usually organized in a very hierarchical manner. Means and ends are usually certain and decision making is appropriately a "technical or mechanical matter" (Thompson and Tuden 1959, 198).

Within this hierarchical situation, the A-76 guidelines call for a "team" approach to implement the study. A team implies shared values and trust; one participates on the basis of being a "group" member; stability is usually moderate to high; and consensus is the decision rule (Hult and Walcott 1989). Given the hierarchical structure surrounding the study, the actual structure that evolves is one more characterized by a committee approach, at times bargaining, confronting, and at times bureaucratic. Nevertheless, for the study to be completed requires cooperation beyond standard procedures from members of vastly different organizational backgrounds. In fact, the study process itself requires the coordination of multiple parties within an agency itself as well as coordination with external analysts in some situations. The principal parties participating at the base level include naval officers, administrative personnel, contract administrators, in-house commercial activities analysts, supervisors, and employees. Others who may participate include functional area supervisors from other activities and analysts from outside the agency.<sup>31</sup>

The background and occupational interests of the participants are often different. Naval officers, commanders of functions such as supply and public works, are usually on a two-year rotation and have little time to implement new and different procedures. Administrative civilian personnel, e.g., heads of data processing units, often see demands for data analysis generated by commercial activities as extra duties or may feel threatened that their departments' record keeping will be challenged in some way. On the other hand, contract administrators have the responsibility of insuring contract specifics are correct; that accurate solicitation (the document on which all bid) is constructed; that payment schedules are correct; and that there are no legal loopholes for which the base would be later held responsible. Commercial activities' analysts, the ones coordinating the program, are

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<sup>31</sup> This section is based upon the author's experience in working in A-76 management studies in three contracting situations at one base over a period of about 18 months and interviews checking these impressions.

responsible for insuring that A-76 formats are followed and for attempting to move the process towards completion. On the other hand, functional area supervisors and employees have good reasons to delay data collection, either because of the resistance to contracting or because they, too, see it as an extra burden interfering with their regular work schedules.

What is not noted in the guidelines is that, going into the study, each of these groups may have different objectives and represent different interests. Functional area administrators are caught between a need for reliable data on which to base a good contract and, usually, a desire to retain the function in house. Once the study is in progress, some may delay the process, either intentionally through a desire to stall for time to keep the function in house or unintentionally through their perception of A-76's low priority.

Functional area personnel also may delay the process. Specifically, supervisors are often caught between a desire to make certain that workload is accurately collected and a performance work statement is well documented and a desire to protect employees with whom they have been working. In other cases, a need may be felt to protect an activity's credibility through justifying current staff loads, work procedures, and productivity rates. Elongating the process is sometimes a reasonable compromise between opposing goals.

As noted in the earlier description of the A-76 process, the ends of labor and management are in conflict in A-76 and, yet, government employees are asked to participate in describing their work for contracting purposes. As may be expected in such a situation, employees are reluctant to reveal any more about their positions and job duties than is absolutely necessary. Many are aware that whether the position goes contract or stays in-house in an MEO mode, the results may harm their chances of either staying in their positions or of having a workload they consider fair.

4A) Program Assumption: A Clearly Defined Study Process: The systems' conception of the study process is one that is outlined step by step. The process as outlined seems quite straightforward

with a job analysis, the writing of specification, the writing of a surveillance plan, and finally, in the performance phase, the actual implementation of surveillance.

4B) Participants' Perceptions: Multiple authorities and multiple interests must be balanced: Commercial activities' in-house analysts, tasked specifically to oversee A-76 studies, are usually in staff, rather than line, positions. Their positions are such that even though they have the responsibility of coordinating A-76 situations at the base, they have to forge relationships with the functional area supervisors in order to accomplish work. Sometimes this process is a frustrating one for all involved since area supervisors may not consider the situation as high a priority as the A-76 analysts and, of course, in some cases may see the situation as one where the A-76 analysts are ones who do not have the technical training to evaluate the work. Several of the interviewees at Indian Head noted that they at first felt "sold down the river" by their own staff fighting. What was meant was that functional area personnel, CA personnel, and contracting personnel were not coordinated on the question of contracting out or on the most appropriate method to use when the function was first put up for bid. Thus, although the study process is described in the guidelines as one where a team effort is required, it is difficult to coordinate a process where participants are unequally committed to the conclusion of the work and are differentially rewarded for participation.

Furthermore, those to whom base participants may turn to guidance, regional authorities such as the naval facilities and naval supply authorities, are sometimes inconsistent in their interpretations of regulations because of differential training and/or because of changes in regulations. One interview noted that the guidelines may conflict for different functions, e.g., Naval Facilities for Transportation and Naval Supply for Supply. The analyst trying to assist with both may face conflicting guidance. Finally, one participant emphasized that the question to ask is what is the strategic plan for the base functions. The major question to ask about a function is "Should we be in that business?" and the major question to ask about the Commercial Activities' program is "Does such an elaborate process distract management from viewing the real problems, e.g., what are the core functions; what should be the strategic plan for the base functions?" Another perception shared by several government personnel was that contractors are smarter than the government, that the

government really doesn't understand contracting. Additionally, they noted that basically, the contractor is also smarter in negotiating and in seeing that what he wants is done.

5A) Program Assumption: A Systems approach leads to the leanest bid. The study guidelines truly reflect a "systems" approach to the collection of information, the formation of the performance work statement, and the construction of the Most Efficient Organization. The concept behind the process, as noted earlier, is one of each function being a closed mechanical system with a concentration on the principles of internal design.

5B) Participants' Assumptions: Functional descriptions and data collection are complicated by exceptions to a systems' overview and by different interests served in data analysis.

Although the guidelines used to describe the function are complete and can yield an organized picture of what tasks are being done, those collecting the data often do not visualize their functions in a systems manner. Not only do they see the total function mostly in terms of their immediate work position, they also know the myriad of exceptions to every rule of relationship constructed within the systems overview of functions and the many connections and relationships they have forged informally to efficiently accomplish work.

Additionally, it is difficult to collect objective data when the base ethos is one promoting the necessity of winning the bid. For example, management analysts for CA noted that a "government is perfect" ideology was prevalent at bases in the beginning of the studies. At one base, campaign type buttons were distributed with the slogan "We're going to win." Such polemic beginnings interfered with attempts to collect data in an objective manner and, of course, led to desires to make functions look good, not to examining them for how they should be improved to be competitive in the bid. After, either "losing a bid" or hearing horror stories from other bases of contractor takeover, gradually the bases began to concentrate on more accurately portraying their functions in order to prepare a better bid.

Despite the detailed guidelines, nearly all involved find the data collection cumbersome and have difficulty seeing the logic of what is required. Data already used for other purposes, e.g., the plethora of reports to headquarters, are usually not in the format needed for the performance work statement. Many wonder of what the value the final product is.<sup>32</sup>

The idea of constructing the performance work statement in terms of what should be done was also difficult for those conducting the studies. One recounting of an early Indian Head contract indicated that it was not based on what should be done, but on what had been done and that it took subsequent effort to come up with a more complete contract. Interviews at other bases corroborate these insights. Echoing some of the same themes, but from a different perspective, an analyst in Planning noted that the study process was a big problem. He felt that Supply in writing the performance work statement ended up using procedures and routines that they now perform, not what should be done. According to him, not enough analysis of what actually happens in the process is accomplished. Thus, it becomes difficult to have good specifications written, specifications that are technically accurate and are fair and promote competition. A common perception of functional area supervisors is that sometimes there is a feeling that anyone can do the work--"the Dixie Box and Crate Syndrome". However, the lowest bidder cannot always do the job, it was stated.

In order to insure fairness in the process to all bidders, the guidelines require that contract administrators do not see the government bid before bid opening. The unintended effect of this regulation is that the contracting experts are not permitted to assist with the final government contract. Thus, the functional area supervisors, perhaps sometimes too close to the work, unduly influence the final number of personnel factored into the government's bid. Despite all the analysis, functional area personnel, thinking of the number it has taken to accomplish a task, often contribute to government not having as lean a contract as possible.

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<sup>32</sup> See Ann Langley, 1989 for a discussion of the necessity of inclusion of key personnel for formal analysis to be used in organizations.

## The Bidding Process: Assumptions/Perceptions

6A) Program Assumption--A Routine Process: The criteria are set and the process proceeds almost automatically from these criteria. The guidelines themselves are quite specific and describe a process that seems precise and pristine to the point of being almost routine.

6B) Participants' Perceptions--A Human and Political Process: Participants in that process note that the preparation of the cost comparison, the solicitation itself, and bidding are not without human error, human intervention, and human emotion. One theme repeated in a turbulent supply situation by many was the necessity for good specifications. Two independent informants in different sections of one base noted that government at first came up with skeleton regulations in the performance work study (PWS). The PWS was dated, approximately five years old, and even after the Request for Proposals had been announced, many felt it was out of date. The perception by one informant was that the Commander of Naval Operations was going to cancel the solicitation, but that the message was misinterpreted and the solicitation did "hit the street" before the solicitation was as complete as personnel desired. Thus, the perception by several in both the contracting offices and the functional area was that the solicitation did not reflect the scope of the work in as detailed and current way as desired.

Conflict of interest can also be a concern. In the Pax River situation, the beginning of the contract saw the dismissal of one local supply contractor on the basis of "conflict of interest" due to their recent employment of a former evaluator for the procurement of the very same contract. Although the government based its action on the fact that the former employee had knowledge of the companies' specific proposals, the contracting employer appealed and noted that it had assigned the former government employee to work on projects totally different from this procurement. Nevertheless, the Contracting Officer upheld the decision to exclude the particular company in question. The very beginning of the contract, according to one informant, "did not proceed as smooth possible" because "human factors interrupted."

Two further problems faced at the base level are getting a qualified evaluation panel and consistently applying criteria for selection. Several interviewees at Patuxent River supply noted that although they applied the five points of evaluation of the contract, these five points may be too general. Others observed that within any selection committee, personality and preference for contracting out or staying in-house will always have a part and that tactics, unrelated to the selection criteria, may influence outcomes. Further, even though a decision was made on the contract that if a bid was under a certain number of personnel the contractor could not do the job, a contractor was selected whose bid included less. In the best and final bid, the panel had felt 29.5 people would be appropriate to perform the function, but the contractor proposed 23. Several months into the contract, however, 30 or more personnel were on the job.

To add to the difficulties, the Union protested the contract. One of the contentions made by the President of the American Federation of Government Employees Local at Pax River was that incorrect retirement rates were used in computing in-house costs and that the proposed contract would violate restrictions regarding contracting for personal versus nonpersonal services. The appeal was denied by the Deputy Assistant, Commander for Navy Ranges and Field Activity Management, on the basis that the procedure for establishing the cost factor was the appropriate one and that even if the union proposed retirement cost factor had been used, it would not have changed the contract outcome. Further, the contractor's allegation of the possibility of personal services could not be substantiated.

The perceptions of the personnel involved in Pax River in Transportation took a slightly different slant. Recalling the first decision to contract out Pax River Transportation, both the contracting officer and the contract manager at Pax River noted that participating in the process was depressing. The general consensus was that the initial decision to study the contract was not based on performance problems or cost inefficiency in the function, but on the need to fill a quota of studies. At the first bid opening, they realized that it would be hard for government to win. Protests, according to the contract manager, became a nightmare.

Perceptions by the personnel there also included the feeling that the Navy needs to do a better job of pre-award. At the time of interviewing, the low bidder approach was used in transportation, an approach of taking the lowest bid after sending out the solicitation. Several personally thought a two-step process, common in Request for Proposals, would be better. In this procedure, interested parties are asked, first, to send in a response detailing their plans for doing the work and their estimated bids. Those sending in acceptable proposals are interviewed and the work is discussed and negotiated. A second "best and final" bid is then submitted, and from these bids, a winner is chosen. Furthermore, service contracts do not abide by a concept of value engineering, a concept of how to evaluate the price of items and attempt to eliminate the more expensive items or reduce their price, according to one respondent. Finally, there is a question about using the fixed price method because it lacks an incentive for contractors to exceed work requirements was mentioned.

Nevertheless, comments on the current second contract in Patuxent River Transportation (Pax Transportation) reflect a very matter of fact, very business orientation. Interestingly enough, several base personnel associated with this contract felt that even if a contractor generally was thought to do a good job, the incumbent contractor usually was at a disadvantage when using a low bid approach. The incumbent may bid with a slightly better idea of the contingencies and therefore overbid.<sup>33</sup> Further, the incumbent, whether government or business, may not be as willing or able to use a "buy in" approach.

Further considerations include having to consider the justification for not going small business. For example, Pax River Transportation was unrestricted and therefore both small and large businesses could bid on the contract. One problem, though, is that in the contract there are 700 or 800 pieces of equipment and many small businesses have difficulty assuming that much liability. Some contracting situations, then, "force the little man out," according to the perceptions of several.

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<sup>33</sup> Historically, various personnel and various publications note different groups have an advantage in the contracting process. Many feel that government has the advantage since they do not have to count some administrative costs and since they are more familiar with the work. Others note that because government personnel are more familiar with the work, they tend to overbid based on what they think the work entails rather than looking at the contract.

7A) Program Assumption--Bidding is Managed: Guidelines specify criteria to be used in forming the government's bid, setting up prebid conferences, and the bidding procedures.

7B) Participants' Perceptions--Bidding is Adversarial: The bidding process brings to the surface the interests of all and pits government against business and one business against another in a competitive process. Of course, one of the main vested interests is that of the employees represented by the Union. The framework guiding the process appears to have more in common with the political process represented by taking into account the competing interests of government, business, and the union. In fact, personnel involved with the bidding process noted that government accountants, an independent accountant, and contracting officials are always included in the contracting process, a recognition of the need for representation. The safeguard of the process include the right to administrative hearings, hearings following a legal framework. Several examples of the types of controversies arising in the legal framework are presented below.

The first controversy about bidding presented here is the one surrounding the transportation contract at Indian Head. Two themes emerge from the hearings:<sup>34</sup> one was the question of the appropriateness of the bidder and the other was a question of how the bid was constructed. Before the contract was let, on June 24, 1983, a grievance concerning the CA Study was initiated, which the Commander denied as premature. Because questions about the appropriateness of the contractor to perform the contract were raised by the Commander, the Naval Facilities Engineering Command and its Chesapeake Division filed an appeal of the contract to the Small Business Administration. The appeal requested that the SBA not issue a certificate of competency to the contractor, but the request was not granted and on January 4, 1984, the SBA issued a certificate regarding the contractor's ability to perform the contract. Then, in July 1984, the Chief of Naval Operations notified the Employer that the award of contract and issuance of RIF notices had been authorized. Underneath these facts as presented in the Arbitration hearings was a perception shared

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<sup>34</sup> Of the four sites studied, the initiation of bidding for the Indian Head contract was the one furthest removed in time from the data collection. Thus, transcripts of Hearings along with some of the recollections were relied upon for analysis.

by informants in skilled occupations and supervisory and administrative positions that political influence had been used to get the contractor qualified for small business. Even years after having performed the contract, this perception of the contractor remained.

How the bid was constructed was the second theme of the hearings. The arbitrator did note that there was no justification for omitting the cost of the items omitted. Further, he noted that the findings on the evidence in the record as a whole reflected that the Employer's claimed balance in favor of contracting out had been reduced by \$35,070 of costs improperly omitted from the Cost Comparison Schedule; after adjustment for this item, there was a final balance in favor of contracting out in the sum of \$149,472, less than two percent of the cost of the private contract over a three year period. Arguably, by a basic business standard, according to the Arbitrator's reasoning, the balance is so small a percentage of the whole cost of the contract as to be within a margin of possible error either way and thus too close to call. However, the arbitrator's final decision was that although the costs did not take into account all that should have been, the costs not counted did not change the decision to award the contract to the contractor. The final decision resulting from grievance filed by the Union found that the issues raised were not grievable and arbitrable, that the employer was not shown by the record to have violated law, rule, or regulations of appropriate authorities; and the Employer was not shown by the record to have committed an unfair labor practice. Thus, the grievance was denied.

Different issues surround the Dahlgren Supply contract. On January 25 and 26, 1988, arbitration hearings were heard in regard to the supply contract, Dahlgren, Virginia. In sum, the question was whether the government violated procurement regulations by allowing the contractor to revise the wage determination fringe benefit rate after bid opening. The contractor had prepared his bid based on the rates given by the government, but government had not given out the most current schedule. The statement of issue for management, the threshold issue, was "Is the grievance filed by AFGE Local 2096 on 17 July 1987 grievable and arbitrable?" The primary issues, of which there were two, as stated by management, were:

If Arbitrable, did the employer, by allowing... (the contractor) to apply a revised wage determination fringe benefit rate, after bid opening and post award, violate mandatory provisions of applicable procurement law or regulations? If so, did the employer's failure to comply with these requirements materially affect the final procurement decision? And as a remedial issue: If so, what shall that remedy be?

The union's issues were as follows:

With respect to the award of contract ... for supply operations: One: In finding ... the low bidder, did the Agency violate mandatory provisions of applicable procurement laws or regulations? Two: Did the Agency's failure to comply with those requirements materially affect the final procurement decision? Three: Were unit employees harmed? Four: What shall the remedy be?

The arbitrator found in favor of management and the contract was not rebid. However, the differential between the government and commercial bid was very small. Both cases indicate the type of issues often raised in the bidding process. In the first, a question of the qualification process and categories used in the bidding was asked and, in the latter, a question of an appropriate bidding process.

