

Has the private sector lost the chance to acquire DAPS in-house volume?

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For about two years the buzz among government printers has been the Document Automation and Production Service's (DAPS) A-76 Competition. DAPS operates about 240 in-house plants throughout the country that produce \$140 million in digital printing and copying for DOD customers. The A-76 process is a method to outsource that work to the private sector. Under the A-76 Competition, private sector bidders compete first against each other, and the winner competes with the existing DAPS organization for DAPS in-house digital printing/copying work.

The DAPS A-76 Competition was announced in the summer of 1999. To promote the A-76 and encourage private sector companies to compete, DAPS conducted surveys of the private sector, beginning in November 1999. DAPS issued numerous "pre-final" versions of its solicitation (the first was on 6/7/2000). DAPS sought comments and suggestions from the private sector, beginning in April 2000. It also held a number of conferences and facility tours, beginning in June 2000. Over the past year or so, DAPS gathered a phenomenal amount of information about its operation, including volume, paper usage, employees, existing equipment, facilities, floor plans, etc., etc. Estimates are that the government spent between \$6 million and \$10 million just to prepare the A-76 information and solicitation. The final solicitation was issued on April 26, 2001.

Shocking to both DAPS and the private sector printing industry, when it came time for bid opening this September, no bids were received.

What went wrong? Why didn't the private sector, which has been complaining about government in-house printing for years, even attempt to acquire this work by bidding on the DAPS A-76?

There are a number of possible answers that have been put forward by those involved in the Competition:

1. Bidders were put off by the complexity and two-stage competition of the A-76 process, which many felt gave an advantage to DAPS.
2. The size of the DAPS operation, the number of plants, and the phenomenal amount of information required to be digested made the Competition confusing to a number of the potential bidders.
3. All of the federal laws and regulations relating to government contracting applied to the A-76 competition. One of those laws, The Service Contract Act, requires the winner to adopt a government prevailing wage, which may be higher than the bidders' current wages.

4. The Competition required the winner to take over and operate forty-nine (49) of DAPS existing 240 plants, and gave the winner the option to produce the work for customers of the other plants at the winner's facilities. Although the winner would be reasonably assured of keeping the work at the forty-nine (49) plants that remained opened, it could not be sure that all of the customers at the other 191 DAPS shops – who were used to local service – would be willing to send their work off base to a new provider. DAPS knew this too, and as a result, although it was issuing a \$140 million “potential” contract, it only guaranteed \$14 million in annual volume, leaving it up to the quality, service level *and sales effort* of the private sector winner to keep DAPS customers.
5. The Competition offered the *potential* for new print volume—but only in exchange for a major investment and huge risks.

Has the private sector lost the opportunity to acquire DAPS volume? Does the lack of any DAPS A-76 proposals end the opportunity for the private sector to acquire DAPS in-house work? I do not think so.

In the private sector, there has also been an increasing downturn in volume in the manufacturing and printing industries, making a substantial amount of capacity available throughout the printing industry. DAPS work could easily be absorbed tomorrow by the private sector.

The Pentagon has not changed its desire to outsource non-mission-critical operations such as printing and photocopying. Currently, DOD is considering whether to revise and re-issue the DAPS A-76 RFP (request for proposals). Factors weighing against a re-issuance soon are: 1) a concern that another large expenditure for a second competition would not result in significant competition (or worse, a repeat of the first competition with no proposals); 2) a recognition that the War Against Terrorism, has created a near “lockdown” status at many military bases and a need for seamless support services, making this a difficult time for a transition.

But a need to postpone a possible re-issuance of the DAPS A-76 does not mean that the process could not start over again when the situation normalizes.

When and if DOD re-issues the DAPS A-76, private sector printers would still face the problems inherent in the A-76 process. The cost and complexity of the A-76, as we have already seen, can scare away all potential competitors.

Finally, the government agency wins A-76 competitions at least half the time. Unfortunately, there does not seem to be another viable vehicle in the Executive Branch system for outsourcing a huge operation such as DAPS.

