Washington Energy Facility Site Evaluation Council, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 26, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 26th day of March 1996.

For the Nuclear Regulatory Commission.

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–7836 Filed 3–29–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Information Collection Activity Under OMB Review

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*), this notice requests comment on the following two proposed information collections contained in the proposed revision to Office of Management and Budget (OMB) Circular A–133, ''Audits of Institutions of Higher Education and Other Non-Profit Institutions,'' published on March 17, 1995, for comment within 60 days, i.e., by May 16, 1995 (60 FR 14594).

The information collection request involves two types of entities: (1) Reports from auditors concerning their audit findings to auditees and (2) reports from auditees to the Federal Government concerning these audit reports. Circular A–133 specifies what auditors are required to report to auditees, including under Sections 13.c., Auditor's Reporting under Financial Statements and Auditor's Reporting and 18.b.(4), Program Audit Guide Not Available under Program-Specific Audit (these sections are being renumbered in the pending final revision as § ____.505 and § ____.235(b)(4), respectively). Circular A–133 also specifies what auditees are required to report to the central clearinghouse designated by OMB, including the ''Information Accompanying Certificate of Audit,'' enumerated in Sections 16.b., Certification under Report Submission and 18.c., Reporting for Program-Specific Audits under Program-Specific Audit (these sections are being renumbered in the pending final revision as § ____.320 and § ____.235(c), respectively). OMB anticipates that there will be both a long form and short form for auditees to report these data elements, depending on the characteristics of the auditee and the amount and number of Federal awards expended by the auditee.

OMB estimates that reporting by auditors currently takes 10 hours and will take 12 hours under the proposal. Further, OMB estimates that reporting by auditees currently takes 16 hours on the average and will take 20 hours under the proposal.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposal, contact Sheila Conley, Office of Federal Financial Management, OMB (telephone: 202–395–3070).

ADDRESSES: Written comments should be sent by May 31, 1996 to: Sheila Conley, Office of Federal Financial Management, OMB, Room 6025 New Executive Office Building, Washington, DC 20503.

John B. Arthur,

Associate Director for Administration.

[FR Doc. 96–7871 Filed 3–29–96; 8:45 am]

BILLING CODE 3110–01–P

Information Collection Activity Under OMB Review

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*), this notice announces that an information collection request was submitted to the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs for review. On January 19, 1996, OMB published both interim final amendments to OMB's governmentwide guidance on lobbying with a request for comments within 60 days, i.e., by March 19, 1996 (61 FR 1412), and a notice of information collection activity under OMB review for emergency processing under 5 CFR 1320.13 (61 FR 1413). To date, only nonsubstantive comments have been received.

The information collection request is for amendments to the Standard Form (SF)–LLL, Disclosure of Lobbying Activities, as necessitated by the ''Lobbying Disclosure Act of 1995, which became law on December 19, 1995,'' and which was effective January 1, 1996. This early effective date necessitated a request for emergency processing. The SF–LLL is the standard disclosure reporting form for lobbying paid for with non-Federal funds, as required by OMB's governmentwide guidance for new restrictions on lobbying, which was issued under 31 U.S.C. 1352 (popularly know as the ''Byrd Amendment''). The new lobbying statute simplified the information required to be disclosed under 31 U.S.C. 1352.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposal, contact Barbara F. Kahlow, Office of Federal Financial Management, OMB (telephone: 202–395–3053).

ADDRESSES: Written comments should be sent by May 1, 1996, to: Barbara F. Kahlow, Office of Federal Financial Management, OMB, Room 6025 New Executive Office Building, Washington, DC 20503 and Edward Springer, OMB Desk Officer, Office of Information and Regulatory Affairs, OMB, Room 10236 New Executive Office Building, Washington, DC 20503.

John B. Arthur,

Associate Director for Administration.

[FR Doc. 96–7870 Filed 3–29–96; 8:45 am]

BILLING CODE 3110–01–P

Performance of Commercial Activities, OMB Circular No. A–76

AGENCY: Office of Management and Budget, Executive Office of The President.

ACTION: Notice of Transmittal Memorandum No. 15, to the OMB Circular No. A–76, ''Performance of Commercial Activities,'' ''*Revised Supplemental Handbook*.''

SUMMARY: The Office of Management and Budget (OMB) publishes its revisions to the Supplemental Handbook issued as a part of its August 4, 1983, OMB Circular No. A–76, ''Performance of Commercial Activities.'' Circular No. A–76 was

originally published in the August 16, 1983, Federal Register, at pages 37110–37116.

The Revised Supplemental Handbook seeks the most cost-effective means of obtaining commercial support services and provides new administrative flexibility in the Government's make or buy decision process. The revision modifies and, in some cases, eliminates cost comparison requirements for recurring commercial activities and the establishment of new or expanded interservice support agreements; reduces reporting and other administrative burdens; provides for enhanced employee participation; eases transition requirements to facilitate employee placement; maintains a level playing field for cost comparisons between Federal, interservice support agreement and private sector offers, and seeks to improve accountability and oversight to ensure that the most cost effective decision is implemented. The proposed revision improves upon existing guidance by clarifying provisions that may have made the cost comparison process unnecessarily difficult or lead to less than optimal outcomes.

DATES: The provisions of the Revised Supplemental Handbook are effective March 27, 1996 and shall apply to all cost comparisons in progress that have not yet undergone bid opening or where the in-house bid has not yet otherwise been revealed.

