

3. Definitions

For purposes of this circular:

a. A "new start" is a newly established Government commercial or industrial activity involving additional capital investment of \$25,000 or more or additional annual costs of production of \$50,000 or more. A reactivation, expansion, modernization, or replacement of an activity involving additional capital investment of \$50,000 or more or additional annual costs of production of \$100,000 or more are, for purposes of this circular, also regarded as "new starts." Consolidation of two or more activities without increasing the overall total amount of products or services provided is not a "new start."

b. A "Government commercial or industrial activity" is one which is operated and managed by an executive agency and which provides for the Government's own use a product or service that is obtainable from a private source. The term does not include a Government-owned contractor-operated activity.

c. A "private commercial source" is a private business concern which provides a commercial or industrial product or service required by agencies and which is located in the United States, its territories and possessions, the District of Columbia, or the Commonwealth of Puerto Rico.

4. Scope

This circular is applicable to commercial and industrial products and services used by executive agencies, except that it:

(a) Will not be used as authority to enter into contracts if such authority does not otherwise exist nor will it be used to justify departure from any law or regulation, including regulations of the Civil Service Commission or other appropriate authority, nor will it be used for the purpose of avoiding established salary or personnel limitations.

(b) Does not alter the existing requirement that executive agencies will perform for themselves those basic functions of management which they must perform in order to retain essential control over the conduct of their programs. These functions include selection and direction of Government employees, assignment of organizational responsibilities, planning of programs, establishment of performance goals and priorities, and evaluation of performance.

(c) Does not apply to managerial advisory services such as those normally provided by an office of general counsel, a management and organization staff, or a systems analysis unit. Advisory assistance in areas such as these may be provided either by Government staff organizations or from private sources as deemed appropriate by executive agencies.

(d) Does not apply to products or services which are provided to the public. (But an executive agency which provides a product or service to the public should apply the provisions of this circular with respect to any commercial or industrial products or services which it uses.)

(e) Does not apply to products or services obtained from other Federal agencies which are authorized or required by law to furnish them.

(f) Should not be applied when its application would be inconsistent with the terms of any treaty or international agreement.

5. Circumstances under which the Government may provide a commercial or industrial product or service for its own use

A Government commercial or industrial activity may be authorized only under one or more of the following conditions:

(a) Procurement of a product or service from a commercial source would disrupt or materially delay an agency's program. The fact that a commercial or industrial activity is classified or is related to an agency's basic program is not an adequate reason for starting or continuing a Government activity, but a Government agency may provide a product or service for its own use if a review conducted and documented as provided in paragraph 7 establishes that reliance upon a commercial source will disrupt or materially delay the successful accomplishment of its program.

(b) It is necessary for the Government to conduct a commercial or industrial activity for purposes of combat support or for individual and unit retraining of military personnel or to maintain or strengthen mobilization readiness.

(c) A satisfactory commercial source is not available and cannot be developed in time to provide a product or service when it is needed. Agencies' efforts to find satisfactory commercial sources should be supplemented as appropriate by obtaining assistance from the General Services and Small Business Administra-