## *Implementation: Comparison of Assumptions and Perceptions*

The process of implementation reveals insights into relationships with other units and administrative complexity. How the boundaries of the functions are set, obligations viewed, goals set, and quality performance specified are discussed. The program assumptions center around an image of concentrating on the internal design of procedures and reliance on the capability of quality assurance methods, specifications, and a shared image of Circular A-76 as a management tool. Participants perceptions, however, center around the recognition that these are two different sectors working together, not all government employees, and reveal some of the discontinuities that exist

between guidelines and their experience when tasks are interdependent and quality is part of a total relationship.

## **The Transition Process: Assumptions/Perceptions**

8A) Program Assumption--Procedures and Planning permit a smooth transition: The assumptions include one that once the solicitation has been let and the contract signed, then deadlines can be met. Also, the guidelines assume that procedures should be the same for all bases and that these procedures can be followed for a smooth transition.

8B) Participants' Assumptions--Transition is a multidimensional reality. Different interpretations and assessments of who is at fault take place more often in the CA process than in the other contracting arrangements, according to Dahlgren contract administration. This viewpoint was echoed by administrators at the other bases with the exception of the Contract Administrator at Indian Head who saw little difference in regular contracts and CA Contracts.

One of the difficulties mentioned at two sites is that phase-in is quite often delayed from its original starting date. For example, for the Dahlgren contract, the phase-in was originally planned to begin several months before the contract period actually started. Often, time has to be adjusted because in the transition period contractors find conditions at the base different from contract expectations. According to both contract administrator and the contractor at Dahlgren, there was a tremendous backlog which was not accounted for in the annual workload statistics. According to an interview with the contractor, "Although the contractor was forced to utilize over \$25,000 in overtime to clear this backlog, the government would not reimburse him for this government caused expenditure." An adjustment could not be made until the end of the first year. Both the Contracting Officer and one Quality Assurance Evaluator also admitted that the beginning of the contract was difficult for

them as only the government contract manager had the A-76 training and reaching a good stride was problematic.

Although certain guidelines for contract initiation are followed in A-76 situations, some variation occurred in the manner of initiation. Three sites reported similar initiation procedures in terms of meeting with the contractor. The description of one was that the contract began with the pre-proposal conference, an award conference. Periodic meetings were held among the Captain, Executive Officer, the Contracting Representative (COTR), and the contractor management team. Training sessions were held on appropriate systems, training packets were given to the contractor and a training team was formed to answer questions. However, execution of procedures was left to the contractor. Since all three of the contracts were first contracts, the opportunity of learning from other contractors was not possible.

For the contract awarded to a second new contractor at Pax River Transportation, a pre-start conference was set up with the President and Vice President of the contracting company. The topics covered included base regulations, offices, and inspections. Also included was a clause where the old contractor was to assist the new contractors, part of the emphasis in this contract of keeping as much as possible on a contractor to contractor basis. According to several interviews, initiating the new contractor for this particular contract was basically a matter of changing project managers and supervisors since many of the workers remained the same.

9A) Program Assumption--Outputs can be specifically determined: Guidelines give detailed instructions on how to measure inputs, outputs, and determine workload performance.

9B) Participants' Perceptions--Meaning is determined on the job: Working out the ambiguous areas in the performance work statement (PWS) is a year long process, according to most contract old-timers. This bit of wisdom seemed true at all the sites, including Dahlgren. Many areas of dispute arise from interpretation of the PWS. For example, five days as a turnaround time was interpreted by one contractor as five working days and by the government as five calendar days.

Another example is the contractual difficulty that revolved around interpretation of the amount of time needed to get a forklift on line, e.g., does a two-hour response time mean time to replace a battery or time for a forklift to be back on line?

Additionally, some areas of the guidelines are not clear until actually tested in field situations. The extent of contractor liability is a question that continues to plague A-76 contracting situations. According to interviews, the property clause in one contract was probably not as clear as it should be. When equipment was once moved from White Oak to Dahlgren, it took three months to resolve liability and make appropriate restitution.

Another example of ambiguity of which tasks should be contracted out was at Indian Head where participants revealed in interviews that extreme concern was expressed about the appropriateness of contracting out certain tasks. Base personnel realized that contracting out the movement of heavy explosives would not work because contractors did not have the same understanding of safety regulations. Thus, eventually, the transportation of heavy explosives was brought back "in-house." Also, according to interviews, contract start was characterized by confusion and questions about assignment of responsibilities were constant.

According to a Quality Assurance Evaluator at Dahlgren, some of the difficulties experienced at first included adjusting to monitoring, not doing; assigning whose fault it was and adjusting to inexperienced personnel. Even on the smooth second transportation contract at Pax River, quality assurance evaluators admitted that at first no one knew what to do, not much was in writing, and there was some confusion. On this particular contract, the quality assurance personnel noted that understanding some of the legalities of the contract were difficult.

The importance of inspectors having technical skills so that the contractor doesn't "snow" them was also stressed by Transportation personnel at Pax River. Further, personnel noted that even if the inspectors have skills in areas where they should, sometimes there are not enough inspectors.

10A) Program Assumption--Each unit is a separate entity: Partially because of political pressure and mandates concerning small businesses and minority contracts, bases have been asked to bound their functions into small enough units so that small businesses can realistically bid. Thus, the response guided by the managerial framework behind the program stipulates a function by assumptions that specialization of tasks and normal position in the regular hierarchy can form the boundary.

10B) Participants' Perceptions--Tasks are interdependent: Unlike the Dahlgren situation, where the whole of supply was contracted out, Pax Supply contracted out receiving, where materials and goods are accepted by the government (similar to a loading dock), but not receipt control, where the documentation for goods received is logged and processed before materials are sent to the consumers. For the contractor to complete his daily workflow he had to go through government receipt control. The interface between receiving and receipt control, differences in interpretation of the performance work statement, and issues of offloading procedures on the receiving floor caused extreme difficulties. Work came to a halt. The situation became difficult enough that a Navy man was assigned the duty of interfacing between the two.

In the Dahlgren Supply situation, on the other hand, the contractor acknowledged the degree of interdependence within the long-linked technology. He noted in interviews that he had carefully worked out relationships with both accounting and procurement, units on either end of his operation that assisted in performing workflow. Further, although he, as in the Pax River situation, had difficulties scheduling with transportation and public works, he had been part of a process where difficulties were resolved expediently.

Traditionally, on many bases, competition for resources, e.g., forklifts and trucks, has been a part of the relationship between Supply and Transportation. However, when one function is contractor operated, incidents easily escalate from normal grumbling to legal adversaries. Early in the Supply contract at Pax River, the contractor was reported to have protested difficulties with moving materials and had listed his procedures to keep the receiving and shipping area moving. He also had

reported that he was having difficulties with truck response times from the Transportation contractor as well as delays from the government Supply department with dispositions on back-order items. At both Pax River and Indian Head, supply wanted the transportation drivers to sign for what was in the boxes before releasing them and transportation drivers didn't feel they should. Finally, both sites worked out that the drivers would sign for the number of boxes, but not be responsible for materials. Work was held up at both sites until negotiations could reach a compromise.

Further, the difficulties of managing interdependence again appeared at Indian Head with the supply manager noting that with the transportation contractor there is no provision for moving goods after 3:30 p.m.; that processing with "inchecking" (checking in the materials) is not as good as before, and that there is only one driver for hazardous materials. Another specific concern on the Indian Head contract is that the contractor made it obvious that he would not do property disposal and therefore the government ended up having to do it. Then, the concern was that the situation may evolve into that of having still a different contractor. When and if that situation arises, according to interviewers, personnel felt that having the ambiguity in authority relationships may mean a situation where the government will need more clout, but no penalties or incentives existed. Problems such as these caused contracting managers at the bases to speculate on what problems could be caused if all service functions were contracted out to different contractors, what would happen in the event of a disagreement, and would the government's job become that of arbitrator among contractors?

The degree of interdependence in tasks, then, led to all sites reporting times at which relationships between the contractor and base personnel were strained. In the case of transportation, intermediate technology, where the majority of workflow is not as interdependent, fewer difficulties were experienced. Where there were lines of interdependent work, particularly in the Pax River case where negotiations were necessary between the contractor for supply and the contractor for transportation, several crises did arise. Thus, contracts can become fouled by very small incidents. Skill

in arbitration among units of government and units of contract work appears to be a necessary ingredient for successful base management.

### **Institutionalization: Assumptions/Perceptions**

11A) Systems Level Assumption--Obligations are minimal and specified: The majority of interaction is settled with the contract. If not, the lawyers have 60 days to file a claim. The contracting officer can succeed in rebutting the claim.

11B) Participants' Perceptions--Obligations must expand and are negotiable: Much consensus among the interviewees revealed that one of the problems with contracting is that if it isn't satisfactory, you can't pull out, don't have flexibility, and can't affect the distribution with the contract as it is. Again and again, base personnel emphasized that government and contractors don't always interpret the contract the same way.

Agreement also exists that commercial activities is more administratively complex. Further noted was that it takes more time to administer a CA contract than anticipated. There must be more give and take in Commercial Activities than in other contracts according to one Dahlgren official. Because of the fear of deductions, contractors rebut everything at the end-of-month review. Sometimes, according to interviewees, "It's not in the contract" can become a very familiar tune.

Another observation was that the legal process moves slowly and once the contract is in place, everything becomes part of a legal process. Further noted was that the contract must be monitored which means not only Quality Assurance Evaluators (QAE's), but also weekly meetings. The difficulty in contracting is that it becomes so much harder to fix anything through the legal process than through reorganization processes. Another difficulty is what to do in case there is a walk-out.

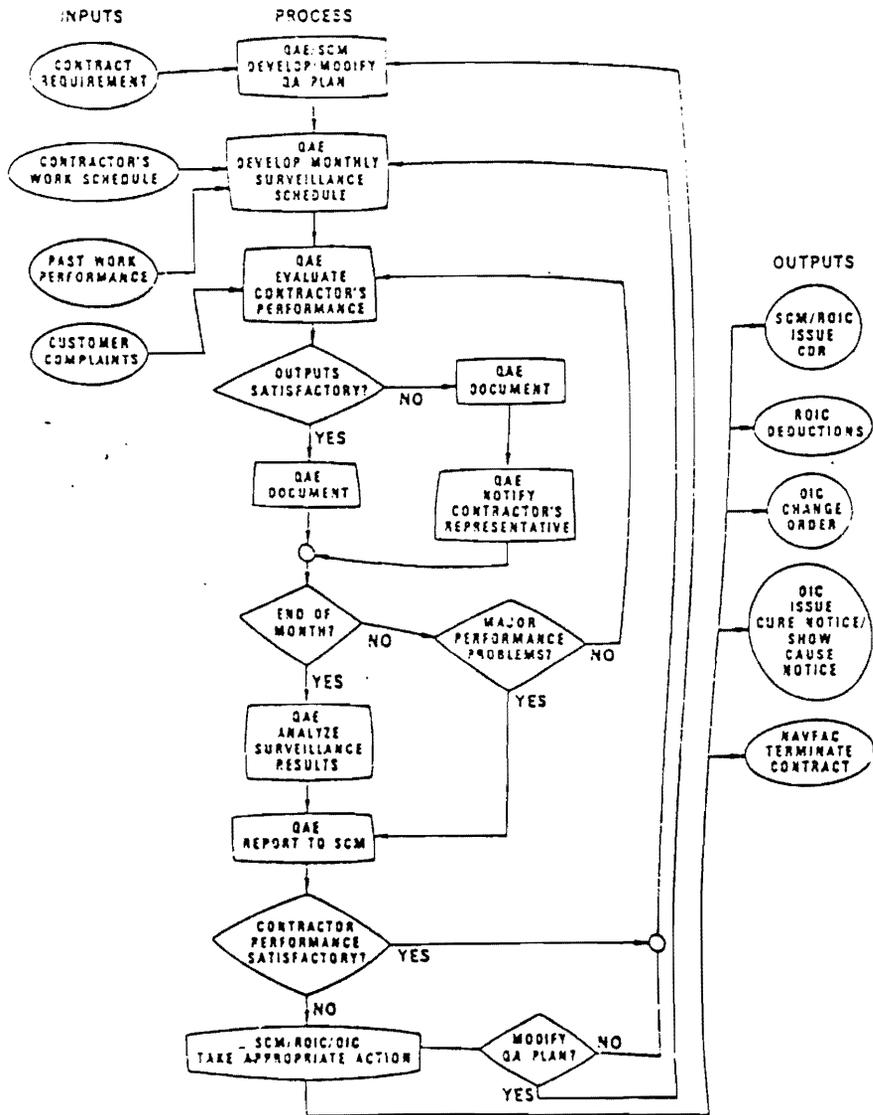


Figure 15: The Contract Surveillance Process as Outlined in Guidelines  
 Source: OPNAVINST 4860.7B, 18 MAR 1986

12A) Program Assumption--Quality performance can be specified. Setting up a contract surveillance process, as illustrated in Figure 15, leads to good contracting monitoring, according to the guidelines. The process relies upon a succinct and agreed upon contract requirement, cooperation, good measurement of outputs, and a process of evaluations and deductions for noncompliance. Note that the process assumes quality is best measured by each individual output.

12B) Participants' Perceptions--Concern for quality is part of a total relationship.

The process through which the government can really talk to the contractor is through the Contract Discrepancy Reports, reports which list the deviations of the contractor from the desired outputs. A detailed procedure emphasizing cross-checking must be set in place to comply with the surveillance procedures. Interviews with quality assurance evaluators in all three situations see their focus as internal control, inventory accuracy, and quality control. Yet, just such a paper process does prevent common problem-solving and discussion on alternative ways to accomplish tasks.

Common problems across the quality assurance evaluators (QAE's) in all four sites included not enough QAE's for the positions; not enough satisfactory training; and lack of clarity in job descriptions in the beginning. One group of QAE's reported that morale was low for about a year and a half. In their estimation of the situation, incident after incident would be turned in and nothing happened. The feeling then became, "Why am I doing surveillance?" Although several interviewees noted that monitoring must substitute for market control, this becomes difficult if the PWS is not as specific as it should be. Interviews with three QAE's and several of the ordnance workers who used to be in transportation at Indian Head indicated that the QAE's may have had responsibility at the beginning of the contract, but that they felt a lack of control. One of the complaints of many in all phases of contracting was the lack of concern for safety by contractors, a value hard to build into specific task statements.

In the Pax River Supply contract situation that was eventually terminated, Quality Assurance Evaluators perceived that the contractors had yet to meet the majority of quality plans although

many discrepancy reports had been issued . Concern was expressed that procedures that did have an important part in maintaining good supply operations were not been observed. For example, two respondents mentioned that "shelflife" of items is not being checked; that is, contract personnel were not noting inventory timing and rotating items. In the case of food, airplane grease and other perishables, not rotating dates is dangerous, according to their understanding of supply procedures. Further, they cited the danger that inexperienced contractors cause through driving a forklift that could ignite through an area where a non-sparking fork lift should be used. They were concerned that surveillance had stayed at Level 1, the most restrictive, even though by now it should be at Level 2. Several noted that seven months after the contract there were more difficulties with the contract than there were at the beginning.

In short, they felt that standard good warehousing techniques were needed and that there should be an increasing ability to meet quality assurance. However, they perceived the contractor lacked motivation and enough technical personnel. Further, the contractor was characterized as having underbid, providing inadequate supervision; and needing to either leave or or be trained. In other words, the problem was not one of separate incident after incident, but instead that the contractor did not perform well overall. Other interviewees felt that even though government was never perfect in Pax Supply, that the operation was misjudged in this case. The perception was that the best and final MEO for government was much more than it needed to be. Finally, quality assurance evaluators noted that what really bothered them was having to work along with contractors, teaching them to do their job when the quality evaluators felt the contractors should know the jobs. These difficulties caused three respondents to ponder questions about the process. They wondered if the contractor does not have the knowledge, then how do you train them? In the words of one, "Is contracting so restrictive with all the evaluations or is it that some contractors can't get it together?"

13A) Systems Level Assumptions--A Unilateral Power Structure Exists: Well defined relationships exist between contractor and government with unambiguous authority relations.

13B) Participants' Perceptions--Power is multidimensional: Relationships change, changing positions of power have unintended consequences, and authority relations are not clear. One of the most feared consequences of government is that of becoming monitors, rather than doers. This fear was revealed in the words of all the government contract managers in one way or other. Each felt a loss of control, a loss of being able to get it done. In the words of one,

One of the biggest problems of my job is that I now must suggest and not tell. I have to note to workers that it's between you and your boss and I just don't have the leverage any more that I used to have. I have three jobs: the government job, a liaison with the contractor, and a liaison with the government.

All of the contract managers also expressed genuine reservations about how the contractor was accomplishing the task, a reservation that reflected at some points their concern for the bases or Navy mission, not simply their concern for their own jobs.

Another government contract manager noted that one of the most important items is the quality of the work, sometimes only measurable by complaints or lack thereof. For about four months after the beginning of the contract, he worried with complaints coming in almost hourly and felt frustrated at not being able to more quickly remedy the situation. Now complaints were down to only weekly, a reduction attributed to people simply adjusting, not to improvement.

One of the biggest headaches for management was that of not easily having the authority to back up the contract manager, according to another assessment of the CA process. A situation perceived by two informants was that the contractor makes demands, but the authority to resolve the demands is too far up the line. For example, the contractor doesn't always have the spare parts needed. Up the line, the department heads say they can't wait and thus, the government employers, the production line supervisors, end up doing the work.