AVAILABILITY: Copies of the Revised Supplemental Handbook may be obtained by contacting The Executive Office of the President, Office of Administration, Publications Office, Washington, DC 20503, at (202) 395–7332. This document is also accessible on the OMB Home Page. The on-line OMB Home Page address (URL) is http://www.whitehouse.gov/WH/EOP/omb

FOR FURTHER INFORMATION CONTACT: The Budget Analysis and Systems Division, NEOB Room 6104, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Telephone Number: (202) 395–6104, Fax Number (202) 395–7230.

SUPPLEMENTARY INFORMATION: OMB received 26 comments in response to its request for comments on proposed revisions to the Supplemental Handbook, published in the October 23, 1995, Federal Register, page 54394: fifteen from Federal agencies; ten from industry or trade groups and one from an employee organization. A summary of the substantive agency and public comments and changes made to the Supplemental Handbook is attached.

Alice M. Rivlin,

Director.

Attachment—Summary of Agency and Public Comments and Changes Made to the OMB Circular A–76 Supplemental Handbook

Introduction

1. Americans want to ''get their money's worth'' and want a Government that is more businesslike and better managed. The reinvention of Government begins by focusing on core mission competencies and service requirements. Managers must begin by asking some fundamental questions, like: why are we in this business; has industry changed so that our involvement or level of involvement is no longer required; is our approach cost effective and, finally, assuming the Government has a legitimate continuing role to play, what is the proper mix of in-house, contract and interservice support agreement resources.

2. The OMB Circular A–76 Revised Supplemental Handbook is designed to enhance Federal performance through competition and choice. It seeks the most cost effective means of obtaining commercial products and support services and provides new administrative flexibility in the Government's make or buy decision process. The revisions modify and in some cases eliminate cost comparison requirements for recurring commercial and interservice support agreement services; reduce reporting and other administrative burdens; provide for enhanced employee participation; ease transition requirements; provide a level playing field, while recognizing the differences between Government and private sector accounting and performance measurement systems, and seek to improve accountability and oversight to ensure that the most cost effective decision is, in fact, implemented.

3. The purpose of Circular A–76 is not to convert work to or from in-house, contract or interservice support agreement performance. Rather, it is designed to: (1) Balance the interests of the parties involved, (2) provide a level playing field between public and private sector offerors, and (3) encourage competition and choice in the management and performance of recurring commercial activities. In establishing common ground rules for public-public and public-private competitions, the Revised Supplement protects the procurement process, establishes a common baseline for cost and quality assessments, creates certain ''good employer'' relationships for affected Federal and contract employees and determines competitively who is best prepared to do the work. It is designed to empower Federal managers to make sound business decisions related to the provision of recurring product or support service requirements.

Summary of Comments and Changes

1. Inherently Governmental Functions

Inherently governmental functions, as defined in the Office of Federal Procurement Policy (OFPP) Policy Letter 92–1, ''Inherently Governmental Functions'' (Federal Register, September 30, 1992, page 45096 and the Federal Register, January 26, 1996, page 2627 implementing the Policy Letter through the Federal Acquisition Regulations at Sections 7.103, 7.105 and 7.500) are not subject to performance by contract. Therefore, management decisions that involve the transfer of inherently governmental work between agencies, including interservice support agreements (ISSAs), are not subject to the Circular or the Revised Supplemental Handbook. Likewise, decisions involving business management practices, the development of joint ventures, asset sales, the devolution of activities to State and local governments, the termination of obsolete services or the decision to exit an entire business line are not subject to the cost comparison requirements of the Circular.

Agency and Public Comments: Several commenters suggested that individual functions should be defined as either inherently governmental or commercial. One commenter suggested that the revision modifies the definition of what is inherently governmental by including exemptions for certain activities from the cost comparison requirements of the Circular. Although the draft proposed to update and expand the list of commercial activities attached to the August 1983 Circular A–76, the listing remains unchanged. OMB is not considering revisions to the Circular itself nor is OMB revising OFPP Policy Letter 92–1. The Circular's listing of commercial activities is illustrative. It is not meant to be all-encompassing. Activities at a greater or lesser degree of specificity may be considered commercial activities. Questions regarding whether a function is or is not commercial or inherently governmental may be forwarded to OMB for review.

The Supplement clarifies that certain commercial activities are exempt from the cost comparison requirements of the

Circular and may be converted to or from in-house, contract or interservice support agreements without cost comparison, for reasons other than cost. Inherently governmental activities are not commercial in nature, are not subject to the Circular and cannot be converted to contract performance.

2. Reliance on the Private Sector

The Revised Supplement delegates to agency management additional authority to determine the proper mix of in-house, contract and interservice support agreement resources. While the Revision retains the 1983 Supplement's requirements to contract new or expanded work, unless a cost comparison is conducted to support conversion to in-house or interservice support agreement performance, it also requires conversion to contract only when it is cost effective. The decision to conduct a cost comparison is itself within the agency's discretion.

Agency and Public Comments: Industry and trade group commenters, generally, sought a ''reinvigorated'' policy statement of strict reliance on the private sector. In their view, the Revision should require or, at a minimum, permit the direct conversion of all commercial activities to contract performance, without cost comparison. Objections were made to the proposal to permit agencies to continue their existing interservice support agreements for commercial activities, without cost comparison.

OMB is not, at this time, considering changes to the Circular A–76 itself. The Circular requires reliance on the private sector when shown to be economically justified. It does not require the conversion of in-house work to contract, as a matter of policy, unless a cost comparison, conducted in accordance with its Supplement, demonstrates it to be in the best interests of the taxpayer.

3. Exemptions From Cost Comparison

The Circular itself exempts certain recurring commercial activities from cost comparison, including: Mobilization requirements within the Department of Defense, the conduct of research and development (R&D), and direct patient care activities in Government hospitals or other health facilities.

