concert, to acquire voting shares of Cherokee Bancshares, Inc., St. Paul, Minnesota, and thereby indirectly acquire Cherokee State Bank of St. Paul, St. Paul, Minnesota.

Board of Governors of the Federal Reserve System, June 9, 2003.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 03–14909 Filed 6–12–03; 8:45 am]

**BILLING CODE 6210–01–S**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 8, 2003.

**A. Federal Reserve Bank of Kansas City** (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

*1. AllNations Bancorporation, Inc.,* Shawnee, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Calumet, Calumet, Oklahoma.

**B. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

*1. The Ginger Murchison Foundation,* Athens, Texas; to become a bank holding company by acquiring 85.9 percent of the voting shares of The First National Bank of Athens, Athens, Texas.

**C. Federal Reserve Bank of San Francisco** (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

*1. Eggemeyer Advisory Corp,* WJR Corp., Castle Creek Capital LLC, Castle Creek Capital Partners Fund I, LP, Castle Creek Capital Partners Fund IIa, LP, and Castle Creek Capital Partners Fund IIb, all of Rancho Santa Fe, California; to acquire directly and indirectly more than 25 percent of State National Bancshares, Inc., Lubbock, Texas, State National Bancshares of Delaware, Inc., Dover, Delaware, Independent Bankshares, Inc., Lubbock, Texas, Independent Financial Corporation, Dover, Delaware, and State National Bank, Lubbock, Texas.

In connection with these applications, the Applicants also have applied to acquire, directly and indirectly, ANB Financial Corporation, Arlington, Texas, ANB Delaware Financial Corporation, Dover, Delaware, and Arlington National Bank, Arlington, Texas.

Board of Governors of the Federal Reserve System, June 9, 2003.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 03–14908 Filed 6–12–03; 8:45 am]

**BILLING CODE 6210–01–S**

## GENERAL ACCOUNTING OFFICE

### Administrative Practice and Procedure; Bid Protest Regulations, Government Contracts

**AGENCY:** General Accounting Office.

**ACTION:** Notice.

**SUMMARY:** The Office of Management and Budget (OMB) recently announced major revisions to Circular A–76, which governs how Federal agencies determine whether to transfer performance of commercial activities from the public to the private sector, or vice versa. Performance of Commercial Activities, 68 FR 32134 (May 29, 2003). As relevant here, the revisions would make competitions involving in-house government competitors more similar to private/private competitions conducted under the Federal Acquisition Regulation (FAR) than has been the case with the competitive sourcing process. This notice solicits comments regarding two key legal questions, namely, whether the revisions made to the Circular affect the standing of an in-house entity to file a bid protest at the General Accounting Office (GAO), and who would have the representational capacity to file such a protest. This notice also solicits comments on other procedural issues raised by the Circular's revisions.

**DATES:** Comments should be submitted on or before July 16, 2003.

**ADDRESSES:** Comments concerning these matters may be submitted by e-mail at *A76Comments@gao.gov,* or by facsimile at 202–512–9749. Due to delivery delays, submission by regular mail is discouraged. Comments may be sent by Federal Express or United Parcel Service to: Michael R. Golden, Assistant General Counsel, General Accounting Office, 441 G Street, NW., Washington, DC 20548.

**FOR FURTHER INFORMATION CONTACT:** Daniel I. Gordon (Managing Associate General Counsel), Michael R. Golden (Assistant General Counsel) or Linda S. Lebowitz (Senior Attorney); all three can be reached on 202–512–9732.

**SUPPLEMENTARY INFORMATION:** GAO's statutory authority to hear bid protests is found in the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. 3551–56 (2000). CICA establishes the standard for standing to file a protest by stating that a protest may be filed by an ''interested party,'' which is defined in the statute as ''an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.'' 31 U.S.C. 3551(2); *see also* Bid Protest Regulations, 4 CFR 21.0(a) (2003).

Under this definition, GAO hears bid protests filed by private-sector firms that have participated in A–76 cost comparisons, since a private firm that participated in an A–76 cost comparison is an actual offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract. Over the past three years, private firms have filed more than 50 protests at GAO challenging the conduct of A–76 competitions.

