

**STATEMENT OF ANGELA B. STYLES**

**CHAIR, CROWELL & MORING LLP**

**BEFORE THE HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM**

**SUBCOMMITTEE ON GOVERNMENT OPERATIONS**

JULY 8, 2016

CHAIRMAN MEADOWS, CONGRESSMAN CONNOLLY AND MEMBERS OF THE SUBCOMMITTEE, I appreciate the opportunity to appear before you today to discuss the impact on the private sector of commercial activities being performed by public sector employees. As the former Administrator for Federal Procurement Policy at the Office of Management and Budget from 2001 through most of 2003, I had the unique opportunity to lead a significant effort by the federal government to open commercial activities performed by the government to the dynamics of competition between the public and private sectors. I applaud this Subcommittee for having the courage to examine whether Congress should make the federal marketplace more competitive by shining a bright light on commercial activities performed by public sector employees – activities that have been insulated from scrutiny or competition for many years. History, common sense, and market principles demonstrate that the pressure of competition lowers costs for taxpayers and improves program performance for citizens.

**Policy – No Government Competition with Private Enterprise**

For more than seventy years, Congress and the Executive Branch have struggled with the role of public sector employees in performing commercial activities that may compete with private industry. Many administrations and many Congresses have considered whether commercial activities performed by the government could be provided by the private sector in a more cost effective manner. As the public sector grew in size and mission over seven decades, concerns about public agencies competing directly with private industry seeped into the political discourse. References date back as early as 1932 to House Committees reviewing “Government Competition with Private Enterprise” and signaling a cautionary note about the nature of the work being performed by the federal government. Not until 1955, however, did Rowland Hughes, President Eisenhower’s Director of the Bureau of the Budget (the predecessor to the Office of Management and Budget) issue the first Executive Branch proclamation that the federal government should not be competing with private industry:

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.

Bureau of the Budget Bulletin No. 55-4 to the Head of Executive Departments and Establishments: “Commercial-industrial activities of the Government providing products or services for governmental use.” (Jan. 15, 1955). With very minor changes, the policy of reliance on the private sector was repeated in Bulletin 57-7 (April 1957) and Bulletin 60-2

(September 1959). In March 1976, Bulletin 60-2 was replaced with Bureau of the Budget Circular A-76 and the policy statement was bolstered:

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.

While making bold statements, the Eisenhower Bulletin and its subsequent iterations appear to have done little to further the goal of reducing commercial work performed by the public sector. The federal bureaucracy continued to perform significant levels of commercial activities. A GAO Report from 1972 evidences some effort at performing public-private competitions in the late 1960s, but the report found that in the few cases where commercial activities had been reviewed, “there were no explanations supporting local recommendations that in-house performance of activities be continued.” GAO Report B-158683, *Better Controls Needed in Reviewing Selection of In-House Or Contract Performance of Support Activities* (Mar. 17, 1972). The Bulletin and Circular A-76 created a process through which federal inventories of commercial activities were sometimes created and occasionally, but only occasionally, brave souls attempted to directly outsource commercial activities or compare the cost of public performance to potential private sector performance.

### **Resurgence of Competition**

Not until 1995, under the leadership of the Clinton Department of Defense, did OMB Circular A-76 receive sustained focus. The Deputy Secretary of Defense directed the DoD services to make the outsourcing of support activities a priority, ultimately becoming a major Defense Reform Initiative. Over a five-year period, DoD reviewed and converted or competed thousands of positions performing commercial activities. *DoD Competitive Sourcing: Results of A-76 Studies Over the Past 5 Years*, GAO-10-20 (Dec. 2000).

In the spring of 2001, using the Clinton DoD experience as a model, the Bush Administration announced the President’s Management Agenda: a major element of which was the expansion of OMB Circular A-76 competitions to the civilian agencies with a continued focus on DoD’s efforts and results. Under my leadership, the initiative took a three-pronged approach:

1. The development of customized public-private competition plans for 26 federal agencies,
2. Building a dedicated infrastructure for competition, and
3. Improving the A-76 competition process to incorporate the federal acquisition processes and workforce.

At the time, 416,000 positions out of 1.6 million civilian jobs were selected as available for competition. We worked with the 26 federal agencies to develop tailored plans for competition,

designate an agency competitive sourcing official, and improve the process by issuing a significantly revised standard for public-private competition under OMB Circular A-76. To navigate the criticisms of the past, we focused on fair and transparent competition for commercial jobs performed by federal employees.

The Bush Competitive Sourcing Initiative forced federal government personnel to critically examine their processes and determine how they could improve the delivery of services to remain competitive. Not surprisingly, as the competition increased, so did the pressure to save federal jobs. A series of legislative actions resulted in a full moratorium on public-private competition by 2008. Once in office, the budget requests from the Obama Administration asked for the continuation of the prohibition on public-private competitions through A-76.