The Revision clarifies this policy to permit activities that are exempt from cost comparison requirements of the Circular to be retained in-house or converted to or from in-house, contract or interservice support agreement performance, without cost comparison. The list of functions exempted from cost comparison is expanded to include: national security activities, mission critical core activities, and temporary emergency requirements.

Agency and Public Comments: There was a general level of agreement among all commenters that the addition of these functions to the list of those exempt from cost comparison was needed and appropriate. Several commenters took exception to the proposed 10 percent of total FTE limit for ''core activities.'' The Revision removes this limitation and, thereby, provides a significantly expanded level of administrative flexibility to identify functions as ''core'' and exempt them from cost comparison. In place of the 10 percent core limit, one commenter requested the right to appeal agency determinations of their core requirements and decision to convert from in-house to contract performance on the basis of a core designation. This change has not been made. The determination of a ''core'' function is, fundamentally, a management decision.

4. Annual Inventory and Reporting Requirements

The revision eliminates required study schedules and quarterly study status reporting, as unnecessary and administratively burdensome. Agencies are, however, required to maintain an inventory of commercial activities with information on completed cost comparisons.

Agency and Public Comments: There was general agreement that the existing OMB inventory and reporting system was unnecessary and administratively burdensome. In accordance with one commenter's suggestion, all inventory requirements are now identified in Appendix 3. These requirements are consistent with the Department of Defense Commercial Activity Inventory and Reporting System, to permit Government wide aggregations of data by function and reason code. At their discretion, civilian agencies should be able to duplicate the DOD inventory and reporting system without significant time or expense.

5. Waivers

The 1983 Supplement permitted agencies to issue cost comparison waivers, if effective price competition is available and a determination is made that an in-house Most Efficient Organization (MEO) has no reasonable chance of winning a competition with the private sector. Agencies were not permitted to waive cost comparison requirements to convert from contract to in-house performance and there is no mention of waivers with respect to interservice support agreement competitions.

The Revision broadens an agency's authority to waive cost comparisons to convert to or from in-house, contract or interservice support agreement, without cost comparison, if it is found that: (1) The conversion will result in a significant financial or service quality improvement and that the conversion will not serve to reduce significantly the level or quality of competition in the future award or performance of work or (2) there is a finding that the in-house or contract (in the case of a possible conversion from contract to in-house performance) offers have no reasonable expectation of winning a competition. In general, if an agency undertakes a major independently conducted business analysis and determines that significant savings—in excess of the minimum differential—can be achieved by conversion or, if significant performance improvements are likely, beyond what could be reasonably expected from a reorganization of the current approach, the agency may be justified in waiving the A–76 cost comparison. The Revision clarifies that agency waivers, with supporting documentation, are subject to public review and the A–76 administrative appeal process. Finally, the Revision also formalizes OMB's waiver guidance on DOD Base Closures and expands it to include commercial activities at civilian agency locations that have announced a date-certain closure.

Agency and Public Comments: There was a general level of agreement among all commenters that the authority to issue waivers needed to be broadened to include the conversion of work to or from in-house, contract or interservice support agreement. There was also a general level of agreement that the waiver requirements of the 1983 Supplement were too narrow—only one waiver having been issued in over 12 years. Concern was expressed, however, for the organizational level authorized to issue such waivers. Originally, the comment draft limited the waiver decision to the Secretary. In response to a number of comments, the authority to issue a cost comparison waiver may now be delegated to the Assistant Secretary level. Within DOD, this authority may be further delegated to the Assistant Service Secretaries. This delegation facilitates the appeal of waiver decisions, which has also been clarified in the Revision over the comment draft.

6. Employee Participation

The Revision provides additional guidance regarding the development of

the Performance Work Statement, in-house management plan and cost estimate. The Revision encourages agencies to consult with employees and involve them at the earliest possible stages of the competition process, subject to the restrictions of the procurement process and conflict of interest statutes. Agencies are requested to afford employees and private sector interests an opportunity to comment on solicitations prior to the opening of bids. This will ensure that the solicitation is complete and that all parties are treated fairly. The Revision also affords additional time to interested parties to submit cost comparison appeals.

Agency and Public Comments: There was very little comment or disagreement on this issue. One commenter felt that it was particularly important that the Revision clarify employee participation opportunities. The 1983 Supplement was silent on this issue.

7. Performance Standards

The 1983 Supplement did not permit conversion decisions to be based upon the comparison of performance measures or standards. The Revision authorizes conversion to or from in-house, contract or interservice support agreement performance, if an agency determines that performance meets or exceeds generally recognized performance and cost standards. Performance standard-based competitions must reflect the agency's fully allocated costs of performance and must be certified as being in full compliance with the *Managerial Cost Accounting Concepts and Standards for the Federal Government,* Statement of Recommended Accounting Standards Number 4, or subsequent guidance. The cost comparability procedures described in the Revision, such as those related to fringe benefit factors, will also be used in assessing performance against these standards.

Agency and Public Comments: There was very little comment or disagreement on this issue, although one commenter suggested that the use of existing manuals to establish performance standards for Federal employees is too new an idea. Performance measures and cost standards are becoming more widely used to assess performance in government and in the private sector. Indeed their development is required by the Government Performance Results Act (GPRA). As noted by several commenters, the difficulty lies in assuring that historical performance measures are accurate and comparable. The Revision establishes required levels of oversight and certification to ensure that a high degree of comparability is reached. The question was raised whether performance standard-based cost comparisons could be used in interservice support agreement comparisons. The Revision clarifies the paragraph to note that the answer is yes, but only when those standards are consistent with the comparative costing rules of the Revision. This may require some detailed analysis of industry standards and adjustments to internal agency performance measures.