14A) Program Assumption-- Contingencies are planned: Detailed guidelines and references to other guidelines should leave few situations to discretion.

14B) Participants' Perceptions--Planning is not complete: On the minds of many of the respondents was how well the A-76 process had planned for the possibility that a contract may not work

out. One person in facility support contracts, noted that if the contractor doesn't work out, the choices are limited: "take the guy's money, call in the government, and/or another contractor." The main concern is the administrative time that is consumed when things go wrong. The problem is that only one contracting source is available...using a service deduction doesn't get the job done. When the shop doesn't get it done, then it doesn't get done.

15A) Program Assumption-- A-76 is a management tool leading to cost savings and more efficiency in government: The guidelines, Navy memoranda, and OMB statements reflect this assumption.

15B) Participants' Perceptions--A-76 is a contracting out program which may provide better service, but does not reduce costs. Whether or not Circular A-76 is effective in reaching its goal of cost savings is questioned at the base level even in the earlier stages of study, bidding, and MEO. According to base personnel, the costing itself is sometimes difficult when workload can be unpredictable and it's difficult to make the tightest estimate. Although the CA Contracting situation is one where there is more concern about measurement, the efficiencies are hard to measure, according to personnel at all the bases. One Commercial Activities head noted that one could estimate that with MEO and better management you could save 15 or 16 percent. If you only save 5% more by contracting, then is it worth it?<sup>35</sup> According to him, what is needed are better techniques to calculate how much could be saved from contracting versus efficiencies through the MEO and more effective management.

Although the CA process does account for some administrative costs, there are additional costs to government in the bidding process that may or may not be factored into the equation. According to contracting officers, a bid may contain a processing clerk, two contracting specialist, three accountants, a CA Contracting Officer, and an independent accountant. Thus, the costs of setting up the bid itself can be expensive.

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<sup>35</sup> The 5 percent reference is to the fact that government must contract out if the lowest bid is 10% under the government's bid.

Questions about the very basic measurements of how costs were computed arose in all four cases and in two, Dahlgren and Indian Head, were raised formally in hearings as reported earlier. Additionally, base personnel felt that some costs that are not counted include: employee overtime preparing for or recovering from contractor; paperwork; straightening out administrative errors; doing things twice, e.g., in receiving, materials or paperwork being lost. They noted that contracting requires adding much paperwork for checks and balances: contracting documents, quality assurance reporting, and forms assigning responsibility between units. Although much of the costs associated with surveillance and quality assurance are computed in CA contracts, additional costs may or may not be recovered, such as the reviewing of the PWS by many people, meetings, reporting results of contract to superiors, briefing time, and time spent in coordination.

Others have noted that the ambiguous goals of government sometimes make it difficult to evaluate government for efficiency. Interviews pointed out that it is sometimes difficult to measure if those efficiencies have really occurred. Several noted that goals were not being accomplished and that efficiencies are dubious by the time you count cost overruns and the extra amount of red tape for relating between government and business.

Out of all the government people interviewed, only one or two really believe that contracting out saves any money. At one base, personnel looking at all the modifications and changes on the contract personnel could not believe it was other than a "buy in." In another, it was noted that cost had increased also because the contractor was not unionized when the contract came in. Since then, workers had unionized and the contract increased by \$469,000. At still another site, personnel cited that materials have been lost and receipts are not as well controlled. For example, when you have 125,000 line items in a warehouse and 1 digit is wrong, material can get lost. Noted also was that all the intangibles are not counted. In receiving, to illustrate, the perception was that materials had been backed up and that the contractor did not have a system for moving the material. In the words of one planner, "The Contractor just didn't know the priorities and without the experience was not able to complete the work efficiently. In this situation, I wonder if the difference may be that contractors have the profit motive." Another question about the profit motive that was posed

by a Dahlgren contract manager was whether incentives exist for a contractor to excel? In other words, on a fixed price bid where the contractor is performing well enough not to receive any deductions, what incentives are there for the contractor to become any more efficient? Several others suggested that a contingency on cost escalation may be needed as well as a way to count all the time spent negotiating. In concurrence, one QAE reflected the opinion of many when she noted that it may be cheaper in-house if good management is used and people work.

16A) Program Assumption--Innovation should be a result of private sector participation. One notion behind the change of Circular A-76 to a focus on outputs rather than procedures was an assumption that private enterprise would bring into government new methods of accomplishing tasks

16B) Participants' Perception--Procedures and processes are the same as before: According to reports from personnel who have worked both for the contractor and for government, at this point in the contracts, no significant innovation in the procedures or methods of accomplishing work had been implemented. In some cases, business has been more efficient--meeting time deadlines expediently--but significant innovation in methodology or procedures was not reported. However, innovation may be more characteristic of other contracts concerning less traditional functions.

## *The Contractors' Point of View*

For comparison and to get a rough estimate of contractors' opinions regarding the Circular A-76 program, several were informally interviewed prior to interviewing government employees. Nearly all supported the idea of more private sector involvement and nearly all felt that they were more efficient than government operations. One point stressed by several of them was that government

often does not get the best out of contractors because of their own lack of planning and timeliness in supplying materials. In other words, some of the blame for poor contracting results must lie with those managing them. Support for this position is found in GAO conclusions of contract administration deficiencies (GAO 1988).

More specifically related to this study is the opinion of the contractors involved in the four Circular A-76 situations studied. In the two supply contracting situations, access to the contractor's point of view was available. At Dahlgren, the contract manager and a contractor employee were interviewed. At Pax River, documentation indicated the contractor's responses to selected incidents.

At Dahlgren, the contractor's understanding was that the award period was to be March or April but the contract was not awarded until mid-June, with a start date of August 17, 1987. This delay caused problems for the contractor who found it difficult to obtain/retain staff until actual contract implementation. According to the contractor, the contract included "approximately \$4,000 per month in the initial period (March through 30 September 1987) to recover start up cost; the delay by the government to an August 17 start, cost the contractor over \$20,000 in lost recoupment" until contract implementation. Further, according to the contractor's interpretation of A-76, an interpretation that was eventually agreed to by base officials, the first two weeks of the contract were to be a training period and no deductions were to be given. Nevertheless, Quality Assurance inspectors did write up deductions for that period, an action protested by the contractor and eventually not charged against the contractor's claim. The contractor noted that start up costs included a 1.5 months and an additional \$20,000. Further, according to his perception, "There was a mess when we started. People had not done their jobs and records were thrown away. From August 1-August 17, the government did not deliver property and paperwork had been lost; receipt documentations were found under inspectors' desks; receiving docks were loaded. Some felt the situation was so bad that it seemed almost as if it were sabotage. There were so many messes that they couldn't even get to the legitimate backlog until some of that mess was cleared up."

The backlog left by the government personnel cost the contractor over \$25,000 in unreimbursed overtime to correct. Claim for the money was denied by the government. The working out of the initial relationships is difficult. The contractor's impression of the beginning of quality assurance inspection was that of the QAE's needing to find something wrong. The Contractor himself saw it as a situation where he had to protest to get to a point where they were now, that point being one where he, the Commander, the Contract Representative, and appropriate QAE's discuss the situation. Under the new system, the Contractor now receives periodic accounts of status.

Note that in the Dahlgren situation, different interpretations of the roles of government and the contractor are part of the beginning process. Government hostility to contractor entrance was present at the beginning. Government personnel directly involved characterized the beginning as one of very watchful oversight. In the words of the contractor, however, the beginning was "one of attempting to cause the contractor to default." The contractor perceived some of the quality assurance procedures as nitpicking and felt that government had not been honest in its portrait of conditions of backlog and training periods. Nevertheless, tolerable "in-laws" becomes a relationship upon which to build to get the work accomplished.

In the supply contract at Pax River, documentation indicates a similar beginning to Dahlgren, but a very different ending one. Early in the contract, June, 1987, the contracting officer notified the contractor that unacceptable delays had occurred in the processing of selected materials; that key personnel had been substituted without adequate notification; that liability for lost material may occur; and that discrepancies for "slowed material" needed to be corrected immediately. The seriousness of the delays and discrepancies and the contractor's extra efforts to remedy the current problems were noted.

In reply, the contractor answered the above allegations with remedies that had been instituted and a report of an over-hire of five personnel. Further, the supply contractor reported to the government contracting representative another set of difficulties with the transportation contractor in

moving supplies. The supply contractor suggested a solution and asked the assistance of the government contracting representative in reaching an immediate one.

The supply contractor notifies the government again in July of difficulties with the transportation contractor from the supply contractor's point of view. According to the contractor's documentation, seven infractions are reported to have occurred where transportation had either failed to cooperate with supply or had delayed the ability of the contractor to complete their task.

A slightly different argument is presented by the contractor in August of 1987. A protest of the workload is registered by the contractor to the Contract Administrator with the accusation that the contract was based upon 1982 workload and that compensation should be based upon more recent workload. However, in August, 1987, a Show Cause Notice was sent to the contractor with the intention of having the contractor demonstrate, in writing within 10 days, reasons for delays and discrepancies. A failure to do so could result in a termination for default.

Subsequent to the Show Cause, the contractor submitted two plans of actions, but neither was totally acceptable to the government. The government's solution was to divide the next contract phase into two periods, one of two months in which the contractor could be thoroughly evaluated and one of ten months. The contractor responded with acceptance of the conditions only if the contract could be adjusted upward to accommodate increased workload and changes in wage determinations.

Interviews and documentation indicate that in late November and early December the relationship between the government and the contractor became strained. The contracting officer responded to the claim the contractor had submitted earlier by requesting more information. The contractor responded substantiating the basis for their claim point by point. Although the contractor did note their satisfaction with having a "Blue Ribbon" panel investigate the situation, the letter questions much of the performance work statement prepared by the government.

In return, the government notes its defense of the PWS and responds to the contractor in a meeting of January, 1988. The Contracting Officer returns a request for additional monies to the contractor and notes that they have failed to substantiate their costs within the thirty day period from the meeting among representatives of government and business on January 20, 1989. The contractor is also informed that they may resubmit their costs in the proper manner as defined in the letter of December 7 and at their meeting of January 20, 1989.

Meanwhile, in December another issue involving contractor interaction erupts. The new transportation contractor met with the supply contractor, representatives from Public Works, and representatives from Supply to resolve the problem of the delivery drivers refusing to sign a manifest for the material they have received since there is no contractual agreement for them to sign for material. The supply contractor notes that, according to contract, he must maintain an audit trail on all material until delivered, accepted and signed for by the user/customer activity. Thus, a problem of maintaining an audit trail between contractors is presented. No resolution was made of the manifest issue at that meeting.

In February, 1988, the contractor began a process of laying off employees in order to cut costs. Ten employees sent a letter to Senator Paul Sarbanes protesting this action. In their letter, they maintained that the bid was too low and, therefore, the contractor found it necessary to cut the salary, manpower, and working hours of employees. The workers' maintained that some never received overtime pay and that when asked for their layoffs, they were fired. A newspaper account of February 24, 1988 reports that fifteen contractor employees walked off their jobs at Patuxent River Naval Air Station on February 12 due to a labor dispute. Three of the fifteen returned that same day and twelve were fired, according to the account. The problem was one of underbidding, according to the account of what workers and a former supervisor said. The former supervisor for the contractor agreed that the workers had not been treated fairly and that the contract would never work with the number of people they had.

This account of government-contractor interaction includes charges and counter charges in a process that involved intra and interdepartmental conflict, labor disputes, political pressure, and press attention. The image of the contractor that emerges is one not prepared to do the work in question and not having the resources to take the loss. Questionable labor procedures were also cited in newspaper accounts. On the other hand, government's image is that of a taskmaster in a mostly formal process of letter writing and quality assurance plans. Although meetings were held, it appears that procedures prevented some difficulties from being resolved as quickly as possible. The images becomes those of adversaries and despite efforts at reconciliation, a legal framework supersedes any managerial overtures to calm the situation. Once adversarial, it's difficult to change what is needed to keep workflow and relationships productive.

## *Contracting Relationships and Effects on the Agency*

One of the goals stated at the beginning of this work is the desire to examine the resulting contracting relationships and the effects on the agency of contracting under Circular A-76. It is to this we now turn. One caveat before proceeding is that the contracts which had more difficulties resulted in more comments from participants. Nevertheless, an attempt is made to give a balanced picture and to focus upon those which proceeded smoothly also. I shall do this site-by-site.

## Circumvention--Dahlgren Supply

### Decision Making--Selection of Contractor

Although many personnel on the base were not favorably disposed to contracting, the contractor choice was thought to be an appropriate one. Many did resent, however, that the mistake in calculating benefits worked in the contractor's favor in the manner that it did.

### Tightness of Coupling

A review of this supply situation reveals that reports from both contractor and base personnel indicate a contracting situation implemented with some difficulty: backlog of work, difficulties in interpreting the contract, and resentment of the contractor presence. Nevertheless, through much effort on part of the contractor and cooperation through several government personnel, the contract smoothed after six months and was working well, according to both government and contractor personnel.

Difficulties were experienced partially because of the clash of business's perceptions versus government's perceptions of initial contract implementation. However, these difficulties were eventually smoothed. According to my interpretation of the different strategies used by both government and business in this situation, the modus operandi could be best characterized as circumvention of difficulties in interorganizational relationships and the building of coalitions in intraorganizational relationships.

Examples of the circumvention are as follows. During the initial confrontation of the contract award by the union, government admitted to having used the wrong schedule of benefits and business, in this case, figured a rather clever response, arguing that they would refigure their costs on selected personnel, but not on all. This strategy, indeed, was questioned by the Union, but in

the long run was a strategy that allowed both the government and the contractor to save face and continue with the contract, to circumvent a rebidding of the contract. Other examples are contract interpretation on what a day means and the difficulties in establishing quality assurance. In both cases, crises were circumvented through negotiations between government and contractor. Although occasional resentment of each other's work methods remain, interorganizational relationships were forged sufficiently strong enough to circumvent crisis.

In terms of intraorganizational relationships, the contractor noted that he had worked at establishing good relationships with both financial operations and procurement, the two operations on either end of his. In a sense, he had formed coalitions within the web of relationships in which he worked in order to complete his own work. Nevertheless, relationships outside of the command of which he was a part, relationships with Transportation and Public Works, were still not as smooth as could be desired. Some of the difficulty could be attributed to contractors within a government personnel situation, while other trouble came from relating across different commands whether it be government or contractor units.

### Effects on the Agency

A follow-up check with the contracting officer after the contract had been in place about 14 months revealed insights into why the contract had succeeded. She felt that procedures and relationships were smoothed because they had relied upon meetings, that is face to face interaction, rather than letters, to accomplish the working out of the contract. In her estimate, you can evaluate the contractor's performance in four months and if it's not working out, then in 6 months you can default him. "In the first two months, we gave him an indoctrination to make sure he understands the government and then we made sure we held his feet to the fire," according to her assessment. A further interesting point is that a negotiating stance was part of the managerial orientation. In her words, what we did was traded "deductions" for other things wanted. Further, she felt that the contract was running smoothly because they hired qualified personnel, those with military experience.

However, the contracting officer noted that there were still some difficulties in the interface between supply and transportation, but even more so between supply and public works, a situation she attributed to the tension which public works feels because they are under A-76 study. She noted that there are almost zero complaints from anyone other than public works and that the customers seem satisfied.

Interesting from the point of view of interface also was her notation of the lack of continuity once the A-76 contract is let. The regulations are not as clear as to who is to be involved once the contract is in place. For example, she noted that reports are sent over to Commercial Activities analysts, but they do not become involved in the process of contracting, nor does the contracting officer become involved in their evaluation, their assessment of cost comparisons. In terms of meeting goals of the A-76 program, however, she noted that she honestly did not feel money was being saved, but the service may be better. Further noted was that although there was a 10 percent differential, the bid was close. Costs were close. The bottom line number does not take into account time to administer or referee. For example, there are two administrative people in the contract, but surveillance and administration take much more. In her office alone, she estimates that the cost of one other, a contract assistant, is not included. Of course, the costs of military administration, the Commander and Lieutenant Commander, as well as the civilian contracting manager and the contracting officer must be counted.

Further noted was that the CA contract differed from others in that government supplies materials. Thus, one of the biggest differences is in "real property maintenance." One bone of contention between Supply, contracted out, and Public Works, under A-76 study, is the wear and tear of tires on fork lifts by Supply personnel. Public Works who supplies the tires constantly brings this point to the forefront.

## Personnel Repercussions

There were thirty-seven Supply Department personnel in Dahlgren that were affected by the RIF according to the Office of Civilian Personnel, Dahlgren. Of the twenty-four permanent employees, three retired, one resigned, five were changed to lower grade with saved grade, two voluntarily requested change to lower grade, and thirteen were reassigned with no change in grade or pay. Of the four those employees hired only for a specific time ("term employees"), one resigned, one was separated under RIF procedures, one was accepted for a career-conditioned appointment; and one was selected for an excepted appointment. Of the nine temporary employees: one resigned, four were separated, three accepted other temporary jobs, and one was selected for a career-conditioned appointment. None of the above suffered a loss in pay. Interviews with some of the personnel who were moved to different sections indicated somewhat mixed results.

## Overall Evaluation of the Contract

Dahlgren: Commander Connors' evaluation of the contract situation is a thoughtful and complete one.

The Government employees, those left for transition, were not as conversant as needed for such a transfer of functions. There was a "feeling" among Government employees that they were not supposed to train contractor employees. This was true; they were supposed to review procedures and aid in responding to questions about our modus operandi. Unfortunately, the contractors needed training and the Government personnel were neither fully qualified nor willing.

