

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.

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General Counsel.

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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