8. Conversions With Federal Employee Placement

The Revision authorizes the conversion of functions involving 11 or more FTE to contract performance, without cost comparison, if fair and reasonable prices can be obtained from qualified commercial sources *and* all directly affected Federal employees serving on permanent appointments are reassigned to other comparable Federal positions for which they are qualified.

Agency and Public Comments: There was strong support and strong opposition to this provision. One commenter suggested that no conversions should be authorized without a cost comparison—even if all Federal employees are placed in other comparable Federal positions. It was suggested that this new administrative flexibility denies taxpayers the benefits of a cost comparison and fails to accommodate public employee interests. Short of eliminating this provision, OMB was asked to assure the right to appeal such decisions and that placement be limited to the commuting area. In contrast, another commenter objected to the idea that failure to place a single employee could require a cost comparison or otherwise delay a direct conversion to contract.

The provision has been modified to clarify that in addition to assuring placement in ''comparable Federal positions,'' the conversion to contract with placement and without cost comparison is limited to competitive awards. These direct conversions to contract must retain the benefits of full and open competition. In the absence of adverse actions to Federal employees and similar to the policy of reliance on the private sector for new starts and expansions, Federal managers should be permitted to rely on the competitive dynamics of the private sector.

The request to limit Federal employee placements to the commuting area has been rejected. The request is too limiting and not in the long-term best interests of either the Government, who has an interest in redirecting important resources, or individual employees.

The comment draft admonished Federal managers not to modify, reorganize or divide functions for the purpose of circumventing the requirements of the Revised Supplement. One commenter further requested the ability to appeal individual organizational changes. While the Revision expands the appeal process to permit interested parties to appeal not only costing questions, as permitted under the 1983 Supplement, but also general compliance issues, it does not permit appeals of basic organizational decisions. The A–76 appeal process is not a surrogate to resolve management-union complaints.

9. The 10 FTE or Less Rule

The 1983 Supplement's 10 FTE or less rule that permits the conversion of a function to contract performance without cost comparison—even with adverse employee impacts—is extended by the Revision to the conversion of similarly sized activities to in-house or interservice support agreement performance, without cost comparison.

Agency and Public Comments: One commenter suggested that the 10 FTE or less threshold be raised to 50 FTE. This change would permit the conversion of activities to or from in-house, contract or interservice support agreement, without cost comparison and without placement (adverse action would be authorized). This recommendation was not accepted.

The 10 FTE or Less Rule is a recognition that there is a break-even point where the cost of conducting the comparison is not likely to outweigh the expected benefits. The 10 FTE or Less Rule has long been accepted as a reasonable approximation of this point. The Revision does not change this requirement. Based upon agency experience, we believe that cost comparisons at the 11–50 FTE levels do result in significant MEO and competition savings.

10. MEO Implementation

The Revision eliminates the 1983 Supplement's 180-day MEO implementation requirement. The Revision requires agencies to develop a transition plan for each competitive solicitation. This approach should permit agencies to plan for employee placements and facilitate a more orderly transition of work to or from in-house, contract or interservice support agreement.

The Revision permits agencies to assume that current organizational structures and wage grade systems reflect their MEO. A signed certification is required and may be based upon an

number of reinvention initiatives. Certified MEO decisions are not subject to appeal.

Agency and Public Comments: There was very little comment or disagreement on the MEO implementation change. Taken in combination with the Revision's new requirement to conduct Post-MEO Performance Reviews, the provision permits for better employee and workload transition planning.

Several commenters, however, asked for permission to consider existing interservice support agreement reimbursable rates as fully competitive costs, under the Circular, for purposes of comparisons with the private sector. This change has not been made. In general, these rates do not currently reflect the requirements of the CFO Act, GPRA or the FASB, nor do they reflect the fringe benefits, liability, overhead, depreciation, capital, contract administration, or other cost adjustments necessary for a level playing field to exist, such as Federal taxes. They are also often structured to permit the cross-subsidization of one service to another within the agency's revolving fund.

11. Cost Comparison Completion

The 1983 Supplement makes no mention of study completion time frames. However, because functions could not be converted to contract or in-house performance without a cost comparison, there has been an incentive to never complete the cost comparison, if the desired outcome is to maintain the status quo. The Revision requires agencies to report to OMB on any study not completed within 18 months for single function studies and 36 months for multi-function studies and the corrective actions taken.

Agency and Public Comments: Several commenters objected to the suggestion that A–76 cost comparisons (including the development of the PWS and Management Plan) can or should be completed within 18 to 36 months. Other commenters objected that the time frames were too long and did not reflect the 45–90 day average solicitation response times required by most Government service support solicitations.

The required report is to OMB. It is not a requirement to complete a study. However, where a study has not been completed, the agency must explain what the problem is and what the agency is doing to assure that study completion times will be reasonable. The analogy to the private sector's solicitation response requirement is inappropriate, as the Government is also developing historical workload and minimum performance standard data. It is not expected that cost comparisons conducted for possible conversion from contract to in-house performance will require these longer time frames, as the workload and performance measures are, generally, well developed.

12. Post-MEO Performance Reviews

Contracts are regularly inspected for performance and subjected to financial audit. As a matter of accountability, the Revision requires agencies to conduct Post-MEO Performance Reviews on not less than 20 percent of all functions retained or converted to in-house performance as a result of a cost comparison. These reviews will confirm that the MEO was properly estimated and implemented and that work is being performed in accordance with the terms, quality standards and costs specified in the PWS.

Agency and Public Comments: This proposal was found to be insufficient by several commenters, while it was strenuously objected to by several others. One commenter asked that the requirement be eliminated as an additional and unnecessary administrative burden. The name was changed from Post-MEO Performance Audit to Post-MEO Performance Review to assuage concerns over the level of detail required.