I am satisfied with the performance of the contractor after the initial 5-6 months learning curve. However, "flexibility" has been lost. To change one work flow process requires contractual changes. Before we simply changed the daily manner of performing work. While civil servants have position descriptions, the myriad of changes, albeit small, can be handled smoothly. Under contract, everything becomes a matter of negotiation and contractual change. At present, we have been looking at needed changes for approximately 3 months. These changes would have been processed, modified, and executed by now. On the other hand, we have more stringent controls--more "bells and whistles" than before. Forty four quality assurance plans assist in the day to day management of the function. For some reason, little was as thoroughly reviewed when under total Government operation.

A final review of Dahlgren Supply reveals that reports from both contractor and base personnel indicate a contracting situation implemented with some difficulty: backlog of work, difficulties in

interpreting the contract, and resentment of the contractor presence. Nevertheless, through much effort on part of the contractor and cooperation through several government personnel, the contract smoothed after six months and was working well, according to both government and contractor personnel.

In terms of intraorganizational relationships, the contractor noted that he had worked at establishing good relationships with both financial operations and procurement, the two operations on either end of his. In a sense, he had formed coalitions within the web of relationships in which he worked in order to complete his own work. Nevertheless, relationships outside of the command of which he was a part, relationships with Transportation and Public Works, were still not as smooth as could be desired. Some of the difficulty could be attributed to contractors within a government personnel situation, other of the difficulty is relating across different commands whether it be government or contractor units.

## **Conflict--Patuxent River Supply**

### **Decision Processes--Selection of the Contractor**

In the Patuxent River case where the contract was not continued, conflict prevailed for much of the contracting period. Thus, comments about both the decision process itself and the selection of the particular contractor were plentiful. According to the words of one in Quality Assurance, the Commercial Activities system is an expensive method, but it does not always yield contractors with in-depth knowledge. Another noted that one cannot count, however, on the selection of a contractor that knows the system. Several other base employees wondered about how that particular contract selection was made. As one in another unit noted, there was controversy over the performance work statement (PWS) at the beginning. However, she didn't feel it was the PWS, but

instead thought the problem was the selection of the first contractor. The process of selection was questioned and it was noted that sometimes the problem is that other personnel problems are involved, e.g., committee members can enter with a bias toward contracting out or not and, thus, the process is not as complete as possible. In other words, internal dynamics can spoil otherwise satisfactory procedures.

### Tightness of Coupling

The interorganizational relationships began with a situation where the contractor came into a difficult organizational structure, the degree of interdependence expected to accomplish the work was more than is usually expected. Receipt control, retained by the government, was interspersed in the middle of the flow of the work expected from the contractor. This arrangement created difficulties from the very beginning with complaints degenerating into accusations. Training the contractor to the procedures of government and integrating the contractor into the regular workflow were problematic. Added to these problems were the contractor's difficulty in resolving inadequate performance. A situation arose where negotiations became a problem, i.e., where negotiations seemed to degenerate into mistrust. Further, competition for resources and scheduling difficulties between the contractor and other contractors added to the turbulence. Although efforts were made to reconcile the interpretations of one contractor with another, workflow was stunted.

### Effects on the Agency

As noted before, Pax River personnel involved with a contract that was terminated were unusually reflective about contracting out. As one may suspect, they became increasingly wary of a process that did not produce the results they anticipated. Their comments reflected a constellation of concerns about selection of the contractor, about procedures, and about contracting out in general.

Several noted that with CA in general, you must accept that government needs greater efficiency, but that companies are basically profit oriented. This feeling was expressed several times in the

spirit that the two were not necessarily compatible. One of the questions frequently asked was what happens with a strike and how do you ensure that safety regulations are followed? What is done when the contractor seems to have a lack of manpower, a lack of backup, and a lack of a follow-up process?

Finally, one of the most insightful comments on the long-term implications of contracting out was that one difficulty most government managers have with contracting is that they are often in the business of training the contractor. But if contracting continues for the long term, the government will not have the opportunity to train its own people in a functional area. Thus, the question of the future may be where will government get the personnel to adequately select and evaluate contractors, to do the Quality Assurance needed?

Another source in supply administration felt that Commercial Activities had been force-fed. He questioned the rationale for contracting out unless you lack the talents or assets and expresses concern that contracting leads to using people that lack skill. He is concerned that business uses it to "buy in," and fears that A-76 is not well thought out, that there is not enough time to do a good study. Another noted that government and contractor appear as a "horse and a mule" together in a plow. The contractor does not really become a part of the department, particularly where security and knowledge of tasks and workflow are involved.

Wiping out an entire organization until the transition is complete affects the whole base, according to another assessment. Resentment of the contractor is definitely a problem. Finally, one effect noted was the fear of CA. After Supply, other offices were wondering...when will it hit us?

### Personnel Repercussions

Thirty seven Supply Department personnel in Dahlgren were affected by the Reduction in Force. Of the 24 permanent employees, 13 were reassigned; 4 retired or resigned; and 7 were changed to lower grade with saved pay. Of the 4 term employees, 2 separated and 2 were selected for other

appointments. Of the 9 temporary employees, 5 left government service, 3 accepted other temporary jobs, and 1 was selected for another appointment. No one remaining with the government suffered a loss in pay.

### Overall Evaluation

The Patuxent River Supply contract was one contractor-government relationship that ended in termination of the contractor for the convenience of the government. The contractor had been sent a Cure Notice stipulating that the Government may terminate for default unless discrepancies were cured 10 days after receipt of this notice. Before the actual decision to terminate, a meeting of those interested in assuming the contract was held where an information sheet on the contract was distributed. The contractor protested the meeting because it was held before the government decision was announced and because other contractors allegedly contacted some of the employees about remaining.

According to both interviews and documentation, the government decided to issue a termination for the convenience of the Government, a termination reason that does not "blacklist" a contractor, rather than a termination for default, a more severe condemnation of contractor performance. The terms stipulated that neither the government nor the contractor would have any more claims upon each other. The reason for the decision to terminate at the convenience of the government" was that the Government did not feel it could substantiate that the fault all lay with the contractor and not some with the Government, according to interviews and documentation.

According to interviews, consensus existed that the contractors had limited experience. The most obvious lack of knowledge, according to several, was in understanding locations for distribution of supply. Further, the shared perception of government personnel was that the contractor moved less pounds a week than the government had. On the other hand, the contractor had felt that the workload was different from what was expected.

According to Supply personnel, the plan to cover Supply until an Interim contract could be let worked well. Utilizing civilian emergency hiring procedures, thirteen contract employees were employed on a temporary basis. Nineteen former warehouse workers of various grades were detailed to Receiving and Storage functions. According to Supply personnel, the mixing of government and former contract employees would ensure that prospective bidders would have some experienced employees from which to draw. In addition, six military personnel were assigned to take over critical positions vacated by civilians.

The interorganizational relationships began with a situation where the contractor came into a difficult organizational structure, the degree of interdependence expected to accomplish the work was more than is usually expected. Receipt control, retained by the government, was interspersed in the middle of the flow of the work expected from the contractor. This arrangement created difficulties from the very beginning with complaints degenerating into accusations. As difficulties with the contractor's performance also became apparent, a situation arose where negotiations became a problem, i.e., where negotiations seemed to degenerate into mistrust. Further, competition for resources and scheduling difficulties between the contractor and other contractors added to the turbulence. Although efforts were made to reconcile the interpretations of one contractor with another, workflow was stunted.

Perhaps because of the turmoil or because of the possibility of having to adjust to contract termination, a clearer articulation of the disparities between what the process should be and what it is was developed by personnel at this base. The team approach to studying the functions for contracting out, recommended by A-76 guidelines, was also favored by the CA coordinator as the concept that should guide relationships between contractors, civilian personnel, and military personnel. Although not articulated as the concept of interdependence of functions, personnel on this base recognized some of the difficulties in working across units. Additionally, many problems were raised that revealed the difficulties of combining the legal, managerial, and political approaches. In this case, as the process became more adversarial, the legal framework dominated and the legal

framework encouraged thinking in an adversarial framework, an escalating spiral that once begun would have been difficult to undo even if the performance had improved by the contractor.

## **Conversion--Patuxent River Transportation**

### Decision Processes--Selection of the Contractor

In Patuxent River Transportation, most assessed the situation as one where the former government operation had been converted to a contract ideology fairly smoothly. Contract selection was done mostly on the basis of cost. Several acknowledged that there was a good bit of time spent on smoothing out the performance work statement on the previous contract, but that they now felt it was mostly complete. Consensus among interviewees was that the selection had been done with cost only in mind.

According to several interviews, transportation management recognizes that the only way to make contracting work is to have a good market and a good performance work statement. Asserted also was that one of the dangers of contracting is that if it continues for long, you may realize that after four or five years into the contract, a question arises of am I really paying the best price?

### Tightness of Coupling

In transportation, much of the orientation was very matter of fact and oriented to market principles. The espoused principles included the recognition that all governmental units must speak together with one voice with the contractor. Although there is a tendency for contracts to become adversarial, the approach the administration for Transportation has taken is that if the base can view it as "our team," then coordination of transportation and shop forces can be handled properly.

Acknowledged through interviews was the feeling that what had really held the transportation contract in place was that local fellows helped each other and that basically the same people continued working after government gave up control and even after the contractor changed. In the words of a manager, "only the management changed hands....not the workers....and thus, things have continued pretty much as they were before."

The attitude of the QAE's was also that the key thing was to be fair and reasonable and to follow the surveillance plans in inspection. As they see it, as long as the contracting job follows specifications, then the evaluators' job runs smoothly. In the case of a difference of opinion, their procedure is to send it to the contracting officer. In general, they find that there is cooperation and that in case of differences, their method is to sponsor a meeting of supply contractors, government representatives, and their own representatives.

Interviews with those displaced at several bases indicate that being moved can have its pros and cons, but that sometimes it really works to a person's advantage. However, in the case of one former worker of transportation at Patuxent River, the situation did not seem favorable. Even though he was promoted and was now performing more white collar tasks, his feeling was that he could never catch up, that he was still defending his position and that he did not have the years of experience behind him that enabled someone to have the position that he did.

### Personnel Repercussions

Of 96 employees affected, 12 were reassigned, 58 were changed to a lower grade, 15 career employees were separated, 10 temporary employees were terminated, and 1 Taper employee was separated. In most cases, no one lost pay for two years.

### Overall Evaluation

A smooth second contract was viewed in Patuxent River Transportation. Although reports indicated that base personnel were satisfied with the first contractor, the second one won on the basis of cost. Base personnel outside of transportation felt that transportation had a second successful contract. In comparison with supply at the same base, the general judgment was that even initially transportation worked better. Several felt that part of the reason was that it was less expensive and that Public Works was familiar with service contracts already and knew how to specify technical requirements.

Some reservations were raised, however. In general, the fear was with contracting that government may not get quality and that government will end up in firm fixed price with the contractor doing the minimum. The process of inspections is one that should be reviewed...it simply doesn't fit every function to have the work inspected afterward. In fact, one concern of transportation personnel is that a result of the contracting system is that the same vehicle numbers keep returning to be repaired. According to one evaluation:

contractors operate on the margin. Since the government penalizes contractors for downtime, a % of every alpha group, one result is that the contractor feels he must get the vehicles back up. Before, the government pulled the vehicles in for the amount of time it took to get them repaired. Another is that work is inspected only after the fact. Instead, it would make sense in maintenance to have two inspections: the work to be inspected beforehand to be an added check on what had to be done and then another inspection afterward on the repairs. Safety is really all that can be the quality inspectors' concern at this point.

Finally noted was that the first line of defense is the contract itself, the second is discussion among governmental units and the contractor, according to the Commander. He strongly believes that first you must get government to government together and then government must speak to contractors with one voice. An important point to note is that one reason for the lack of conflict is that locals help each other. Additionally, he noted that the way the contract is written now, an attempt is made to try to keep transportation tasks as separate from the tasks of other functions as possible. Further, minimizing the interface between contractors was part of the planning.

In fact, the philosophy surrounding Pax transportation was to let the contractors train each other in the takeover as much as possible. Although this may seem a variation of government "laissez

faire," the fact that the government contract manager remained the same all the way through and had seventeen years experience as transportation manager made the transition considerably easier. Further, although not supervising the work directly, the former government manager retained quite a bit of influence on both the contract employees and in his ability to negotiate the base. In some ways, although being careful not to interfere, he had managed to keep control of the contracting situation, and, in fact, made it somewhat easy for contractors to come and go.

## **Contiguity--Indian Head Transportation**

### Decision Processes--Selection of Contractor

At Indian Head, contractor and government seemed to be in a contiguous relationship where each carefully bounded their duties, but touched at selected points. Many protested the initial selection of the contractor as noted previously. Even though the contractor did stay, some resentment of contracting still was part of base personnel's attitudes. One reason for the resentment was that base personnel viewed the Government as having more flexibility. If a request was urgent, the government would respond and had some latitude.

### Tightness of Coupling

The resentment felt at Indian Head was partially against what the contract represented symbolically. In reviewing the comments, it is plausible that the contractor himself may not be the problem as much as contracting out itself. One difficulty in adjusting to contracting is simply a preference for the way it used to be. Comments of one thoughtful transportation worker were:

We are losing the shade tree mechanic, those who could repair everything from bicycles to locomotives. The contractor doesn't do as many types of work and, thus, we lease out selected tasks. Further, in an emergency, it is difficult to exchange workers with contractors. Now, we have become much more paperwork conscious, become a paperwork process. Furthermore, repairs don't move as quickly as they should and the contractor sticks closely

to the work that should be done and does not do enough in terms of preventive maintenance, e.g., preventing rust.

Although the contractor was seen as not having enough government experience, the feeling was that good working relationships do exist. Several feel that contract employees were not working as fast as they should, but then again they admitted neither did the government.

#### Effects on the Agency:

Many felt that you cannot justify the long time for CA studies. If contracting saves 25 or 30 percent and you can save 15 percent by better management, it's hard to justify the long time-consuming process. A frequent sentiment was that you can't put a dollar figure on morale, how much money is lost from it. Historically, it's important to remember that Indian Head personnel noted when this program began, it was a "new program". There were no "lessons learned" and most hoped it would go away. "The biggest mistakes were complacency, lack of participation, and not all levels of employees were involved," according to one assessment.

At Indian Head, the QAE's had tremendously low morale at one point in the contract. According to the contract administrator, that is not as much of a problem now. A process of resolving demands of the QAE's has been instituted. Once the QAE documents the problem and notifies the contractor and the branch manager for contracts, action is taken. In addition, there are now monthly performance meetings. The work is reviewed before the next invoice. One contract administrator's opinion is that the QAE's were not as aggressive at first in bringing up points, but that now points are be addressed. According to her evaluation, changes can be seen now, but she feels the fruits of the labor will not show up for a while.

Many noted that one effect was the reexamination of their own management system. One conclusion was that there had been no incentive to be proficient; that managers don't have flexibility in personnel. In fact, to fire someone is more of a punishment for managers. To become more efficient, according to most, one needs to address the fact that managers have no incentive to be

efficient. However, the observation was made that relationships among supervisors and employees in business was not as good as in government. Government personnel had more of a team feeling according to the assessment.

### Overall Evaluation

According to estimates, the customers seem to be happy, but whether or not the contract yields exactly for what the government is paying still was in question. However, there are not many complaints and the contract seems reasonable. Although it appears that the contractor is responding to the customers, data that tracks contractor performance has not been as well kept as it should be. The contractor has had deductions, but no animosity was expressed in the meetings or in the dealings with government, according to contract administration.

According to interviews, there have been significant problems in the past between Supply and Transportation, but there are fewer problems now. One interpretation is that it is difficult for Supply to define requirements--difficult to know exactly when trucks will arrive and hard for Supply to specify their needs in advance. Often, they cannot specify how much rigging support will be needed. The customer wants service, but the planning is not as well thought out as it could be.

Further, according to interviews, the PWS is now on the third rewrite. The first wasn't that bad, but needed clarification more than modification, according to contract administration. What was really missing was good data collection and a way of keeping customer requirements. We have reconciled those issues and now we have begun to track workload, noted a contract administrator. One of the events that stood out in the minds of several was that part of the significance of Commercial Activities is that it was a "New Program": no lessons were learned at the first contract. In fact, they felt that the response from many in the beginning was a hope that it would go away.

Finally, it's important to note that relationships between the base personnel and the contractor were strained in the very beginning and still remained strained years after the original contract was let.

The questions raised from the beginning of the contract included questions of the capability of the particular company involved and whether this company had completed the process necessary to be certified. The resulting description of the relationship that resulted from the situation is one that seem constrained and that seemed as if government and the contractor had decided to bound very carefully the duties of each, an emphasis on avoiding personal services, living by the contract, and performing only to the contract were the impressions given. Additionally, since the contract had been in place for so long a time, it was surprising to find as much hostility and negative reaction to the idea of contracting among government personnel.

In this transportation situation, relationships between the base personnel and the contractor were strained in the very beginning and still remained strained years after the original contract was let. The questions raised from the beginning of the contract included questions of the capability of the particular company involved and whether this company had completed the process necessary to be certified. The resulting relationship is one that seem constrained. It seemed as if government and the contractor had decided to bound very carefully the duties of each by avoiding personal services, living by the contract, and performing only to the contract. Additionally, since the contract had been in place for so long a time, it was surprising to find as much hostility and negative reaction to the idea of contracting among government personnel.