**Cost Savings**

Forty years of experience and research conclusively prove significant cost savings can be achieved through public-private competition. Reviews by GAO as early as March 1972 document the cost savings of public-private competition: “The few cost studies made showed that savings could be realized by converting activities either to in-house or to contract performance. GAO believes that these studies are indicative of significant potential savings available in activities not yet reviewed.” GAO Report B-158683 at 2. The following chart was included to demonstrate DoD costs savings at the time:

The potential for savings is illustrated by the results of the military departments' cost studies of 18 functions summarized below.

<u>Military department</u>	<u>Number of functions</u>	<u>Recommended conversion to</u>	<u>Annual savings (note a)</u>
Army	7	Contract	\$ 768,000
	1	In-house	157,000
Navy	6	Contract	960,000
	1	In-house	58,000
Air Force	3	In-house	<u>127,000</u>
			<u>\$2,070,000</u>

In a 1998 report, GAO found that “savings achieved through the A-76 competitive process were largely personnel savings, the result of closely examining the work to be done and reengineering the activities in order to perform them with fewer personnel, whether in-house or by contractor.” *OMB Circular A-76: Oversight and Implementation Issues*, GAO Report 98-146 at 3 (June 4, 1998). Further, GAO noted that “there appears to be a clear consensus, which we share, that savings are possible when agencies undertake a disciplined approach, such as that called for under A-76, to review their operations and implement the changes to become more efficient themselves or contract with the private sector.” *Id.*

Over the years, numerous sources outside the executive branch verified the benefits (including cost savings) of public-private competition. To cite a few:

\* *Long-Run Costs and Performance Effects of Competitive Sourcing*, Center for Naval Analysis, CRM D0002765.A2 (February 2001) - 16 competitions yielded estimated savings of 34 percent through the life of the contracts.

\* *Personnel Savings in Competitive Sourced Activities: Are They Real? Will They Last*, National Defense Institute, RAND (2002) – expected savings for contractor wins ranged from 41-59 percent and 34-59 percent for government wins.

\* *Moving Toward Market-Based Government: The Changing Role of Government as the Provider*, IBM Endowment for The Business of Government (June 2003) – finding that the presence of competition created the previously missing incentive for government providers to significantly improve processes that lower costs and increase performance.

Most significantly, however, the Fiscal Year 2001 Defense Authorization Act required the Comptroller General to convene a panel of experts to study, and make recommendations for improving the policies and procedures governing public-private competition. As explained by the Comptroller General:

The Panel concluded that there are some advantages to the current system. . . [t]he current A-76 process has been used to achieve significant savings and efficiencies for the government. Savings result regardless of whether the public or the private sector wins the cost comparison. This is because competitive pressures have served to promote efficiency and improve the performance of the activity studied.

Testimony of David Walker, GAO 02-866T (June 26, 2002).

Indeed, even in the initial years of the Bush Competitive Sourcing Initiative the transformational cost and performance changes were evident. My favorites were always some of the smaller, more tangible examples:

\* In 2002-2003, the Department of Energy (“DOE”) competed the graphics function at DOE headquarters. Before the competition, it was a 13-person federal employee operation. Through the competitive process, the incumbent government provider determined it could do the same job with 6 people.

\* In 2002, the Office of Management and Budget competed the printing of four of five volumes of the President’s FY 2004 Budget Request to Congress. The pre-competition cost for printing by the Government Printing Office (“GPO”) was \$505,370. Through competition with private sector printers, GPO reduced the price to \$387,000, a 23.4% savings.

Detailed information is available regarding the number of activities and positions studied and the initial and actual cost savings achieved during the Bush Competitive Sourcing Initiative. Indeed, Public Law 108-199 as passed in 2004 required detailed reporting to Congress on competition and savings. Unfortunately, these reports appear to have been largely removed from agency and



White House websites and are difficult to locate, making analysis and research nearly impossible. Even without the detailed reports in that period, there can be little doubt that true benefits derive from public-private competition both in terms of savings and the delivery of quality services to the taxpayer. Competitive sourcing laid the groundwork and created the infrastructure for improved mission performance through quality service at the lowest possible cost.

### **Conclusion**

The legislative moratorium on public-private competition shunned market-based government, competition, innovation and choice. Taxpayers and citizens were the losers. Not only are they paying more for federal employees to perform commercial services, they are not benefitting from improved service delivery that derives from competition. H.R. 2044, the Freedom from Government Competition Act of 2015, would reverse the eight year drought – the eight years that not a single commercial activity performed by the federal government has faced an iota of scrutiny.

As you examine this issue, it is important to remember two items. First, public-private competition has been strongly supported by both political parties. To quote Clinton Administration OMB Director Alice Rivlin when issuing a revision to OMB Circular A-76 in 1996:

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.

61 Fed. Reg. 14,399 (April 1, 1996).

Second, we should not forget that Federal employees are some of the Nation's most highly trained and dedicated employees. Public-private completion does not distract from the quality or dedication of these public servants. However, at this point, only Congress can allow and then encourage the Executive Branch to take full advantage of the best capabilities that each sector has to offer.

This concludes my prepared remarks. I am happy to answer any questions you may have.