OMB is committed to ensuring that the cost comparison process is fair and equitable. A major private sector complaint has been that Government agencies ''buy-in.'' The problem is that the private sector undergoes extensive contract performance inspections, evaluations, and financial audits, while the in-house organization is currently subject to none of these oversight reviews. It was urged that 100 percent of all in-house cost comparison ''wins'' be subjected to Post-MEO Review. There is, however, concern for the administrative burdens being imposed by the Circular. Therefore, the Revision retains a 20 percent requirement.

Several commenters suggested that if the MEO is found to be in default, it should not be allowed to compete under a new solicitation. This recommendation has not been accepted. The Revision calls for the contracting officer to retreat first to the next low offeror, if feasible. If retreat to the next low offeror (contract bid) is not feasible, a new cost comparison is required. In retreating to the next low offeror, a conversion to contract without additional cost comparison is possible.

One commenter suggested that Post-MEO Reviews be announced in the *Commerce Business Daily.* This recommendation has not been accepted because it would be burdensome. To ensure compliance over time, the A–76 inventory and reporting system will require agencies to prepare an annual list of completed cost comparisons retained in-house or by contract and the number of Post-MEO Reviews completed. This listings will be made available to the public upon request.

One commenter asked whether failure to comply with the Transition Plan implementing the MEO would be construed as a default. Changes have been made to clarify that a significant failure to implement the Transition Plan, such that it would invalidate the cost comparison, would be considered a default. Another commenter suggested making the review due one year after implementation of the MEO. The 180-day MEO implementation requirement no longer exists and since the MEO may be implemented via the transition plan establishing a hard date to conduct the review is difficult. It must be completed within the cost comparison period. The time frame for completing Post-MEO Performance Reviews is left to the discretion of the agency, but must be within the contract or cost comparison period.

13. The Streamlined Cost Comparison Alternative

In addition to the generic cost comparison methodology, a streamlined cost comparison process has been developed for activities involving 65 FTE or less. This approach avoids the cost comparison's current reliance on the procurement process, until a final decision to contract has been made. Within the policies and procedures laid out by the Revision, existing contracts can be used to determine competitive private sector costs.

Agency and Public Comments: The streamlined cost comparison methodology was generally accepted and even widely acclaimed. The only real disagreement centered on the size of functions that could be cost compared using the approach, which was established in the comment draft at not more than 50 FTE.

Several commenters asked that the threshold be unlimited or raised significantly. OMB did not expect that either the private sector or the unions would accept an unlimited streamlined approach, as it could be applied to convert to or from in-house, contract or interservice support agreement. One commenter, believing that most A–76 cost comparisons to date have involved less than 50 FTE, suggested that *all* such functions be *required* to use the Streamlined cost comparison approach provided by the draft. This

recommendation was not accepted for the reasons noted above. Under the streamlined approach and as a matter of equity, there is no opportunity for the development of an in-house MEO, nor is there an opportunity for the private sector to sharpen its competitive bid. The process relies on current in-house and contract costs.

One commenter was concerned that contracting officers, as Federal employees, might be inclined to select the more costly comparable contracts, in order to give Federal employees a competitive advantage. To mitigate against this possibility, it was suggested that industry ''input'' in the selection of comparable contracts is necessary. We disagree. We are not prepared to make such an assumption nor is OMB prepared to impose the additional administrative burdens implied by such a process on the agencies. The contracting officer's selection of comparable contracts—adjusted for scope and quality, are not subject to appeal.

Two other important comments were received on this issue. First, there was a request that a policy statement be included that it is the policy of the Government to consolidate mutually supporting functions to the extent possible, to achieve economies of scale. This recommendation has not been accepted, because A–76 is not the place for such a policy determination and should rather be left to agency managers. It was also recommended that the section include a prohibition on breaking functions down to permit the use of the streamlined approach. Like the prohibition against modifications and reorganizations to permit direct conversion to contract, the comment draft has been revised to prohibit agencies from reorganizing specifically to permit the use of a streamlined cost comparison.

14. Sector-Specific Cost Comparison Methodologies

The Revision provides sector-specific cost comparison methodologies for aircraft and aviation services and for motor vehicle fleet management services. Additional sector- specific cost comparison methodologies are expected and interested parties are encouraged to work with OMB on their development.

Agency and Public Comments: While comments were received in response to the two industry cost comparison methodologies outlined in the draft, there were no objections to the concept of sector-specific cost comparisons or their development.

Initially, the General Services Administration (GSA) raised concerns about the proposed cost comparison requirements for comparing interservice support agreement performance of motor vehicle fleet services. GSA was concerned that the requirement might conflict with the GSA Administrator's statutory authorities regarding motor vehicles. After further discussion, OMB and GSA agreed to jointly issue the guidance in Appendix 7 on the conduct of these comparisons. Changes were also made to the aircraft and aviation cost comparison methodology to reflect cost accounting improvements suggested by industry and made through the Interagency Committee for Aviation Policy (ICAP).

15. Costing Changes

a. *Labor.* Based upon the Air Force Management Engineering Agency (AFMEA) man-hour availability report, the Revision increases the annual available productive hours per Federal employee from 1744 hours to 1776. Fringe benefit factors are updated and expanded to include the projected costs of retirement health benefits to the Government. The standard retirement cost factor for the Federal Government's complete share of the weighted CSRS/FERS retirement cost to the Government, based upon the full dynamic normal cost of the retirement systems; the normal cost of accruing retiree health benefits based on average participation rates; Social Security; and Thrift Savings Plan (TSP) contributions has been increased from 21.7 percent to the current (1996) rate of 23.7 percent of base payroll for all agencies.