In contrast, GAO consistently has found that Federal employees and their unions cannot protest any aspect of the A–76 competition, because they do not meet CICA's definition of an ''interested party,'' so that, as a matter of law, GAO lacks authority to consider their protests. In *American Fed'n of Gov't Employees, AFL–CIO et al.*, B–282904.2, June 7, 2000, 2000 CPD ¶ 87 at 3–4, GAO identified a number of reasons for

this conclusion. It pointed out that neither individual Federal employees, nor the in-house plan (the ''Most Efficient Organization,'' or MEO), nor the employees' union representatives are offerors. In addition, GAO found that the MEO plan submitted in an A–76 competition is not an offer as defined under the FAR, because the MEO does not constitute a response to a solicitation (the solicitation currently applies only to private-sector competitors), nor would the MEO, if adopted, lead to formation of a contract, which is a mutually binding legal relationship to perform the services. Indeed, as GAO pointed out, no contract is awarded where the MEO prevails in the cost comparison. *See also American Fed'n of Gov't Employees,* B–223323, June 18, 1986, 86–1 CPD ¶ 572; *American Fed'n of Gov't Employees—Recon.,* B–219590.3, May 6, 1986, 86–1 CPD ¶ 436 (affirming an earlier dismissal).

The April 2002 report of the Commercial Activities Panel recommended that, in the context of improvements to the Federal government's process for making sourcing decisions, a way be found to level the playing field by allowing in-house entities to protest at GAO, as private-sector competitors are allowed to do. The report noted that, if a decision were made to permit the public-sector competitor to protest A–76 procurements, the question of who would have representational capacity to file such a protest would need to be carefully considered.

By making a number of changes from the predecessor Circular, the revised Circular may justify GAO reaching a different conclusion regarding the compliance of the in-house entity with CICA's definition of an ''interested party.'' Unlike under the predecessor Circular, the revised A–76 framework contemplates that the in-house government entity will submit an ''agency tender'' in response to the solicitation that will be evaluated along with private-sector proposals for purposes of ultimately deciding which competitor, public or private, should be selected to perform the work. The agency tender will be developed by an Agency Tender Official (ATO), defined as an agency official with decision-making authority who ''represents the agency tender during source selection.'' Revised Circular at D–2. If the agency tender prevails in the competition, the revised Circular provides that an ''MEO letter of obligation'' will be issued to an official responsible for performance of the MEO. Revised Circular at B–18. Under the revised Circular, this letter of obligation is required to incorporate appropriate portions of the solicitation and tender. *Id.* Under the revised Circular, the public sector source's failure to perform in accordance with its obligations can result in a termination action. Revised Circular at B–20.

The ATO is among those defined under the revised Circular as a ''directly interested party'' for purposes of filing an agency-level protest of the performance decision. Revised Circular at D–4. The revised Circular also defines a ''directly interested party'' to include a ''single individual appointed by a majority of directly affected employees as their agent.'' *Id.* In contrast to the ATO's defined role in the competition, the revised Circular does not define a role for this individual, other than in contesting agency actions taken in connection with an A–76 competition.

It is the cumulative legal impact of these changes that GAO is considering in assessing whether an in-house entity should have standing to file a bid protest at GAO when a competition is conducted under the revised Circular. Under the revised Circular, the agency tender appears to be treated more as an offer than under the predecessor Circular, and, if the source selection results in a decision to accept an agency tender, there will be a letter of obligation, which appears intended to bind the in-house entity, in at least a quasi-contractual way, to the terms of the solicitation and tender. In this regard, it may be viewed as relevant that GAO recently found that a public entity could be an interested party under CICA, even though, if successful in a competition, it would not be obtaining a contract. *Federal Prison Indus., Inc.,* B–290546, July 15, 2002, 2002 CPD ¶ 112. Further, as discussed in *Department of the Navy—Recon.,* B–286194.7, May 29, 2002, 2002 CPD ¶ 76 at 4, GAO reiterated that the in-house entity is essentially a competitor and that in preparing the in-house plan for performance, the MEO team members ''functioned * * * as competitors.''