## *Conclusion*

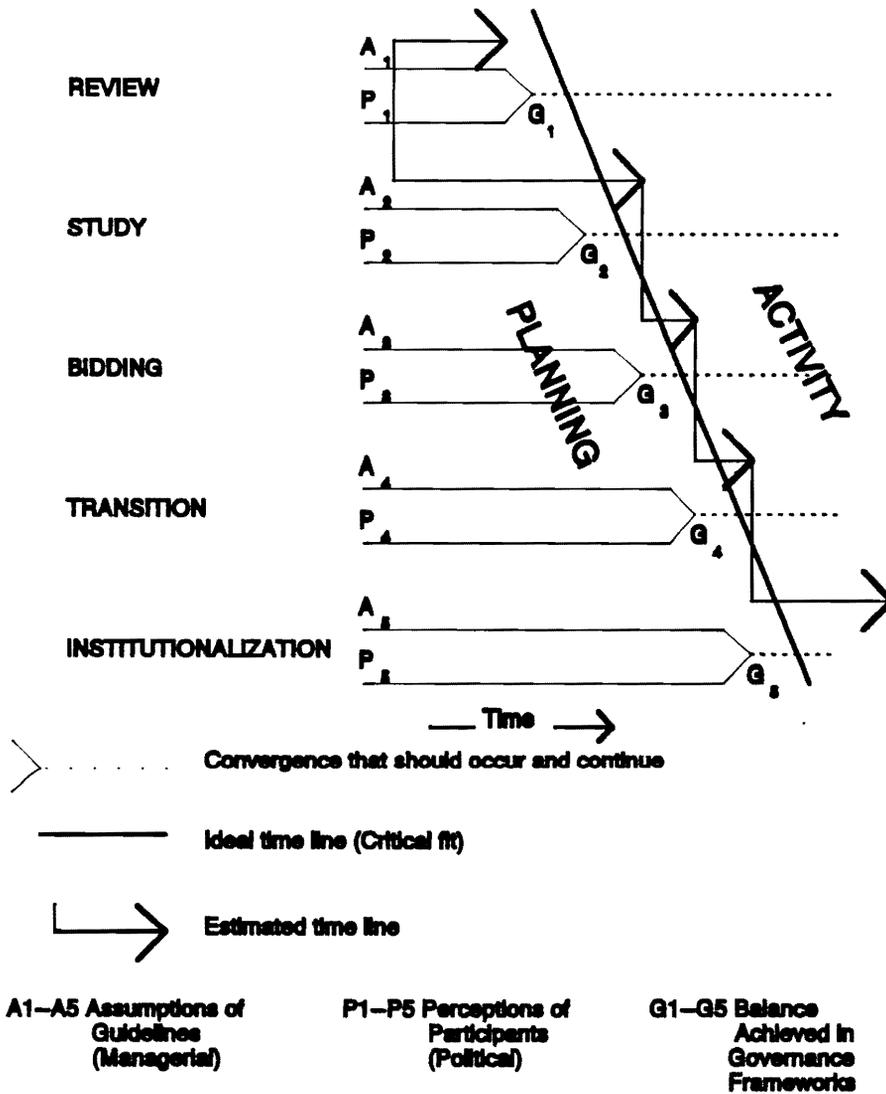
After the presentation in this chapter of much descriptive material, these conclusions will draw the insights back to our original goals of understanding some of the principles of contractual governance. In this chapter, two tactics on the descriptive material from interviews were employed. First, the program assumptions and participants' perceptions in each stage were compared through

an integration of interview materials from all four sites. Second, an assessment of the resulting contracting relationships was made for each individual site.

More general findings are revealed in the model of the Circular A-76 process portrayed in Figure 16. The model depicts the stages of the process just described. For each stage, parallel solid lines indicate that the assumptions of the guidelines (primarily managerial) and the perceptions of the participants (primarily political) are separate. The broken line continuing from the two solid parallel lines denote a desired convergence of the perceptions. The fact that the broken lines continue across the chart indicates the continual need for the issues and evaluations of each stage to be part of the whole A-76 process. Now, such is not the case, since different groups of personnel handle each phase and since the activities of each phase are different. For example, throughout the course of the contract a constant reassessment should occur of whether a function is one that should be contracted out, a question that seems to stop at the end of the review stage. Also, having analysts who did the study assist with the actual transition to the base of functional area contractors would be desirable, rather than the total separation of duties that occurs now. Thus, the chart indicates that the assumptions and perceptions should show some convergence and that the insights and evaluations of each phase should continue throughout a contract.

The vertical line indicates the amount of time for each phase as the process is implemented now. Note that in each stage, less time is spent on planning and more on activity. The diagonal line running across the stage indicates an ideal time line, i.e., the balance that should be struck between planning and activity. More time is needed for planning. If planning, including thinking through the study guidelines and the performance work statement, were more complete, then the actual activities may proceed in a smoother manner. Finally, the G on the diagonal denotes the need for a Governance framework that balances the assumptions of the guidelines with the perceptions of participants. Although the political and managerial are most prominent in the chart, the legal perspective runs through both of them.

**STAGES OF CIRCULAR A-76**



**Figure 16: Assumptions and Temporal Dimensions in the Circular A-76 Process**

The balancing for each stage should take into account the different perspectives of the situation. In the review stage, a balancing of the political/managerial orientation is necessary in resolving what functions are to be contracted out--managerial in consideration of the impacts of contracting out selected functions and political in allocating and deciding among the values of national security, institutional knowledge, accountability, and efficiency. In the study phase, a managerial emphasis should prevail, tempered with a sense of obligations from the relational contracting orientation. Preparing the solicitation and the bid requires government to "think like a contractor" in the sense that he should think competitively and adversatively. As the A-76 process is structured now, government and business are competitors and the contract will be challenged. Thus, an adversarial image is not inappropriate. Between the bidding stage and transition stage a sharp break in orientation is needed. Government must now become "teachers" and "monitors" of the contractors if work is to flow smoothly. In institutionalization, the "competitors" now become interdependent producers within a workflow. Interdependence does not necessarily mean that government and business have to be full-fledged partners sharing all the same goals and values. That ideal is probably unrealistic, but the competition should be similar to a game where two opposing teams play according to agreed upon rules in order that the event can be staged. It should never become a situation of combat or guerrilla warfare.

But agreeing upon the rules is difficult when guidelines and perception are not in accord and the private orientation must be balanced with the public frameworks of managerial, legal, and political. Sometimes a stage's questions revolve around balancing elements within one framework, but often there is a conflict among several frameworks. For example, the review stages requires balancing questions of what is inherently governmental, a market-political question, with meeting agency goals, a managerial question. In the study process, particular organization and agency concerns must be addressed. However, in the bidding stages, competition, an element of market ideology, must be balanced with representativeness, an element of political ideology, and with legal procedures of due process. Further, the stages of implementation force a consideration of the integration

of those from the private sector. Questions from the managerial framework of best service, employee displacement, and contractor qualifications to do the work must also be engaged.

Although the legal model often conflicts with the market model in that regulations are seen as hampering the free flow of competition, both the market model and the adversarial orientation of the legal model emphasize a competitive relationship between government and business. Thus, in the stages of transition and institutionalization, if the primarily market ideology of the review stage and the adversarial orientation of the study and bidding stages still dominate contracting relationships, the actual implementation of the contract may be hampered. According to the guidelines, a successful implementation would return contracting relationships to the managerial orientation as outlined in the guidelines specifying surveillance of outputs. However, to assume coordination and control automatically follow from the surveillance structure created is to assume that the managerial orientation with an orthodox public administration bias is in effect. This assumption conflicts with the reality of the situation in that one unit is private, the other public, and they are bound by a specific legal document, the contract. Thus, as noted in Figure 16, a different orientation to the relationship may be required--that of Governance. This may require, not only the skills of administration and monitoring, but the skills, attitudes, and rewards of negotiating, negotiating between a private contractor and government; negotiating among governmental units; and negotiating among the dictates of the managerial, legal, and political frameworks.

Finally, the chart as a whole and the descriptions, thus far, emphasize an important fact overlooked in the contracting models: contracting is a process that flows from one stage to the next. It is not always either a market model, a negotiation model, or a cooperative model. In its flow, the process at any one point in time can be characterized as sometimes more closely approximating one model and at another point in time, more closely approximating another.

The possibility of a cooperative model, as detailed earlier by DeHoog, has not been mentioned in this review of the stages of Circular A-76. However, there are certain circumstances in Circular A-76, such as a local contractor assisting with a defaulted contract situation or a case where one

contractor provides a multitude of services, that the model that applies may be more appropriately labeled cooperative. Thus, when this contracting process was examined, classifying it under a competitive model in bidding to that of a negotiation model in implementation was appropriate. A few selected examples of Circular A-76 shading into a cooperative model were noted in literature or other reports. Thus, Circular A-76 is not immune to problems of "Cozy Contracting."

One final note is that the review of participants' perceptions reveals the difficulty of integrating contractors' work styles within ongoing working relationships. Within the base, a "mini-society" of working relationships is already instituted; characteristic ways of negotiating, acceptable means for allocating and implementing rewards; and other "governance structures" of a formal and informal nature are already in place. In addition, in the particular bases observed in smaller rural communities, relationships outside the organization, families, church, school boards, affect the relationships inside the organization and the ways of getting things done. Thus, work relationships have taken on some of the characteristics of "relational contracting." No wonder the guidelines, reflecting a very bureaucratic image, and the implementation, reflecting the need to incorporate groups more dominated by the profit motive, are difficult to intermesh with some of the perceptions growing out of a semi-relational contracting ideology at the working level.

## Chapter Five--Summary and Conclusions

Three questions guided this work from the beginning. A partial answer to them has been formed through the study of the documents, the policy environment, and the contracting process.

### *Summary of the Study*

The investigation of Circular A-76 in Theory and Practice began with the perennial question about how societies mix marketing incentives and political authority. The goal then established was examining a much smaller subset of the perennial question, questions of the relationship of the elements of contractual governance to Circular A-76 and the relationship between the assumptions of the program and perceptions of practices in implementation. The more specific questions asked were:

1. Does the implicit theory behind the establishment of contracting situations take into account the assumptions of governance interwoven in the process?

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2. What relationships exist between the guidelines for contracting and the organizational reality in which contracting is implemented?

3. What, are the differences/similarities in organizational adjustments and management techniques in the contractual process across sites, tasks, and time?

To answer these questions and others raised in the exploration of contracting under Circular A-76, this work first reviewed the necessity for a better concept of contractual governance, a framework for viewing contracting, and the background literature and methodology necessary to investigate the questions. The characteristics of the policy environment were also reviewed: the history, general policy issues, stakeholders, and program assumptions of the Circular itself and the specific assumptions in the implementation environment as revealed in the Naval guidelines. Next, the assumptions of the guidelines and the perceptions of participants in four Naval bases were compared in both the stages of contracting decision (review, study, and bidding) and implementation (transition and institutionalization). Finally, the resulting contracting relationships by base were explored.

At the beginning of this study, the existence of an empirical and conceptual gap in public administration concerning the contracting process was observed. Empirically, most studies have examined only the outputs of contracting, usually from a cost-benefit or efficiency framework. Although conceptual insights can be drawn from the tools approach of Lester Salamon, the organizational governance approach (e.g., Hult, 1988), the literature on public and private relations, and the contracting literature, a gap exists in understanding decision-making and implementation in the contracting process. Although acknowledging Salamon's astute observation that the current theories and tools of public administration may not fit the new third party arrangements, the contention in this dissertation is that understanding better an old theory--the separation of powers--may lead to an appreciation of what conceptual tools and techniques are needed in our new forms of governing.

In fact, David Rosenbloom's contention is that the central problem of American public administration theory is related to our valuing "the separation of powers." According to Rosenbloom, three frameworks guide public administration. These are the legal, an emphasis on due process, equity,

and individual rights; the managerial, an emphasis on effectiveness, efficiency, and economy; and the political, an emphasis on representativeness, responsiveness, and accountability. Taking a lead from Rosenbloom's work, our contention is that an appreciation of the three sets of values is necessary in the contracting process. As a form of governance emerging in our political system, it is imperative to note how the frameworks are balanced in actual contracting systems.

The suspicion from a review of selected organizational literature was that the guidelines directing the program and many of the assumptions surrounding the program came directly out of the managerial orientation--a reflection of hierarchy, command, and control. Thus, the study began with noting any process in public administration must account for all the concepts of governance, but that the guidelines may reflect only concepts from one approach.

A further review of literature on contracting surfaced the importance of the nature of the relationship between the private and public sectors. Three sets of assumptions about contracting were explored: the nature of contracting, the nature of public and private, and contract implementation. These assumptions broadened the questions asked about Circular A-76 to include how the issues related to a competitive--cooperative continuum. Thus, the current models in the literature were arrayed according to their orientation to competition (the market); contractual governance (the legal, managerial, and political frameworks) and cooperation (relational contracting).

Within a conceptual picture of the possibilities of contracting arrangements, the issues and stakeholders involved in the Circular were examined from both a historical and analytical perspective. The search for the systematic differences and similarities in the assumptions of governance among different stakeholders in the contractual process revealed a variety of findings. Attempts to understand and simply describe the implementation of Circular A-76 led the research into congressional hearings, executive documents, interviews with base supply and transportation workers, contract administrators, executive and legislative actors, and other interested academics. The controversy of the program itself has spawned congressional hearings, newspaper articles, a multitude of GAO and CBO investigations, and scholarly articles. In fact, the evaluation of the policy yielded

a picture of a process filled with controversy and lacking policy consensus. Technical certainty and appropriate incentives were seen as lacking. All these factors have led to a process poorly implemented in which few agencies have met their study goals. One result of this examination of the Circular's history, the issues and the stakeholders was to demonstrate that important issues, such as the purpose of Circular A-76, its cost effectiveness, the delineation of what is inherently governmental, and the fairness of the process, necessitate engaging values and information from all the frameworks in the contracting continuum--competition, contractual governance, and cooperation.

To examine the controversy further, the Naval guidelines were analyzed for the assumptions guiding the process. The picture produced was one of assumptions reflecting a fairly closed systems approach and orthodox management theory, a picture of machine precision in contracting, a picture contrary to the participants in the process. The assumptions in the program and the perceptions at the sites were compared through the process of making contracting decisions--the review, study, and bidding stages--and through the stages of implementation--transition and institutionalization. Program assumptions gave an image of the Circular A-76 process as a rational, logical, universal process while participants' perceptions visualized it more emotional and particular to specific situations. Whereas the guidelines implied a clearly defined study process using a structured team approach to data collection, the perceptions at the site level portrayed a process where multiple authorities and multiple interests must be balanced in a loosely connected network of competing stakeholders. The system approach illustrated in the bidding guidelines is thought to lead to the leanest bid through routine, precise procedures. However, base personnel saw the bidding process as based upon a description of work reality that ignored the many exceptions and informal procedures imbedded in a very human and political process. Further, the guidelines portray bidding as a process to be managed whereas participants brought out the adversarial nature of the process. Key

In contrasting the assumptions and perceptions in implementation, the implication of the program was that procedures/planning equal a smooth transition whereas the participants saw transition as multidimensional, encompassing procedures beyond a simple assigning of tasks. Further, base personnel saw much meaning as determined on the job in an interdependent workflow where the

systems guidelines imply that outputs can be specifically determined and each unit is a separate entity. Once the contract is institutionalized, the guidelines were seen as assuming that obligations are minimal and specific whereas those involved in the workaday world of integrating contractor and government felt that obligations must expand and are negotiable. Program assumptions relied upon a well thought out surveillance process where it was assumed that quality performance can be specified. On the other hand, a concern for quality is part of a total relationship and quality assurance unit by unit may not capture the real problem of an overall inadequate performance, according to participants' perceptions. Whereas the guidelines portray an unilateral power structure, participants noted the consequences of multidimensional power--changing relationships and sometimes ambiguous authority relations. Although guidelines imply very little need for discretion in decisions by the government and by contractors, personnel wondered whether planning had prepared management for what should be done when a contract does not work out.

Important to the whole concept of Circular A-76 is the image of the program as a management tool leading to cost savings and more efficiency in government. On the other hand, it was most often described by participants as a contracting out program which may provide better service, but does not save costs. Finally, the programmatic assumption that innovation would result from private sector participation was not borne out by the participants' experience.

The resulting relationships within the discontinuity between guidelines and participants perceptions and the lack of balance in the systems of governance were described at the four sites. Although each individual contracting situation had a unique emphasis in the assumptions and procedural guidelines for contracting, some themes were repeated across the bases. Comments from those involved in both transportation studies indicated their perceptions about the political influences on contracting, political in the sense that criteria for decision making were influenced by allocation of value at some level other than the merits of the particular decision. In the Pax River transportation situation, the feeling was that the decision of the contractor was all right, but that the initial decision to contract out was not made on the basis of the past performance of the function or the Most Efficient Organization. The other transportation decision, Indian Head, was perceived by many to

be one where power intervened in the choice of contractor in the beginning. In terms of performance and cost, however, both contracts appeared to be working well. Yet, both of these two situations then became a variation of what contracting is purported to accomplish. In one, the contract manager retained control and influence beyond what is expected. In the other, hostility and suspicion remained beyond the time one would expect.