Agency and Public Comments: There was very little comment or disagreement on the cost of labor or fringe. One commenter noted that the number of productive military hours in a given year are not cited and suggested that a 30 percent cost penalty be added to in-house bids that assume continued or mixed military operations. The Revision has been changed to require the Service's Comptroller to establish the number of military productive hours in a year.

b. *Material Costs.* The escalation rates for supplies received from GSA and DLA are removed. The escalation issues reflected in the 1983 Supplement are now reflected in the reimbursable rates used by these agencies.

Agency and Public Comments: There was very little comment or disagreement on the cost of materials.

c. *Overhead.* The inclusion of direct and indirect operations and general and administrative overhead has long been an area that has led to difficulty and controversy. This controversy has been aggravated by the fact that the Supplemental Handbook requires, generally, the calculation of the competitive costs of in-house MEO performance, not the fully allocated cost of in-house (or contract) performance. In an effort to resolve this problem and improve the integrity of the cost comparison process, the Revision requires a standard overhead cost factor of 12 percent of direct labor costs.

Agency and Public Comments: Industry and trade groups strongly supported the standard overhead cost factor concept. It has been their sense that agencies have significantly understated overhead in A–76 cost comparisons, generally. One commenter, recognizing the difference between fully allocated costs and the comparative cost approach utilized by the Supplement, suggested a rate of 15 percent instead of the 12 percent in the comment draft. Agencies were either silent on the issue, agreed, or agreed in principle but recommended a range of alternative factors (ranging from 5 percent to 12 percent).

The Revision continues to require a 12 percent standard overhead cost rate in each cost comparison. Within DOD, however, the Revision distinguishes civilian from military overhead. DOD military overhead will be established by the Service Comptroller. It should also be reemphasized that the Revision permits any agency to submit data to justify any one of a series of alternative agency-wide standard cost factors to OMB for approval.

d. *Cost of Capital.* The 1983 Supplement did not require agencies to consider the cost of capital in the development of their in-house cost estimate, though such costs were effectively included in competitive contract offers. The Revision requires that agencies include the cost of capital for those assets purchased two years before or during the cost comparison performance period and not provided to the contractor as Government Owned and Contract Operated (GOCO) equipment or facilities. Neither capital nor depreciation costs of GOCO facilities and equipment are included in the cost comparison. This change is designed to remove current incentives to delay cost comparisons while new, more efficient equipment is acquired and to reflect the real costs of new assets to the taxpayer.

Agency and Public Comments: There was very little comment or disagreement on the limited inclusion of the cost of capital.

e. *Severance Pay.* The 1983 Supplement permitted agencies to calculate severance at 2% of direct labor or as determined by a Mock RIF. Based

upon the low actual severance rates incurred to date and to avoid the significant administrative costs and delays attendant with conducting a detailed Mock RIF, the comment draft would have restricted severance costs added to the contract bid to 2% of labor costs.

Agency and Public Comments: Upon review, several commenters suggested that the 2 percent severance factor is too low given current downsizing efforts. Placement is getting more and more difficult and a wider range of services are now being considered for conversion. It was also noted that recent emphasis on interservice support agreements and franchising will result in the elimination of additional placement opportunities.

To accommodate these concerns, the Revision now uses a factor of 4 percent. Agencies may also develop agency-wide severance pay factors, with associated documentation, for approval by OMB.

f. *Contract Administration.* The 1983 Supplement permitted agencies to use a contract administration factor (Table 3–1) or more accurate data. Again, in an effort to improve upon the integrity of the cost comparison process and reduce the administrative burdens of conducting a cost comparison, the Revision requires the use of Table 3–1, but the factors have been increased for most studies. This approach balances recent changes in Federal procurement regulations, that make contract administration easier, with concern that proper oversight is achieved.

Agency and Public Comments: There was very little comment or disagreement on the cost factor for contract administration.

g. *Gain or loss on Assets.* The 1983 Supplement permitted agencies to add to the contract price the loss taken on any asset excessed, even if the asset is used by the in-house MEO and not made available to the contractor. The Revision does not permit any losses to be calculated on any asset not included in the MEO. Assets used by the MEO and not made available to the contractor can only be calculated as gains and subtracted from the contractor's bid.

Agency and Public Comments: There was very little comment or disagreement on this issue.

h. *The minimum Differential.* The minimum differential represents three costs; (1) costs not specifically included in the in-house cost estimate; (2) unknown morale and other disruption costs caused by a conversion decision; and (3) a minimum level of estimated savings to the taxpayer. The differential also applies to conversion to in-house performance.

Agency and Public Comments: There was very little comment or disagreement on the minimum differential, although one commenter recommended its elimination. Initially, the draft provided for the minimum differential to be set at 10 percent of the labor costs in line 1 of the cost comparison form. It was noted, however, that this differential can become more and more burdensome as studies involve larger groups of employees. For this reason the minimum differential is capped for conversions to or from in-house, contract or interservice support agreement performance at the lesser of 10 percent of in-house personnel-related costs (Line 1) *or* 10 million over the performance period. Whenever a cost comparison involves a mix of existing in-house, contract, new or expanded requirements, or assumes full or partial conversions to in-house performance, each portion is addressed individually and the total minimum differential is calculated accordingly.

I. *Prorating of Asset Costs.* The Revision provides that assets made available to the contractor are eliminated from consideration in the cost comparison. Only the remaining competitive costs of operations or maintenance are included. Assets not made available to the contractor are included at their depreciation values.