## ANGELA B. STYLES

### PARTNER

WASHINGTON, D.C.

astyles@crowell.com

Phone: 202.624.2500

Fax: 202.628.5116

1001 Pennsylvania Avenue NW

Washington, DC 20004-2595

## PRACTICES

- Government Contracts
- Litigation & Trial
- Regulatory & Policy
- False Claims Act
- Transactions & Corporate
- Emerging Companies & Venture Capital
- Bid Protests
- Commercial Items
- Ethics & Compliance
- Federal Supply Schedule
- Government Ethics, Political Law & Lobbying Compliance
- Payment/Funding
- Suspension & Debarment
- Executive Practice

**Angela B. Styles** is chair of Crowell & Moring and a partner in the Government Contracts Group. Prior to joining the firm, Angela served in the federal government as Administrator for Federal Procurement Policy within the Office of Management and Budget at the White House, a position that required confirmation by the United States Senate. Angela also served in the General Services Administration Public Buildings Service in a Senior Executive Service appointment. In these positions, she was responsible for the policies and regulations governing all purchases by the federal government. Angela led presidential initiatives on federal contracting and worked on a wide variety of legal, legislative and policy issues associated with contractor ethics, federal contracts compliance, homeland security, terrorism related indemnification, and labor management relations. Angela also chaired the Federal Acquisition Regulatory Council, the Federal Acquisition Council, and the Cost Accounting Standards Board.

Angela's current practice concentrates on government contracts counseling and litigation, including procurement ethics and compliance, civil and criminal fraud matters under the False Claims Act, mandatory disclosure, procurement integrity, the Anti-Kickback Act, GSA Schedule contracting with an emphasis on pricing issues, GSA leasing, and Buy American and Trade Agreements Act compliance. In addition, she conducts complex internal investigations, corporate compliance reviews, and training programs on ethics and public sector contract compliance.

Angela's recent representations include significant suspension and debarment matters before the General Services Administration, the Department of the Air Force, the Department of the Navy, the Department of the Army, the Defense Logistics Agency, the Department of the Interior, the Department of Veterans Affairs, the Department of Homeland Security, the Environmental Protection Agency, and the Federal Communications Commission (E-Rate program). She has also litigated several multi-million dollar bid protests before the Government Accountability Office and the Court of Federal Claims as well as contract claims before the Armed Services Board of Contract

Appeals and the Court of Federal Claims and appeals before the United States Court of Appeals for the Federal Circuit.

Angela leads the Defense Industry Initiative on Business Ethics and Conduct ("DII"). DII is a non-profit organization founded in 1986 and committed to sharing a culture of ethics and integrity in the defense industry.

Angela also serves on the Board of Governor's for UChicago Argonne, one of the nation's leading national laboratories.

Angela has provided legal and policy commentary for numerous national media outlets, including the Associated Press, the *Wall Street Journal*, the *New York Times*, and the *Washington Post*. She has made appearances on news programming for CNN, National Public Radio, and C-SPAN's "Washington Journal."

Angela has testified about complex government contracting issues at more than 30 hearings before the United States Senate and the House of Representatives. She has testified on numerous occasions before the Senate Armed Services, Senate Government Affairs, House Armed Services, House Veterans' Affairs, House Small Business, and House Government Reform Committees.

She worked on Capitol Hill for Chairman Joe Barton (R-Tx) as a legislative aide. Angela also worked for the State of Texas as a program manager in the Office of State-Federal Relations in Washington, D.C.

### **Government Experience**

- U.S. Executive Branch: Executive Office of the President-Administrator, Office of Federal Procurement Policy, Office of Management and Budget (2001-2003)

### **Admissions/Affiliations**

Admitted to practice: District of Columbia, Texas (inactive); United States Court of Appeals for the Federal Circuit; United States Court of Federal Claims

### **Memberships**

- **American Bar Association (ABA)**. Council Member, Section of Public Contract Law (2004-2007); Chair, Legislative Coordinating Committee (former)
- **Court of Federal Claims**. Chief Judge's Advisory Council
- **National Job Corps Association**. Board member, Treasurer (former)
- **Texas Historical Foundation**. Board member
- **Procurement Roundtable**. Board member (former)
- **UChicago, Argonne National Laboratories**, Board member



## Honors

- *Chambers USA: American's Leading Lawyers for Business* 2008 - 2016 for Government Contracts nationwide
- Office of Management and Budget Outstanding Service Award
- General Services Administration Commendable Service Award
- Federal 100 Award
- Women Impacting Public Policy Leadership Award
- Small Business Administration Leadership Award
- Asian American Business Roundtable, Private Sector Business Award
- Task Force on Veterans' Entrepreneurship Outstanding Service Award

## Education

- University of Virginia, B.A. (1990)
- University of Texas School of Law, J.D. (1994)

Committee on Oversight and Government Reform  
Witness Disclosure Requirement – “Truth in Testimony”  
Required by House Rule XI, Clause 2(g)(5)

Name: Angela B. Styles

---

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

None

---

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

None

---

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None

---

*I certify that the above information is true and correct.*

Signature: Angela B. Styles

Date: 7/6/2014

---