Can the U. S. Government Printing Office (GPO) help? What if the DAPS A-76 is not revised and re-issued? While the A-76 may be the only way to outsource through DOD, GPO has no such restrictions! An available option for DAPS outsourcing would be to use a GPO contract to effect a partial (or total) outsourcing of DAPS in-house work by targeting appropriate facilities to be replaced by the private sector (providing products, service and customer support equal to or better than that offered by existing on-base facilities).

Such a carefully structured partnership with the private sector would allow DAPS to keep only the essential in-house capacity, maintain control of its operation, meet or exceed DOD needs, and address the Pentagon's desire to outsource non-mission critical functions.

GPO provides an excellent vehicle for a federal agency to outsource its printing:

1. GPO knows printing. It has been purchasing federal government printing for agency customers for over one hundred years.
2. GPO currently operates the government's largest printing plant, which employs several thousand workers in Washington, DC. It has closed and outsourced other smaller plants throughout the country. As a result, GPO not only has a long history of operating in-house facilities, it also has experience in closing in-house plants and outsourcing the work to the private sector.
3. GPO has an existing staff of print procurement experts, technical experts, digital prepress and printing personnel, and a legal and administrative law staff to handle any complaints or disputes efficiently.
4. Federal regulations provide that "contracts calling for printing, reproduction and duplicating," such as those GPO generally issues, usually fall outside the Service Contract Act's coverage. 29 CFR 4.134(c). On the other hand, the work contemplated by the DAPS A-76—providing photocopying and related services through private sector service employees working at government facilities and using government equipment—would require the contractor to meet the Service Contract Act's wage scale. 29 CFR 4.110, 4.131.
5. The complex, multi volume FAR is not applicable to GPO; instead, the GPO's "Contract Terms" is a 42-page book.

6. Based on its print purchasing system, GPO knows what the cost should be on a particular job, and has a unique ability to fairly negotiate change orders.
7. GPO and DAPS have a good relationship, under which GPO currently purchases about \$136 million of offset printing from the private sector for DAPS annually. DAPS has openly admitted on more than one occasion that it could not provide the printing support for its Department of Defense customers without GPO. DAPS does not have the in-house procurement staff to buy the DOD's printing, and DOD is not going to allow it to add more fulltime employees to duplicate a printing procurement operation that GPO now provides.
8. GPO provides an excellent opportunity for the private sector to obtain inplant volume through outsourced printing contracts.

And then there's the law! There is another factor that may support a DAPS—GPO outsourcing arrangement: Section 501 of Title 44 of the U.S. Code requires that federal agencies, including the Department of Defense, who wish to *procure* (purchase) printing from the private sector, do so through GPO. DAPS is not exempt from this rule; in fact Congress passed a separate law (10 U.S.C. 195) requiring DAPS to abide by the requirements of Title 44 – just so DOD did not think it could start a print procurement operation. Note that two recent efforts by private sector interests to repeal 10 U.S.C. 195 were opposed by PIA and GPO, and were not successful.

DAPS apparently believed these laws did not apply to the A-76 competition because it was not really buying the printing, but rather outsourcing the operation of its internal plants. However, as the A-76 developed, it became clear that only 49 of the plants were going to be required to be retained and operated by the private sector winner, and that the work performed at the other 191 DAPS shops could be purchased from the winner. The later *is* direct Agency print procurement prohibited by Section 501 of Title 44.

As a result of the Title 44 restrictions, it seems possible that if DOD attempts to issue new DAPS A-76 competitions, there could be legal questions. Although GPO raised a complaint by letter early on, it has taken no formal action.

Involving the GPO in the outsourcing process would not only satisfy any legal requirements, but it would also provide a knowledgeable ally during the outsourcing process. It could involve hundreds of GPO private sector printers, who could serve either as direct contractors, or as subcontractors for a prime contractor (GPO could waive the subcontracting prohibition of Contract Terms, Clause 6).

Conclusion. If the Pentagon's goal is to provide a flexible outsourcing process for DAPS internal production, and the private sector's goal is to obtain some, if not all, of DAPS in-house work, DAPS, GPO, and printing industry organizations need to discuss the formation of a common sense partnership that would benefit all of the parties, save the taxpayers money, and continue to provide the managed, high-quality, timely service that DOD customers expect.

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