Agency and Public Comments: One commenter suggested that assets used by more than one in-house activity should also be treated as a common cost and not included in the Government's in-house estimate. The problem is that conversion to contract or interservice support agreement will change that asset's consumption rate. Equity requires that all assets used by the MEO *and* not provided to the contractor be treated as having value, particularly when the contractor must replace those assets at a direct cost to that contractor's competitive offer.

16. Other Changes

Other changes in the Revised Supplement are designed to address specific problems that have been raised over the years. These include the following:

a. Interservice Support Agreements

The 1983 Supplement required agencies to conduct cost comparisons with the private sector prior to entering into an interservice support agreement (ISSA). The 1983 Supplement also required all existing interservice support providers to cost compare their current operations not later than September 30, 1987, or all related work would be converted directly to contract performance.

The Revision clarifies policies regarding the use of interservice support agreements and establishes revised cost comparison requirements. ISSAs may offer agencies the opportunity to reduce costs through economies of scale. As a result and to encourage agency consideration of ISSAs, the Revision permits agencies to consolidate existing, new or expanded work requirements to ISSAs, without cost comparison, if that work is transferred prior to October 1, 1997, and the consolidation does not result in a conversion of work to or from contract performance and the conversion is not otherwise authorized by the Revision. Effective October 1, 1997, the Revision will permit agencies to continue and to renew existing ISSA agreements without cost comparison. Agency heads may also consolidate support services into new, intra-service revolving or franchise funds without cost comparison—assuming that such a consolidation does not involve the conversion of work to or from in-house or contract performance. Effective October 1, 1997, and unless otherwise exempt from the cost comparison requirements of the Circular, new or expanded interservice support requests must be justified by a cost comparison. ISSAs that have themselves, however, conducted a cost comparison with the private sector may, at the customer agency's discretion, accept new or expanded work without further cost comparison on the customer or provider agency's part, until the provider agency's workload increases by 30 percent or 65 FTE, at which time another provider cost comparison is required.

Agency and Public Comments: Reaction to proposed interservice support agreement cost comparison requirements was as mixed as it was strong. The industry and trade group commenters were opposed to the cost comparison process outlined in the Revision, as weakening the provisions of the 1983 Supplement, though it is recognized that the 1983 provisions were not complied with in practice. The Revision, generally, only restricts the growth of these activities and then only as determined by a cost comparison.

In contrast and with only one exception, Federal agencies were equally opposed to any requirement to compete even new or expanded work with the private sector, prior to initiating an interservice support agreement. Agencies are concerned that requiring A–76 cost comparisons for interservice support agreements will have a chilling effect upon the efficient

use of such agreements. In the view of the several commenters, the under-utilization of existing Government capacity is already cause for concern. The agencies were also opposed to the inclusion of depreciation, capital, contract administration costs and the minimum differential, when comparing interservice support agreement costs with agency or contract offers. More importantly, these commenters expressed concern that the administrative flexibilities made available by ISSAs will be lost if subject to A–76 administrative appeal.

To further full and open competition, OMB has, in large part, not adopted these agency recommendations. Interservice support agreements are designed to provide commercial activities, under contract and under an agreed upon reimbursable rate. Existing ISSAs will continue at the customers option. The Revision relies on competition to determine their growth. It is inappropriate to simply displace a private sector offeror by resorting to internal agreements. Concerns for administrative flexibility are met by the Revision's use of exemptions, waiver opportunities and the incentives created to encourage existing ISSAs to compete directly with the private sector. Nevertheless, in an effort to encourage agencies to consider ISSAs, the draft was changed to permit agencies to consolidate work to ISSAs prior to October 1, 1997, without a cost comparison.

One commenter that strongly agreed with the draft's outline and requirements, also sought to have the Revision clarify what a proposing agency needed to submit in response to a requesting agency's solicitation and to clarify the requesting agency's right to reject an ISSA proposal. These changes have been made. The requirement was also clarified to permit Federal and State governments to provide and receive services without cost comparison to meet emergency disaster relief requirements.

Finally, several commenters suggested that a specific exception be granted to inherently governmental activities, particularly interagency contract administration services. As previously noted, inherently governmental functions are not subject to the cost comparison requirements of the Circular or this Supplement. The Revision clarifies, however, that inherently governmental levels of contract administration are not subject to the cost comparison requirements of the Supplement.

b. Military Personnel

The 1983 Supplement provided that commercial activities performed by military personnel were to be converted to civilian performance. This resulted in a reluctance to cost compare certain activities. The Revision permits the military Services to cost military personnel at the composite rate issued by the DOD Comptroller and, if retained in-house, would permit these activities to continue to be performed by military personnel. This change does not, however, authorize the conversion from in-house civilian to military personnel.

Agency and Public Comments: There was very little comment or disagreement on this issue.

c. Source Selection

There have been complaints that the 1983 Supplement was too cost determinative and that it relied too heavily on the low bid offeror. The benefits of competition should be expressed in terms of the quality of services and in terms of cost to the taxpayer. The problem has been how the Government's quality of services will be evaluated and by whom, when: (a) A Government agency itself has a vested interest in the competition and (b) the best overall private sector offeror chosen from among qualified and responsive offerors is not the low contract offeror. Guidance is provided on the use of competitive negotiation or source selection techniques in A–76 cost comparisons. The Revision permits agencies to conduct cost comparisons and award to other than the low private sector offeror.

Agency and Public Comments: The private sector, generally, raised concerns regarding the use of ''best value'' contracts and the inclusion of ''past performance'' in the selection process. While recognizing that the Revision includes needed guidance on the use of source selection and negotiated procurement in a cost comparison with a vested Government interest, these commenters sought assurances that the Government's in-house bid would also undergo a ''best value'' and a ''past performance'' evaluation. The problem, of course, is that the A–76 process assumes that the selected private sector offeror will compete with a duly authorized Government cost estimate. A costing penalty that would assume that the in-house bid was not a good past performer was suggested, but not quantified, or accepted.