On the other hand, the Dahlgren Supply situation was flavored more completely by a managerial orientation--the problems were seen as more managerial and the political and legal dimensions were down played. The convictions of the contractor that he would take a loss and then retain the contract became apparent. In contrast, Patuxent River Supply became oriented toward an adversarial contract. From the very beginning, supply personnel recognized that the selection of the contractor was probably an inappropriate one, not necessarily for political reasons, but that they had not stuck to their own informal criteria of recognizing how many personnel were needed to perform the function--a situation where they chose a business which did not complete the contract. Further, the situation became adversarial in the beginning of the contract and escalated to a situation where stereotypical reactions were prevalent on both the contractor and government side as well as in relationships between the contractor and other contractors.

Two of the themes that stand out the clearest from this examination of the contracting situations include the discontinuity between the local level and federal guidelines and the complexity of the process as it is implemented on the bases. First of all, Commercial A-76 is touted in both Naval and OMB guidelines as a cost saving program. Despite efforts by OMB, thorough analyses by GAO, and publication of the results by the Navy, most base personnel interviewed are not convinced that once the contractor is on base, the program really saves money. What personnel see are the modifications by the contractors, difficulties in implementing quality control, and the hidden overhead costs of administrative and reporting time of other personnel. This feeling seems widespread across the bases and across different occupational groupings. In addition, in the contracting decision and in implementation, the systems levels assumptions and the working level assumptions are often in conflict. Second, the complexity of the process becomes apparent once it's instituted

on base. Balancing the different frames of governance requires a multitude of procedures and sometimes the development of methods to reconcile them.

## *Status of Current Policy*



Looking back at the program's beginning in the 1950's, some of the same issues have more than a thirty year lifetime--especially how to win agency cooperation. The issue of winning cooperation in the 1990's is couched in the need for the field to have technical advice whereas in the beginning of the program, more frank acknowledgment was made that agencies were resisting. What is to be inventoried also is an issue surfacing over and over again throughout the life of the program. Both of these issues go to the heart of the intent of A-76, the questions of allocation of value. Which functions are commercial and belong to the private sector and whose interests are being served--agencies, political symbolism, the taxpayer, federal employees, contractors are questions imbedded in the program.

Many of the difficulties found in the Circular are succinctly summarized in a 1989 statement by Nye Stevens (U.S. Congress, House 1990, Stevens' Testimony), Government Business Operations, "The A-76 program has always been and continues to be controversial." Further, he notes that in more than 100 reviews, managers agree with the A-76 concept of government/private sector competition, but say that the program is time consuming, difficult to implement, disruptive, and threatening to both managers and employees. Further noted is that A-76's perceived threat to the morale and productivity of federal workers must be addressed if the program is to gain government wide acceptance. Continuing his assessment, Stevens notes that the A-76 concept of encouraging competition is a sensible management objective, but despite its appeal on a conceptual level, the A-76 program has failed to meet its objectives fully. Mentioned also is that implementa

lems have limited the A-76's program's success. GAO identified five obstacles hindering program implementation:

Burdensome Cost Studies: Cost studies were seen as burdensome and time-consuming. Cost studies completed by DOD from October 1, 1978 to December 31, 1986 took an average of about two years to complete with about 40 percent exceeding two years. As of January 1989, there were 940 cost studies in progress. Of these, 44 percent had been in progress for 6 years or more. Among the reasons for lengthy studies is the absence of adequate cost accounting and work measurement systems in federal agencies according to GAO investigations.

Poorly Written Performance Work Statements: Noted in the report was that past audits had shown that tasks omitted from PWSs in the A-76 process resulted in increased costs when the function was contracted out.

Unclear Objectives: Program objectives being unclear and inflexible was seen as another implementation barrier. Agencies misperceive A-76 as a contracting out program and do not realize its full objective of gaining efficiency. However, if agency officials could use a more flexible approach, they could more efficiently tailor their initiatives to meet agency specific operational needs.

Unrealistic Study Goals: In a May 1989 report, 19 out of 21 agencies surveyed believed the A-76 goals were unrealistic. Only 26 percent of OMB's government wide annual position study goals were met from fiscal years 1984 through 1987, with DOD accounting for 78 percent of all positions studied during this period. Executive Order 12615 further increased these goals by establishing a new annual government wide study goal of 60,000 positions, a six-fold increase over agencies' historical study rate. Since the order was issued, only about 28 percent of the goals have been achieved by agencies.

Congressional restrictions: Further, legislative restrictions were seen as an obstacle. Congressional restrictions and limitations have been increasing on Circular A-76. For example, the Nichols

amendment which authorizes installation commanders to determine the level of A-76 activities on their bases is believed by OMB and DOD officials to reduce the number of studies done. The appropriation that funds DOD's A-76 program administration also was reduced by \$160 million for fiscal year 1990. At the same time congressional restrictions and limitation on A-76 have been increasing, OMB has been sending an entirely different message to agencies. In November 1987, Executive Order 12615 was issued, which significantly increased agency annual position study targets and mandated that agency budgets be reduced at the beginning of each fiscal year to reflect estimated savings from planned A-76 studies. Stevens noted that the pull and tug between Congress and the Executive Branch created confusion and put agencies in a very difficult situation (U.S. Congress, House 1990, Stevens' Testimony).

One of the assessments of Circular A-76 quoted often in governmental hearings and in the beginning of this work is that of William D. Russell, a long-time observer of the process who unabashedly presents the contractors' viewpoint and expresses skepticism at government's commitment to change.

The story of OMB Circular A-76 is not a happy one. It is a story filled with good intentions, great promise of benefits to the nations, the private sector and the taxpayer, but having very limited results. It demonstrates all the difficulties involved in making a constructive change in a large bureaucracy--the resistance of those who feel threatened, the inertia which protects the status quo, and the inevitable political influence of a small but vocal minority (U. S. Congress 1990).

Is Russell's view correct? Interviewing representatives from the unions, executive agencies, base personnel, and congressional subcommittees, one cannot overlook an assessment of the A-76 story that would feature "iron triangles", power politics in each branch and among the branches, competition for getting on the agenda, "revolving doors," blue collar sacrificial lambs, union interests, agency interests, bureaucratic game playing, field-central distrust, budgeting maneuvering on positions and money, employee insurrection, and a conflict between contractors and public employees' interest. The same materials used here to weave a story of balancing assumptions of contractual governance and of incongruity in programmatic assumptions and perceptions at the working level

could tell a story of almost any combination of the above. Looking only at Circular A-76 as a program unto itself, William Russell's "unhappy story" probably has some merit.

Considering the time involved in completing A-76 requirements and the potential consequences, including the possibility of a disruptive transition, Russell further notes that A-76 was almost as welcome in the procurement world as a "fatherless child at a family reunion" (Russell 1985). As noted earlier, the questions about the legitimacy of the process creates uncertainty at the policy, agency, and working level. Neglected in most studies of organizational design has been this concern for legitimacy. Thus, one constant problem surrounding A-76 is the political controversy opening up questions of the legitimacy of those involved in it. Although interest groups supporting and not supporting the A-76 program have been very vocal (e.g., U.S. Congress), the point of view of many at the working level is that there is little incentive to embrace the policy. On the other hand, contractors contend that the program favors the government (Russell 1983 and 1985; U.S. Congress 1986 and 1990). Such controversy on the goals and objectives of the program can lead to confusion for and about those implementing it.

In fact, through interviews, professional involvement, and research on measure and countermeasure, the best analogy for the A-76 policy process and environment is that of organized anarchy (Cohen and March 1974). Metaphorically, this organized anarchy can be understood as a "soccer game played on a round field, ringed with goals" where players "kick balls towards one or another of the goals, judging themselves and being judged by assorted ambiguous scoring systems" (Allison 1984, 44).

Also noting the similarity in institutional arrangements and the rules of games, Elinor Ostrom (1986) maintains that "What outcomes can be produced, what actions are physically possible, how actions are linked to outcomes, and what is contained in the information sets are affected by the world being acted upon in a situation" (Ostrom 1986, 471). Further, she notes that the strategies available to players in football and soccer (European football) are different. In fact, according to Ostrom, unlike chess which can be played anywhere, the strategies in football and soccer are

strongly affected by the physical attributes of the balls used, the size of the field, and the type of equipment (Ostrom 1986, 472). Yet, in A-76, players are asked to play soccer under assumptions closer to football rules. Within football rules, there are defined positions, set plays, clear objectives, a hierarchical process, clear measurements of wins and losses, and a thick rule book. This orientation makes it easier to assume that all agencies operate the same and that most functions (some long linked, some intermediate, some intensive) can be cost compared in the same manner.

Yet in A-76, a variety of players wander off and on a moving playing field: a shifting matrix of commercial activities analysts often with at least nine primary sets of guidelines, e.g., the base's, OMB's, OFPP's, the Navy's, Naval Facilities Engineering's, Naval Supply's, and those of the Code of Federal Regulations, federal acquisition, and Congress as well as a multitude of others; OMB players caught among competing interests of the executive, congressional, and the private sector; external consultants with their agendas; contract administration balancing efficiency concerns, federal and base regulations and multiple strategies of monitoring, negotiation, and penalizing; base commanders and Naval headquarters balancing efficiency goals, equity goals, personnel guidelines, budgetary constraints, and Department of Defense strategies; functional area personnel caught in multiple guidelines and between protection of personnel and mission goals in the study and between monitoring, advising, and a yen for action in the implementation; and contractors admonished to bring private sector efficiency and competition into a system bound by conflicting rules and regulations in a sometimes uncooperative environment. No wonder the players spend much time simply trying to find the ball, the appropriate playbook, and the right formula to calculate the costs and benefits.

In exasperation, those attempting to improve the process have begun to ask not only the questions of who's got the ball and should they have it, but also is the "playing field" a level one, usually the first dimension a good soccer team investigates. As noted in hearings (U. S. Congress 1988 and 1990), there is a need to know if the program is structured to meet its objectives and to give all participants an equal shot at participating. In other words, thirty years plus of debating policy, balancing interests, and refining calculations doesn't seem to have yielded conclusive answers to

how to render to the private sector private provision and render to the government government. Some questions have improved, some lessons have been learned, certainly some cost savings have been made, and implementation has become more predictable. Is the glass empty or half full on the bureaucracy's attempt to incorporate the private sector into its fold of service provision? (Goodsell 1985)

As a single efficiency program to insure that "...the Government should not compete with its citizens and to "rely upon commercial sources to supply the products and services the Government needs" (Circular A-76, Appendix A), the program has not succeeded. The very process used to procure services is one of the Government competing against its citizens. Further, the decision as to what is a commercial service is still in debate. As a program to "achieve economy and enhance productivity, retain governmental functions in-house, and rely on the commercial sector" evaluations are still mixed and conclusions about cost savings are still very questionable. As a program, Circular A-76 has not met its goals.

### *Improving Circular A-76 As It Now Stands*

The results of government's experimentation with Circular A-76 leads one to ponder the assumptions under which the program operates, the subject of the next section. However, before doing so, should the government decide to continue with the program as it now stands, it would be remiss not to suggest some of the improvements that resulted from this examination of the program. These recommendations are made under the assumption that Circular A-76 will continue to be a program oriented toward efficiency in government using a competitive bid approach as the main vehicle to decide which functions remain in-house and which functions are contracted out. In line

with this study's observations, the following recommendations are the ones that may lead to a more effective program.

1. Improve technical certainty. If Circular A-76 is to continue as it is, then the technology to implement it, the analytical and procedural skills to review functions at the organizational level, to conduct studies, write performance work statements, formulate a competitive bid, and administer contracts must be widespread throughout the government. Several suggestions that have been offered to improve these skills should be considered. One, establish a cadre of professional experts at OMB to oversee cost comparison studies (U. S. Congress, 1990, CSA). Two, build expertise for managing and doing the necessary work in a few likely candidate agencies in addition to DOD (U. S. Congress, 1990, GAO). Three, require agencies to establish a core of experienced A-76 process employees to assist the field in preparation of their studies (U. S. Congress, 1990, FEMA). Four, establish a generic statement of work for the functional areas. Encourage the development of both national standards for different areas, e.g., supply and transportation, as well as development of standards for each base. Five, in addition to those assisting with cost comparison studies, establish a group of experts in each functional area to advise on the Most Efficient Organization (Recommendations from field interviews).

2. Increase the program's credibility as a management efficiency program. As noted in the review of the perceptions at the bases, Circular A-76 has never been accepted by most agencies or their employees as an efficiency program but instead, has been viewed as a program of contracting out and as a program whose costs exceeded its benefits. To change this perception, recommendations would include the following. Most important is getting coordination among the Executive and Legislative branches on what A-76 is and on the best regulations to accomplish the work. Agreement exists across the branches, unions, and the contractor's association on the need for assistance in increasing technological certainty, increasing the ability to complete studies and cost comparisons. However, predictable differences exist in that OMB and GAO are concerned with better management of the program itself. The contractor's union stresses making regulations to better favor contractors' bids while the Federal Managers' Association notes that study costs are not

counted, a factor in making the program seem more cost-effective. Congress continues legislative restrictions while GSA and the contractors' unions advocate for releasing them. The need for better consensus in what belongs in the inventory is also noted by both Congressional and Executive leadership. Thus, OMB has some serious public relations work to accomplish a task of Congressional acceptance and any realistic effort at accomplishing this goal must accommodate the pressure on Congress to serve its constituents, as well as the pressure on the program to show results.

A second goal is to include the program as one management tool with other efficiency and quality assurance programs in OMB (GAO, 1990). Third, work toward agency consistency on the number and types of programs studied, the inventory guidelines (U. S. Congress, 1990: OMB) Fourth, streamline the process of conducting studies and constructing a Most Efficient Organization (Field experience). Here is certainly an area where some of business' methods of calculating costs could be useful.<sup>36</sup> Experimentation comparing more efficient methods of establishing workload from the data already available versus the way data is now collected should be part of the program's thrust. Fifth, establish accounting procedures that would convince Congress and agencies as well as the taxpayer that the program saves money. As the record stands now, the cost comparisons and lack of valid budget information leave critics room to doubt. Sixth, control cost escalation on contract modifications through better performance work statements and through establishing standards of accountability for functions in terms of modifications. A way of preventing "buy-ins" needs to be a part of the program. Seventh, although debates about cost comparisons are always going to be a part of the program, much more realistic comparisons could occur if all costs were counted for the government (e.g., study, extra administrative time), the benefits of positions saved were examined in terms of whether they are truly a cost savings, and better data was kept to compare costs per actual work outputs. Finally, recognize that business is business and delaying start-ups only compounds the difficulties. The way the process is structured now, the contractor can submit a list of

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<sup>36</sup> For example, instead of counting all the repairs in a transportation function to establish the workload, calculate the number of repairs predicted based on the type of fleet, age of fleet, and the usual repair record for that type and age of fleet.

potential workers, technically qualified at bid, and legitimately claim that he could not keep them waiting for six months to a year (Recommendations from field level).

3. Integrate Circular A-76 at the base level. Data and the programmatic functions of Commercial Activities are often isolated from other management and accounting systems. The bases and other organizations would benefit from establishing workload data compatible with other accounting and management data. Data could then be used as part of a management information system. Also, insure that expertise that is established in the study process can be used in constructing the bid and in surveillance of the contract. As the process stands now, Commercial Activities analysts are isolated from both contract administration and from functional area supervision. Setting up procedures where each could take advantage of the other's expertise should be useful (Field interviews).

4. Address incentives. When base personnel see the A-76 program as one trying to cure other problems in the government personnel regulations and not as an efficiency program, then some incentives have to be used to increase agency and employee cooperation. Allowing decisions as to which functions should be studied at the base level is a beginning (Nichols Amendment). Letting bases chose among a mixture of efficiency programs toward an overall efficiency goal is an idea that should be implemented (GAO, 1990). Further, action should be taken on other recommendations made by OMB: productivity bonuses to employees, improved interagency job placement for displaced employees, implementation of the revisions by the Office of Personnel Management on severance pay, and giving serious consideration to what should happen to studies that have gone much past deadline. Certainly, retaining functions whose studies are past deadline in-house is a counter incentive for study completion and yet, contracting them out is often not the fairest solution. The best solution would appear to be have each agency make a recommendation for the past due studies to a review board and then have GAO, or the appropriate agency, serve as an arbitrator for differences between the review panel and the agency in question.

5. Insure due process. Appeals rights should be a part of both the government and contractor's rights. Several current recommendations (U. S. Congress, 1990) address the problem of a lack of

an equitable appeal for government employees. Even though cumbersome, appeals are a part of the legal framework guiding the program and are an important right for every citizen, no matter for whom they work.

## *Reexamining the Assumptions surrounding the Circular*

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Examining Circular A-76 within the contracting continuum, including competition, the trichotomy of contractual governance, and cooperation, revealed the complexity of the issues. How the assumptions of governance were balanced in the Circular A-76 program was a continuing theme throughout this work. A second persistent theme was the relationship between the assumptions behind the program and the perceptions at the base level. Final comments on both of these themes are addressed below.

Certainly, contracting out has been studied as a method of more efficiently delivering services, as a political issue dividing probusiness and progovernment forces, and as a part of a larger political debate on the necessity of privatization. More often than not, the focus of the debate has been the outputs of contracting out, a focus sometimes carried to the logical extreme of "whether business or government" does a task better....a focus that belittles the unique contribution of both to running a democracy! Nonetheless, voices have begun to question whether the only concern is who can do it better. Finally, at least in regard to Circular A-76, many phases of government have begun to look at what is it government should do and whether the actual process of contracting out indeed harms an agency, the ability to "run a constitution", and the civil servants asked to do the task. Indeed, viewing contracting out as a process under Circular A-76, perhaps one of the more blatant attempts to put government and business in competition with one another, reveals the conflict and complementarity of values inherent in the process of managing in the public service.