GAO recognizes that there are various ways to resolve the legal question of interested-party status for in-house entities under the revised Circular. One way would be through case law. That is, GAO could simply wait until a protest is filed by an ATO or another individual or entity representing in-house interests; in response to a request for dismissal on standing grounds (or at its own initiative), GAO could ask the parties to address the matter in submissions and GAO could then issue a decision resolving the protester's interested-party status. Alternatively, GAO could amend its bid protest regulations to address the impact of the revised Circular, or it could issue a notice in the **Federal Register** announcing its legal conclusion. Another alternative would be for Congress to amend CICA's definition of an interested party for purposes of the filing of protests. Obviously, Congress could act even if GAO does not, and, indeed, legislative action would override action by GAO through its regulations or its case law. Finally, if it is found that GAO does not have authority under CICA to consider such protests, GAO could potentially consider protests by the ATO or another individual or entity representing in-house interests as ''non-statutory protests,'' if agencies agree in writing to have GAO decide the protests.

The purpose of this notice is to solicit comments from the public as to which action, if any, GAO should take. GAO would welcome comments from contracting agencies, other Federal agencies, individual Federal employees, Federal employee unions, contractors and other private-sector firms, attorneys (from all sectors), and others wishing to express a view. The most helpful views will be clear and concise, and will reflect familiarity with GAO's bid protest regulations, practice, and case law, as well as with the Circular A–76 framework. The key questions GAO is seeking views on are: (1) What method of deciding the matter GAO should use: case law (that is, wait for a protest presenting the question to be decided by GAO), amendment to the bid protest regulations, a notice in the **Federal Register** announcing GAO's legal conclusion, or no action by GAO; and (2) if GAO should act, what its decision should be—specifically, whether the in-house competitor should, or should not, be considered an interested party, and, if so, who should be viewed as having representational capacity to file a protest at GAO on behalf of the in-house competitor.

It would also be helpful to know the commenters' views on whether counsel for the ATO or the appointed individual would need to apply for admission (and what conditions might affect the likelihood of that counsel being admitted) to a protective order that GAO would issue (as it normally does) to limit access to nonpublic information regarding the procurement. *See* 4 CFR 21.4.

Finally, commenters may wish to address the impact, if any, on their view of the holding from the Court of Appeals for the Federal Circuit (consistent with GAO's view, as explained above) that Federal employees and their union do not qualify as interested parties to protest a decision pursuant to Circular

A–76. *American Fed'n of Gov't Employees, AFL–CIO et al.* v. *United States*, 258 F.3d 1294 (Fed. Cir. 2001).

Another revision to the Circular appears to affect the procedures GAO follows in handling protests of A–76 competitions. Under the predecessor Circular, parties affected by the cost comparison decision were able to challenge the results of the decision under an A–76 administrative appeal process. In light of the availability of this A–76 appeals process, GAO had a longstanding rule, based on comity and efficiency, that it would generally not hear a protest against the propriety of the cost comparison until the A–76 administrative appeals procedure provided by the agency had been exhausted. *See Intelcom Support Servs., Inc.,* B–234488, Feb. 17, 1989, 89–1 CPD ¶ 174; *Direct Delivery Sys.*, B–198361, May 16, 1980, 80–1 CPD ¶ 343. This is so, even though GAO has recognized that there is no statutory or regulatory requirement that an offeror exhaust available agency-level remedies before protesting to GAO. *See BAE Sys.*, B–287189, B–287189.2, May 14, 2001, 2001 CPD ¶ 86 at 17.

The revised Circular abolishes the administrative appeals process, and instead provides that a ''directly interested party'' may contest various aspects of a standard competition by filing an agency-level protest. Under GAO's Bid Protest Regulations, protesters are not required to file an agency-level protest before filing a protest at GAO. In light of the revised Circular's abolition of the special A–76 administrative appeal process, GAO solicits comments on whether it would be appropriate to continue to apply the exhaustion doctrine to A–76 protests or whether protesters should now be permitted to file their A–76 challenges directly with GAO.