A–76 has long assumed that in-house performance is acceptable and, thus, the in-house bid has always been treated as a responsive, responsible offer. This is not unlike what is done in the private sector when a true make or buy decision is being analyzed. While it is true that as much as 25 percent of a contractor's technical proposal may be weighted for evaluation purposes for past performance, the contractor's bid does not directly include past performance in competition with the Government's cost estimate. The recommendation has not, therefore, been accepted.

d. Appeals

Following a tentative waiver or cost comparison decision, the A–76 Administrative Appeals process is invoked. The procedure does not authorize an appeal outside the agency or judicial review, nor does it authorize sequential appeals.

The Revision extends the time frame that appeals may be submitted from 15 working days to 20. The agency may extend the appeal period to a maximum of 30 work days if the cost study is particularly complex.

Agency and Public Comments: One commenter placed great emphasis on the appeals process and was generally supportive of the process outlined by the Revision. Greater latitude in the range of issues that are subject to appeal, clarification as to the right to appeal agency waiver decisions, and for the right to appeal to an authority outside of the agency was requested. The Revision was changed to clarify that appeals may be made, based upon the factual information contained in agency waiver justifications. Changes were also made to modify the scope of eligible appeals to include: formal information denials, instances of clear A–76 policy violations, and to clarify that streamlined and sector specific cost comparisons were subject to appeal.

Not accepted was a recommendation to permit appeals of agency reorganizational decisions. The issue here is the establishment of an agency's reorganization for the alleged ''purpose'' of violating the Circular. The recommendation could potentially subject all modifications and organizational changes to an A–76 appeal. Also not accepted was a recommendation that appeals be decided by another agency. The request to appeal to an outside agency was not accepted, because it would be administratively burdensome and because experience with the Circular has not shown intra-agency appeals to be flawed. We should note, however, that the Revision raises the level of the appeal authority above that provided in the 1983 Supplement. Finally, one commenter requested authority to

appeal agency ''core'' determinations. This recommendation was not accepted; these are non-appealable management decisions.

One commenter noted that the appeals procedures did not specifically address the use of performance measures as permitted by Part I, Chapter 1.C.7. An additional paragraph clarifying this point has been included in the Revision.

Another commenter suggested that the private sector should be able to initiate a cost comparison requirement and, further, appeal any agency decision to dismiss private proposals to contract out or conduct a cost comparison. This recommendation was not accepted. The decision to conduct a cost comparison, like other management decisions, is left to the agency's discretion without appeal. While vendors may make proposals to agency mangers to contract out and may identify ways to reduce cost or overhead and improve services, there is no administrative recourse provided by this Supplement, if the agency opts not to conduct a study.

e. Right of First Refusal

The concept of the Right-of-First-Refusal was first established by the 1979 Supplemental Handbook. This concept holds that, as a condition of contract award, the contractor in an A–76 decision to convert from in-house to contract performance shall provide adversely affected Federal employees the ''Right-of-First-Refusal'' for jobs created in the contractor's organization as a result of the award of the contract. The Revision reaffirms this as a superior requirement, while incorporating E.O. 12933, ''Non- Displacement of Qualified Workers Under Certain Contracts,'' dated October 20, 1994, which extends the Right-of-First-Refusal to existing and to subsequent contract employees in this or follow-on contracts.

Agency and Public Comments: There was no comment on this issue.

[FR Doc. 96–7868 Filed 3–29–96; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

[RI 38–128]

Proposed Collection; Comment Request Review of an Expiring Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management has submitted to the Office of Management and Budget a request for clearance of an expiring information collection. RI 38–128, Annuity Payment Election, is used to give recent retirees the opportunity to waive Direct Deposit of their payments from OPM. The form is sent only if the separating agency did not give the retiring employee this election opportunity.

We estimate 45,500 forms are completed annually. Each form takes approximately 30 minutes to complete. The annual estimated burden is 22,750 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@mail.opm.gov.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to: Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–7857 Filed 3–29–96; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

Public Announcement

Pursuant to the Government in the Sunshine Act

(Public Law 94–409) [5 U.S.C. Section 552b]

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 1:00 p.m., Tuesday, April 2, 1996.

PLACE: 5550 Friendship Boulevard, Suite 400, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting.

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.
3. Approval of the U.S. Parole Commission's Draft Transfer Treaty Training Manual.
4. Discussion of the Proposed Quorum at § 2.26.
5. Report on Streamlining Activities.
6. Proposed Policy for Special Parole Term Violators in the Fifth Circuit.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: March 28, 1996.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 96–8017 Filed 3–28–96; 2:27 pm]

BILLING CODE 4410–01–M

Sunshine Act Meeting

Record of Vote of Meeting Closure

(Public Law 94–409) (5 U.S.C. Sec. 552b)

I, Jasper Clay, Jr., Vice Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately two o'clock p.m. on Thursday, March 14, 1996 at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide four appeals from National Commissioners' decisions pursuant to 28 C.F.R. Section 2.27. Six Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Carol Pavilack Getty, Jasper Clay, Jr., Vincent J. Fechtel, Jr., John R. Simpson, and Michael J. Gaines.

IN WITNESS WHEREOF, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: March 28, 1996.

Jasper Clay, Jr.,

Vice Chairman, U.S. Parole Commission.

[FR Doc. 96–8018 Filed 3–28–96; 8:45 am]

BILLING CODE 4410–01–M