In a recent article, William G. Scott (1988) puts a question to American management scholarship and practice: If the values of the American Republic are good, then how much should the organizations that are subordinate to this Republic mirror these values? His question is a more precise phrasing of the focus of Elkin (1985), who asks how the institutions we have created are an outcome themselves. Thus, seeing contracting as a process reveals the values of governance that are inherent in the blending of the managerial, legal, and political frameworks as contracting unfolds within different situations.

One of De Tocqueville's observations was that Americans oscillated with "marvelous inconsistency between liberty and justice, or as he put it between individualism and democracy" (Scott 1988, 278). McClosky and Zaller (1984) found in their 20th Century Fund study that the two main threads of the American ethos were still individualism and equality and noted as did de Tocqueville that the continuous tension between these threads gave a dialectical theme to the American ethos (Scott, 1988). In order to appreciate the tension between the two words, Scott (1988) suggests viewing a list of everyday vocabulary associated with the two: Liberty-- independence, freedom, competition, obligation, individuality, autonomy--and Justice --interdependence, order, cooperation, entitlement, and equality.

Drawing upon the work of William G. Scott and scholars who have preceded him (e.g., De Tocqueville, Lindblom, Rosenbloom) A-76 guidelines can be seen as a compromise among the multidimensional characteristics associated with justice itself: the balancing of interdependence, order, cooperation, entitlement, and equality. Throughout the process, personnel from different functions within an agency must balance their "entitlement" to perform for the rewards of their own system (e.g., to perform the work for which they were trained and for which they are recognized, e.g., supervising a function) against the need to cooperate and work interdependently with personnel with totally different intentions. Further, they are asked to work on a program which at least, in the eyes of many, threatens their "entitlement" to certain retirement and personnel benefits. The need for order and submission to higher authorities, (e.g., Naval Facilities Engineering, the Office of Management and Budget, and Congress), must be balanced against a need for somewhat of an

equal say in what and how to accomplish an unpopular task. Further, the "entitlement" of the consumer, or other base personnel, to the best quality work must be balanced against the "entitlement" of the worker to his/her investment in the function.

In the implementation of the program, particularly in the institutionalization of the contract, the tension accelerates among the values of liberty, the values accentuated by business and therefore accentuated in government when business is brought into the arena, and the values of justice, those more traditionally emphasized in public management. The values of liberty raise such questions as how much autonomy is to be granted the contractor (e.g., to what data bases do they have access); how do we balance monitoring and the threat of competition as motivators along with rewarding cooperation and interdependence; how do we give the freedom to experiment with a better way, a forte of the private sector, in conditions where short-term monitoring means deductions if one's experiment is not an immediate payoff; how do we balance the freedom to compete, to improve, with the need for order, to follow a myriad of rules and regulations, some inconsequential, some basic to government's need to be accountable to its citizens; how do we incorporate private with public?

In the larger debate about privatization and appropriate tools, Christopher Leman (1988), notes that the rare successes of indirect government are stories "of talented individuals improvising against enormous odds" (Leman 1988, 66). Much of our description of implementation of contracting reflects this fact. In the language of Williamson and Ouchi (1981) and others studying transaction costs, in-house operation internalizes "transactions which indirect government must negotiate across institutional boundaries, maintains solid in-house expertise, minimizes legalism, and provides a more stable framework for bargaining with external interests." Still, Leman finds that when direct government can work but is not politically acceptable, while indirect government proves unworkable but is politically acceptable, the choice may in some cases be to dispense with the government role entirely (Leman 1988, 78). In many cases, understanding the symbolic role of increasing private enterprise's provision of previously provided government services assists us in understanding

why Circular A-76, although often times ineffective in cutting costs, is a compromise between two politically incompatible goals--liberty and justice.

Another area of inquiry concerned how the theoretical frame behind the process relates to the actual management of the process. As the guidelines for A-76 have been reviewed in this work, each phase of the process has indicated the difficulty of resolving tensions at the national, agency, and base level. A-76 is controversial. Difficulties in implementing the program can be understood through many lenses; at the national level, the conflict between the executive and the legislative branches of government; at the agency level, the need to gain appropriations, balance budgets, and show productivity gains; and finally at the base level, the tensions of implementing an unpopular program, gaining positions, budgetary constraints, and loyalty to employees. The review thus far of the program itself and of the details of institutionalizing it at the base level reflect these tensions. Yet, somehow, the level of stress, the resistance encountered, the reflexivity induced among practitioners and the differences in the four bases in working out the arrangements warrant a deeper answer than either the implementation or productivity literature provides.

At first glance, it would seem that turning to one of the earlier public administration scholars, Chester Barnard, would be a source for recognition of the tension among the two sets of values, liberty and justice, apparent in the American ethos (Scott 1988). According to William G. Scott, liberty and justice are interdependent principles from the perspective of Chester Barnard, one of the major founders of administrative and management theory, and considered a founder of orthodox public administration. In Barnard's conception of management theory, a dialectical tension does not prevail between liberty and justice. Instead of conflict, a harmonious mutuality exists between them. Scott reports Barnard's comment (1946), "We cannot have freedom without order. We apparently cannot have order and all our freedoms too." According to Scott's interpretation, this harmony is what Barnard felt that management must cultivate for the sake of cooperation and thus, saw the problem in organizational design as how much employee liberty and justice to allow in order to advance management goals (Scott and Mitchell 1987). The cultivation of harmony and the balancing of employee liberty and justice seems from the managerial framework a goal toward

which to work. However, my understanding of Barnard is that Scott's interpretation of liberty is really what Barnard meant by individual freedom. Balancing individual freedom of employees and justice within the same system may have a harmonious mutuality. Both the employees and the procedures of justice are, however, thought to be within one system. Liberty, on the other hand, may be a concept that refers more to a group phenomenon, the liberty of business to pursue profit, for example. Therefore, the question of connecting one system, the government's, primarily devoted to questions of justice, and another system, private enterprise, primarily devoted to questions of liberty, may not be as easy. Indeed, there may be a mutual conflict, instead of a mutual harmony, between the two sets of values.

Thus, the contention here is that the "deeper" answer to why Circular A-76 has remained so controversial and the resistance encountered in its implementation so pervasive is that two different sets of conflicts must be resolved. First, the conflicts among the values associated with Justice itself must be resolved, conflicts described earlier as those involved with balancing entitlement, service, productivity, equity. Second, the conflicts associated with the clashing of Justice and Liberty must be resolved. The tensions between the values of liberty, built into the program with the notion of competition, with those of justice, the values more traditionally emphasized in public management, cannot be easily subsumed under guidelines reflecting orthodox's management heritage. Instead, more scrutiny of the program's assumptions and of ways to resolve these conflicts are needed.

The basic premise that "competition" will yield the most efficient service arrangement is certainly up for scrutiny. Many scholars have pointed out the problems of "small numbers supply" (Williamson 1975); inadequate resources to institute a competitive process; and difficulty of adequately establishing the work. However, Ruth Hoogland deHoog (1991), reviewing the work of Dennis Mueller (1986), notes that the recent literature of public choice and behavioral psychology observes that experiments on human behavior indicate that opportunistic and illegal behavior is more likely to be found in competitive settings and that cooperative behavior is more likely to be produced in cooperative settings. As noted earlier in the work, Circular A-76 definitely follows the "competitive model" in the setting up of guidelines and in the bidding process. Thus, as any other

contracting program following the competitive model where stakes are high, opportunistic behavior is called for and in at least in the observations at selected sites, is thus elicited. Once set up as a "competitive bid" opportunistic model, the systems must be designed to reveal and punish such behavior. Hence, the very first premise of A-76 requires a deep investment in agency surveillance, monitoring, and meaningful systems of rewards and penalties.

But Circular A-76, in the light of the conclusion above, adds even a more difficult wrinkle. It requires the potential monitors, evaluators, and work partners of potential service providers, the contractors, to enter into the "competitive bidding process" with its inherent predilection toward opportunism and illegal behavior. After the contract decision, it hardly seems surprising that sometimes both sides find it difficult to engage either in the negotiation or interdependent behavior required to actually get the work done. The Circular asks a lot of human nature, governmental and contractor behavior. One day, competitors; the next, colleagues?

The answer to the question of theoretical incongruence is that the lack of a good fit may be partially due to the usual implementation problems of incentives, politics, and technical uncertainty. Complexity is generated from the multitude of different personnel being involved in different phases and the blending of both guidelines from A-76 and other established contracting guidelines, a complexity for which procedures and the many nuances of coordination are still being established. However, at least part of the difficulty must lie with the incongruity between the guidelines and the working level situations. The "systems" concept of the guidelines and the working level realities of lack of integration of contractor and government and contractor to contractor need attention. In addition, at the working level, the need to balance the priorities associated with the concept of "Justice" is a time consuming task. Added to that task with contractor entrance is the need to balance some of the components of "Liberty"-- competition, autonomy, or independence-- with the concepts of "Justice."

# *An Assessment of Circular A-76 Within the Governance*

## *Framework*

Earlier in this chapter, suggestions for improving the program as it now stands were given. Constructed in the light of the current program's difficulties, these were a rather matter-of-fact accounting of incremental improvements that may make the program more palatable and that may make it more effective. These are comforting to any analyst who desires a quick solution to a difficult problem. But, thirty years experimentation with the program and its constant controversy leaves one wondering if incremental changes can make that much difference. Instead, after the review of the perceptions at the base level and our beginning understanding of the ontologies intermeshed within the program, we need to review here both some of the positive and negative aspects of Circular A-76 as part of governance

Agreeing with Harold Seidman (U. S. Congress, 1990) and pondering some of the earlier work cited by Bozeman on "property rights," one conclusion to be drawn is that at the policy level the differences between public and private both descriptively and normatively have not been sufficiently addressed nor sufficiently considered in implementing policy. Efficiency is only one of the goals of government, an important one, but one that may be more easily reached by indirect, than direct, methods. Government has more important goals to consider than efficiency alone.

Another question that has not had enough attention since Circular A-76's inception is what should government do. Once that question is decided on the basis of important American governmental values, such as the Constitution's guidance and the balance of liberty and justice, then the second question can be asked of how we transfer those functions. In the program as it now stands, the method wags the program. Thus, from the governance standpoint, not enough attention has been paid to the question of what are the appropriate roles of government. In light of the governance concept, asking what should government do requires asking the questions from the managerial,

political, and legal frameworks. For example, contracting out a library has to raise questions of interruption of base functions from the managerial point of view, of responsiveness to the public or national security from a political point of view, and of the individual rights of current employees and equity from the legal viewpoint.

One question that combines some of the concerns of all three viewpoints and has not been explored in the contracting literature is that of system improvement. Questions surrounding system improvement are different questions from those of who is most productive. Under some circumstances and with some tasks, government systems seem to be more efficient; with other tasks and circumstances, private enterprise systems are. Further, at the individual level current research indicates no conclusive relationship between individual productivity and commitment to an organization. However, most of the research does not take into account another dimension, a dimension of commitment to improvement. Managers, perhaps more than academic researchers, understand this dimension and often couch it in terms of setting climates where people will "walk the extra mile," will advocate for the program and its activities, and are committed enough to the mission of the organization to act in both their own interest and that of the organization.<sup>37</sup>

Circular A-76 as it is currently implemented contains few incentives for improving the system. Although there are incentive programs for contractors to contribute new ideas or technologies to the Navy, much of the private sector ethos works against such sharing of innovation. Profit is important and necessary to private sector companies and diluting the chances of maximizing gains from a product or process technology must be carefully scrutinized in private enterprise. Further, questions from the legal framework, such as ownership rights and profit sharing, become more complicated when combining private and public. Since the taking of large risks with contracts may be considered both politically and managerially foolhardy from most agency viewpoints, most

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<sup>37</sup> In other words, commitment does not assume as Adam Smith's "invisible hand" that people acting in their own best interests necessarily act in the best interest of any whole. Organizational commitment, rather, should assume that employees would at least pause and try to reconcile that which is in their best interests and the organization's when they conflict. However, an added variable of how commitment to professions and commitment to organizations complement or contradict each other within contracting has not yet been explored.

go with the fixed price contract, a contract type that offers little incentive for management improvement. Within the Circular as it is now constructed, improvement or sharing of innovation is not encouraged.

Another aspect of contracting out under Circular A-76 which has not been recognized, as it has not been recognized in most contracting programs, is that contracting is a process. Thus, as a process, different techniques and different procedures are needed for each stage. However, continuity also needs to be maintained. Circular A-76, again at least partially because of the need to satisfy three different frameworks, is constructed in such a way that it is difficult to maintain continuity since different personnel and different guidelines are appropriate for each stage. Further, the adversarial image necessary for a legal relationship with the private sector can hamper the development of a productive working relationship with the contractor once the contract is in place.

A third assessment, currently touted by many critics of the program, is the need for the program to compromise its top down approach. The proposal to integrate the program with other efficiency programs within OMB is one step in the right direction. The second promising proposal is to give agencies a budgetary allotment and the choice of using a mixture of incentives and efficiency programs to accomplish their missions. Both of these have political, managerial, and legal barriers to their acceptance and still need hammering out in the political marketplace, but both have merit. Others may include initiatives such as the Federal Cooperative, where employees form cooperatives and bid or take over former governmental functions.

However, long-term contracting where there may be an opportunity to build partnerships also has its problems of susceptibility to corruption and development of monopsony. Further, in an effort to be competitive, the need for both Congress and upper management in the Executive branches to carefully examine their assumptions about government employees becomes apparent. Sometimes reflecting one of the myths of American society, those responsible for enforcing the system under which governmental employees work often blame the employees for the system's problems. Stepping back into the governance frame, however, assists us in seeing that our legacy in the sepa-

ration of powers and in a private enterprise economy may require us to examine a program's assumptions rather than assume lack of efficiency is due to quality of employees. In other words, a governance point of view would alert us to the difficulty of having a contractor bring the strengths of private enterprise--entrepreneurial spirit, reputed commitment to efficiency--into a system of interdependent tasks.

Finally, if the desire is to disengage from tasks and to become more efficient, some other alternatives could be considered. A total look at all activities of a base as part of a strategic plan seems to be a must to a decision of what can be contracted. Also, keeping employees informed of their productivity in comparison with other similar functions within government and with those in private enterprise is needed. This suggestion is similar to "profit centers" where the productivity of the shop or section as a whole is measured. Used as a case study in Management Control in Nonprofit Organizations (Anthony and Young 1984), the "profit center" work measurement system provides a mechanism which measures productivity without threatening the individual worker. Employees in individual shops can see how well they are doing compared to the private sector and competitiveness to improve versus the private sector may be one way to increase efficiency. In current management terminology, such a system may be described as a combination of a good MIS (Management Information System) and team management. With careful planning, many of the commercial activities under A-76 could utilize this method. If, after a designated time, performance was not at an expected level, then contracting out could be considered. In the meantime, functions not judged inherently governmental could be discontinued due to attrition and retirement.<sup>38</sup> However, important to reinforce here is that basic to any of these approaches are better systems of keeping data on productivity and inventory (e.g., see Thomas H. Fuller 1987).

Finally, Circular A-76 tries to substitute "efficiency program" language for government historically having become involved in programs that legitimately could be better provided by the private sec-

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<sup>38</sup> Realistically, of course, individual performance would probably still have to be measured within a separate system since promotions and monetary rewards are based on individual effort, not group, a difficulty that plagues any effort at instituting team management successfully in American society and a topic beyond the scope of this work.

tor, according to either political or economic rationale. As one field manager commented, "What business would wipe out an entire essential subunit of its operations in one fell swoop when the subunit was performing well?" The logic of the question is hard to refute. Because that logic is hard to refute and because government has had a commitment to treating its employees equitably, the program is destined not to play well in Peoria. Yet, for government in general, and perhaps the defense installations, in particular, some of the good methodology of Circular A-76 should not be thrown out with the bad. The techniques of Circular A-76 are good teaching tools for bases and subunits, asking them to reexamine their work, alerting them that efficiency is important, and reminding them that government must be held accountable to the way in which taxpayers' money is spent. Coupling some of A-76's techniques of review and cost comparisons with a strategic plan of efficiency reviews and reasonable decision making at the base level makes sense. Threatening a unit that has performed well in the past, having them lose a bid by a very small margin, suffering incalculable costs of low morale and transition, and undergoing cost modifications and other effects from lack of capability in contract monitoring doesn't make as much sense. However, to avoid the latter case, this paper contends government must look at contracting as a process and as part of governance. Otherwise, attempts at efficiency will increase fragmented administration and simply add to the loops through which work is accomplished.

In summary, then, Circular A-76, as the program is implemented now, at most, belongs in a box of many tools from which agencies could choose to implement performance goals and disinvest in activities that more appropriately belong to the private sector. On the positive side, whatever the Circular's fate, many of the techniques of Circular A-76 should be retained, used, and improved upon by management throughout government. It is difficult to reach an ethos of performance until one has some sense of where to place an emphasis.

Two reasons exist for placing the Circular over in the toolbox, rather than calling for an immediate rescission of the mandate. One is that placing it as a part of many management tools from which government can draw will correct one of the Circular's greatest deficiencies. That is the need to extend to all governmental units an emphasis on performance instead of simply a holding of an unit

to the correct procedure. Performance is what the Circular calls for with business and the same emphasis could work with governmental units. However, units must be convinced that the intention is serious and reasonable and that efforts are being made to make a performance orientation, again a managerial orientation, consistent with both the legal flavor of personnel guidelines and the political realities of working within a trichotomy and with the private sector.