Finally, the revised Circular states that ''no party may contest any aspect of a streamlined competition.'' Revised Circular at B–20. Under the revised Circular, a streamlined competition may entail issuance of a solicitation for proposals from the private sector, but that is not required. Revised Circular at B–4. GAO solicits comments on whether it would have a legal basis to consider a protest, from either the private or the public sector, regarding a streamlined competition.

**Anthony H. Gamboa,**

*General Counsel.*

[FR Doc. 03–14934 Filed 6–12–03; 8:45 am]

**BILLING CODE 1610–02–P**

## GENERAL SERVICES ADMINISTRATION

### Notice of Intent To Prepare a Supplemental Environmental Impact Statement

**AGENCY:** General Services Administration (GSA); National Capital Region.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), GSA Order PBS P1095.1F (Environmental considerations in decisionmaking, dated October 19, 1999), and the GSA Public Buildings Service NEPA Desk Guide, GSA plans to prepare a Supplemental Environmental Impact Statement (SEIS) for the proposed campus expansion and new eastern access road to support the consolidation of the Food and Drug Administration (FDA) on the Federal Research Center at White Oak in Silver Spring, Maryland.

**FOR FURTHER INFORMATION CONTACT:** Harry Debes, Project Executive, General Services Administration, National Capital Region, at (202) 260–9583. Please also call this number if special assistance is needed to attend and participate in the scoping meeting.

**SUPPLEMENTARY INFORMATION:** The notice of intent is as follows:

**Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Proposed Campus Expansion and New Eastern Access Road to Support the Consolidation of the Food and Drug Administration at the Federal Research Center at White Oak in Silver Spring, Maryland**

The General Services Administration intends to prepare a Supplemental Environmental Impact Statement (SEIS) to analyze the potential impacts resulting from the proposed campus expansion and new eastern access road to support the FDA consolidation at the Federal Research Center (FRC) at White Oak in Silver Spring, Maryland.

This SEIS is an update and supplement to the analyses presented in the *U.S. Food and Drug Administration Consolidation, Montgomery County, Final Environmental Impact Statement*, April 1997 (*1997 Final EIS*).

**Proposed Campus Expansion**

In 1997, GSA completed an environmental impact statement that analyzed the impacts from the consolidation of 5,974 FDA employees at the FRC. In July 2002, new legislation was enacted that expanded FDA's mandate to support the Prescription Drug User Fee Act (PDUFA) and the Medical Device User Fee and Modernization Act (MDUFMA). The new legislation and the growth of other programs will likely result in an increase of employees at the FRC from 5,947 (studied in the *1997 Final EIS*) to 7,720.

*Eastern Access Road*

In the environmental analysis performed in 1996–1997 for the *1997 Final EIS*, GSA considered traffic impacts and patterns into the FDA facility. It was determined in the Draft EIS, that a new access point was needed from Cherry Hill Road through the eastern portion of the FRC to relieve traffic on New Hampshire Avenue. In order to maintain this access and provide a secure site for the Air Force (located on the northern edge of the FRC), two optional road alignments were studied for the crossing of Paint Branch Creek within the FRC. The road alignment within the FRC was to be selected based on the structural integrity of the existing bridge on Dahlgren Road and on the costs associated with each of the alternatives.

After the release of the Draft EIS, the security requirements of the Air Force changed, and an initial structural investigation found the existing bridge to be sound pending some repair work. Therefore, the two alternative alignments were dropped from the *1997 Final EIS.* The *1997 Final EIS* still proposed a new entrance at Cherry Hill Road because the existing entrance at Dahlgren Road is too close to the Cherry Hill Road/Powder Mill Road intersection to operate safely and efficiently.

In February 2001, the Federal Highway Administration (FHWA—Virginia office), as GSA's agent, prepared a bridge inspection report on Dahlgren Road crossing Paint Branch Creek. In its report, FHWA concluded that ''this structure is in poor condition overall, and should be replaced in the near future.''

Due to the deteriorating conditions of the existing bridge on Dahlgren Road and the increased traffic demands anticipated from the FDA consolidation, GSA has decided to reevaluate the construction of a new access point to and through the eastern portion of the FRC.

**Alternatives Under Consideration**

GSA will analyze the proposed action and no action alternatives for the proposed expansion of the FDA headquarters to include PDUFA and