Another reason for holding the Circular in abeyance, rather than discontinuing it, is to give the government time to work out a more concerted stand on "make or buy." Other better plans for effectiveness and efficiency may exist, but the Circular is one of the most often used reminders of the need to continually ask the question of what government should be doing, what is more appropriate for the private sector, and how best to connect the two. Because of the conflict the Circular engenders, it forces these questions on the agenda of Congress and the executive branch.

Although this review indicates and this author believes that Circular A-76 is not the best program to return activities to the private sector nor to insure more effective and efficient governmental performance, the fact is there is no national "make or buy" policy (and perhaps we are not ready for one). While we wait for a better policy, contracting is becoming a new way of governing. Circular A-76, as poor as its performance, continually forces us to engage in debate about the appropriate roles of private and public. Our knowledge of the different elements that must be balanced in combining public and private in the contracting process points to the debate itself being the most important outcome. Further experimentation with contracting and further debate within a contractual governance framework may eventually lead to a synthesis.

Such a debate needs to be conducted on many levels. For each specific contracting situation, explicit review of the benefits and drawbacks of alternative incentives and implementation plans should be considered. At a broader level, contracting as a tool needs to be examined and analyzed for a range of consequences including efficiency, effectiveness, and equity. The appropriate education for contract administration should also become part of the debate. As governance, an attempt at balancing the legal, political, and managerial must be undertaken within a pluralistic polity and

a capitalist economy. The creative tension among all elements, now, in an informed dialogue is our best hope for governance. The debate must continue and the search for alternatives accelerate.

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## **Appendix A. Circular A-76**



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

August 4, 1983

CIRCULAR NO. A-76 (REVISED)

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Performance of Commercial Activities

1. Purpose. This Circular establishes Federal policy regarding the performance of commercial activities. The Supplement to the Circular sets forth procedures for determining whether commercial activities should be performed under contract with commercial sources or in-house using Government facilities and personnel.
2. Rescission. OMB Circular No. A-76 (revised), dated March 29, 1979; Transmittal Memoranda 1 through 7; Supplement No. 1 to the Circular, dated March 1979.
3. Authority. The Budget and Accounting Act of 1921 (31 U.S.C. 1 et seq.), and The Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 et seq.).
4. Background.
  - a. In the process of governing, the Government should not compete with its citizens. The competitive enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength. In recognition of this principle, 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.
  - b. This national policy was promulgated through Bureau of the Budget Bulletins issued in 1955, 1957 and 1960. OMB Circular No. A-76 was issued in 1966. The Circular was revised in 1967 and again in 1979.
5. Policy. It is the policy of the United States Government to:
  - a. Achieve Economy and Enhance Productivity. Competition enhances quality, economy, and productivity. Whenever commercial sector performance of a Government operated commercial activity is permissible, in accordance with this Circular and its Supplement, comparison of the cost of contracting and the cost of in-house performance shall be performed to determine who will do the work.

b. Retain Governmental Functions In-House. Certain functions are inherently Governmental in nature, being so intimately related to the public interest as to mandate performance only by Federal employees. These functions are not in competition with the commercial sector. Therefore, these functions shall be performed by Government employees.

c. Rely on the Commercial Sector. 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.

6. Definitions. For purposes of this Circular:

a. A commercial activity is 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 commercial activity is not a Governmental function. A representative list of such activities is provided in Attachment A. A commercial activity also may be part of an organization or a type of work that is separable from other functions or activities and is suitable for performance by contract.

b. A conversion to contract is the changeover of an activity from Government performance to performance under contract by a commercial source.

c. A conversion to in-house is the changeover of an activity from performance under contract to Government performance.

d. A commercial source is a business or other non-Federal activity located in the United States, its territories and possessions, the District of Columbia or the Commonwealth of Puerto Rico, which provides a commercial product or service.

e. A Governmental function is 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. Services or products in support of Governmental functions, such as those listed in Attachment A, are commercial activities and are normally subject to this Circular. Governmental functions normally fall into two categories:

(1) The act of governing; i.e., the discretionary exercise of Government authority. Examples include criminal investigations, prosecutions and other judicial functions; management of Government programs requiring value judgments, as in direction of the national defense; management and direction of the Armed Services; activities performed exclusively by military personnel who are subject to deployment in a combat, combat support or combat service support role; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

(2) Monetary transactions and entitlements, such as tax collection and revenue disbursements; control of the treasury accounts and money supply; and the administration of public trusts.

f. A cost comparison is the process of developing an estimate of the cost of Government performance of a commercial activity and comparing it, in accordance with the requirements in Parts II, III, and IV of the Supplement, to the cost to the Government for contract performance of the activity.

g. Directly affected parties are Federal employees and their representative organizations and bidders or offerors on the instant solicitation.

## 7. Scope.

a. Unless otherwise provided by law, this Circular and its Supplement shall apply to all executive agencies and shall provide administrative direction to heads of agencies.

b. This Circular and its Supplement apply to printing and binding only in those agencies or departments which are exempted by law from the provisions of Title 44 of the U.S. Code.

c. This Circular and its Supplement shall not:

(1) Be applicable when contrary to law, Executive Orders, or any treaty or international agreement;

(2) Apply to Governmental functions as defined in paragraph 6.e.;

(3) Apply to the Department of Defense in times of a declared war or military mobilization;

(4) Provide authority to enter into contracts;

(5) Authorize contracts which establish an employer-employee relationship between the Government and contractor employees. An employer-employee relationship involves close, continual supervision of individual contractor employees by Government employees, as distinguished from general oversight of contractor operations. However, limited and necessary interaction between Government employees and contractor employees, particularly during the transition period of conversion to contract, does not establish an employer-employee relationship. Additional guidance on this subject is provided in the Federal Personnel Manual issued by the Office of Personnel Management;

(6) Be used to justify conversion to contract solely to avoid personnel ceilings or salary limitations;

(7) Apply to the conduct of research and development. However, severable in-house commercial activities in support of research and development, such as those listed in Attachment A, are normally subject to this Circular and its Supplement; or

(8) Establish and shall not be construed to create any substantive or procedural basis for anyone to challenge any agency action or inaction on the basis that such action or inaction was not in accordance with this Circular, except as specifically set forth in Part I, Chapter 2, paragraph I of the Supplement, "Appeals of Cost Comparison Decisions."

8. Government Performance of a Commercial Activity. Government performance of a commercial activity is authorized under any of the following conditions:

a. No Satisfactory Commercial Source Available. Either no commercial source is capable of providing the needed product or service, or use of such a source would cause unacceptable delay or disruption of an essential program. Findings shall be supported as follows:

(1) If the finding is that no commercial source is capable of providing the needed product or service, the efforts made to find commercial sources must be documented and made available to the public upon request. These efforts shall include, in addition to consideration of preferential procurement programs (see Part I, Chapter 3, paragraph C of the Supplement), at least three notices describing the requirement in the Commerce Business Daily over a 90-day period or, in cases of bona fide urgency, two notices over a 30-day period. Specifications and requirements in the solicitation shall not be unduly restrictive and shall not exceed those required of in-house Government personnel or operations.

(2) If the finding is that a commercial source would cause unacceptable delay or disruption of an agency program, a written explanation, approved by the assistant secretary or designee in paragraph 9.a. of the Circular, must show the specific impact on an agency mission in terms of cost and performance. Urgency alone is not adequate reason to continue in-house operation of a commercial activity. Temporary disruption resulting from conversion to contract is not sufficient support for such a finding, nor is the possibility of a strike by contract employees. If the commercial activity has ever been performed by contract, an explanation of how the instant circumstances differ must be documented. These decisions must be made available to the public upon request.

(3) Activities may not be justified for in-house performance solely on the basis that the activity involves or supports a classified program or the activity is required to perform an agency's basic mission.

b. National Defense.

(1) The Secretary of Defense shall establish criteria for determining when Government performance of a commercial activity is required for national defense reasons. Such criteria shall be furnished to the Office of Federal Procurement Policy, OMB, upon request.

(2) Only the Secretary of Defense or his designee has the authority to exempt commercial activities for national defense reasons.

c. Patient Care. Commercial activities performed at hospitals operated by the Government shall be retained in-house if the agency head, in consultation with the agency's chief medical director, determines that in-house performance would be in the best interests of direct patient care.

d. Lower cost. Government performance of a commercial activity is authorized if a cost comparison prepared in accordance with Parts II, III and IV of the Supplement demonstrates that the Government is operating or can operate the activity on an ongoing basis at an estimated lower cost than a qualified commercial source.

9. Action Requirements. To ensure that the provisions of this Circular and its Supplement are followed, each agency head shall:

a. Designate an official at the assistant secretary or equivalent level and officials at a comparable level in major component organizations to have responsibility for implementation of this Circular and its Supplement within the agency.

b. Establish one or more offices as central points of contact to carry out implementation. These offices shall have access to all documents and data pertinent to actions taken under the Circular and its Supplement and will respond in a timely manner to all requests concerning inventories, schedules, reviews, results of cost comparisons and cost comparison data.

c. Be guided by OFPP Policy Letter No. 78-3, "Requests for Disclosure of Contractor-Supplied Information Obtained in the Course of a Procurement," in considering requests for information supplied by contractors.

d. Implement this Circular and its Supplement within 90 days after its issuance with a minimum of internal instructions. Cost comparisons shall not be delayed pending issuance of such instructions. Copies of the implementing instructions and any subsequent changes, the appeals procedure required in Part I, Chapter 2, paragraph I of the Supplement, and the names of the designated officials in paragraph 9.a. and the offices in paragraph 9.b. will be forwarded to the Office of Federal Procurement Policy, OMB.

e. Ensure the initial reviews of all existing in-house commercial activities are completed in accordance with Part I, Chapter 1, paragraph C.1. of the Supplement by September 30, 1987.

10. Annual Reporting Requirement. No later than March 15 of each year, agencies shall submit to the Office of Federal Procurement Policy a report on the implementation of OMB Circular No. A-76, in accordance with instructions in Part I, Chapter 4 of the Supplement.

11. OMB Responsibility and Contact Point. All questions or inquiries should be submitted to the Office of Management and Budget, Office of Federal Procurement Policy, 726 Jackson Place, NW, Room 9013, Washington, DC 20503. Telephone number (202) 395-6810.

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12. Effective Date. This Circular and its Supplement are effective immediately, but need not be applied where a cost comparison was begun, using the March 1979 Circular, prior to the effective date.

13. Review. The policy in this Circular will be reviewed no later than four years from the date of issuance.

David A. Stockman  
Director

**EXAMPLES OF COMMERCIAL ACTIVITIES<sup>1</sup>****Audiovisual Products and Services**

Photography (still, movie, aerial, etc.)  
 Photographic processing (developing, printing, enlarging, etc.)  
 Film and videotape production (script writing, direction, animation,  
 editing, acting, etc.)  
 Microfilming and other microforms  
 Art and graphics services  
 Distribution of audiovisual materials  
 Reproduction and duplication of audiovisual products  
 Audiovisual facility management and operation  
 Maintenance of audiovisual equipment

**Automatic Data Processing**

ADP services — batch processing, time-sharing, facility management, etc.  
 Programming and systems analysis, design, development, and simulation  
 Key punching, data entry, transmission, and teleprocessing services  
 Systems engineering and installation  
 Equipment installation, operation, and maintenance

**Food Services**

Operation of cafeterias, mess halls, kitchens, bakeries, dairies,  
 and commissaries  
 Vending machines  
 Ice and water

**Health Services**

Surgical, medical, dental, and psychiatric care  
 Hospitalization, outpatient, and nursing care  
 Physical examinations  
 Eye and hearing examinations and manufacturing and fitting glasses  
 and hearing aids  
 Medical and dental laboratories  
 Dispensaries  
 Preventive medicine  
 Dietary services  
 Veterinary services

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1 This list should be used in conjunction with the policy and procedures of the Circular to determine an agency's A-76 commercial activities inventory. It has been compiled primarily from examples of commercial activities currently contracted or operated in-house by agencies. It should not be considered exhaustive, but should be considered an aid in identifying commercial activities. For example, some Federal libraries are primarily recreational in nature and would be deemed commercial activities. However, the National Archives or certain functions within research libraries might not be considered commercial activities. Agency management must use informed judgement on a case-by-case basis in making these decisions.

Industrial Shops and Services

Machine, carpentry, electrical, plumbing, painting, and other shops  
 Industrial gas production and recharging  
 Equipment and instrument fabrication, repair and calibration  
 Plumbing, heating, electrical, and air conditioning services,  
 including repair  
 Fire protection and prevention services  
 Custodial and janitorial services  
 Refuse collection and processing

Maintenance, Overhaul, Repair, and Testing

Aircraft and aircraft components  
 Ships, boats, and components  
 Motor vehicles  
 Combat vehicles  
 Railway systems  
 Electronic equipment and systems  
 Weapons and weapon systems  
 Medical and dental equipment  
 Office furniture and equipment  
 Industrial plant equipment  
 Photographic equipment  
 Space systems

Management Support Services

Advertising and public relations services  
 Financial and payroll services  
 Debt collection

Manufacturing, Fabrication, Processing, Testing, and Packaging

Ordnance equipment  
 Clothing and fabric products  
 Liquid, gaseous, and chemical products  
 Lumber products  
 Communications and electronics equipment  
 Rubber and plastic products  
 Optical and related products  
 Sheet metal and foundry products  
 Machined products  
 Construction materials  
 Test and instrumentation equipment

Office and Administrative Services

Library operations  
 Stenographic recording and transcribing  
 Word processing/data entry/typing services  
 Mail/messenger  
 Translation  
 Management information systems, products and distribution  
 Financial auditing and services  
 Compliance auditing  
 Court reporting  
 Material management  
 Supply services

Other Services

Laundry and dry cleaning  
 Mapping and charting  
 Architect and engineer services  
 Geological surveys  
 Cataloging  
 Training -- academic, technical, vocational, and specialized  
 Operation of utility systems (power, gas, water, steam, and sewage)  
 Laboratory testing services

Printing and Reproduction

Facility management and operation  
 Printing and binding -- where the agency or department is exempted  
 from the provisions of Title 44 of the U.S. Code  
 Reproduction, copying, and duplication  
 Blueprinting

Real Property

Design, engineering, construction, modification, repair, and maintenance  
 of buildings and structures; building mechanical and electrical equip-  
 ment and systems; elevators; escalators; moving walks  
 Construction, alteration, repair, and maintenance of roads and other  
 surfaced areas  
 Landscaping, drainage, mowing and care of grounds  
 Dredging of waterways

Security

Guard and protective services  
 Systems engineering, installation, and maintenance of security systems  
 and individual privacy systems  
 Forensic laboratories

Special Studies and Analyses

Cost benefit analyses  
Statistical analyses  
Scientific data studies  
Regulatory studies  
Defense, education, energy studies  
Legal/litigation studies  
Management studies

Systems Engineering, Installation, Operation, Maintenance, and Testing

Communications systems — voice, message, data, radio, wire,  
microwave, and satellite  
Missile ranges  
Satellite tracking and data acquisition  
Radar detection and tracking  
Television systems — studio and transmission equipment,  
distribution systems, receivers, antennas, etc.  
Recreational areas  
Bulk storage facilities

Transportation

Operation of motor pools  
Bus service  
Vehicle operation and maintenance  
Air, water, and land transportaton of people and things  
Trucking and hauling

## **Appendix B. Listing of Interviewees**

## INTERVIEWEES

### GOVERNMENT, ACADEMIC, and PROFESSIONAL PERSONNEL

Ms. Fran Clark  
Analyst  
Office of Management and Budget

Ms. Meryl Coast  
Commercial Activities Analyst  
Department of Defense

Mr. Earl Dehart  
Commercial Activities Analyst  
Department of Defense

Mr. Douglas Hansen  
Assistant Director for Commercial Activities  
Department of Defense

Mr. Charles Maca  
Director, Commercial Activities Branch  
U. S. Navy

Mr. David Muzio  
Director, Commercial Activities Program  
Office of Management and Budget

Ms. Nancy Patterson  
Analyst  
General Accounting Office

Mr. Michael McNerney  
Director, General Counsel  
Civil Personnel  
U. S. Navy

Professor James L. Perry  
School of Public and Environmental Affairs  
Bloomington, Indiana

Professor Harold Rainey  
Public Administration  
University of Florida

Mr. Joseph Sisk  
Aide to Congressman Gary Ackerman

Mr. John H. Smithey  
Former CA Analyst  
U. S. Navy

Staff for Subcommittee on Federal Service,  
Post Office and Civil Service,  
Senate, Committee on Governmental Affairs

Ms. Julie Tagen  
Post Office and Civil Service Committee  
House of Representatives

PERSONNEL AT FOUR BASES

Dahlgren: 14 initial interviews. Repeat interviews.

Personnel: Commander, Commercial Activities Management  
Analysts, Personnel, Labor Relations, Contractor,  
Contractor Assistant, Displaced Workers,  
Heads of other subunits, Contract Representative  
Workers. Experience working at this base doing  
CA studies.

Indian Head: 18 initial interviews. Repeat interviews.

Personnel: CoTr, Commercial Activities Management  
Analysts, Personnel, Labor Relations, Contractor, Contractor  
Assistant, Displaced Workers, Heads of other subunits,  
Workers.

Patuxent River: 18 initial interviews.

Personnel: Commander, CoTr, Commercial Activities Management  
Analysts, Personnel, Labor Relations, Contractor, Contracto  
Assistant, Displaced Workers, Heads of other subunits,  
Workers.

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