

**Army Regulation 5–20**

**Management**

# **Competitive Sourcing Program**

**Headquarters  
Department of the Army  
Washington, DC  
27 June 2008**

**UNCLASSIFIED**

# ***SUMMARY of CHANGE***

AR 5-20

Competitive Sourcing Program

This rapid action revision, dated 27 June 2008--

- o Changes the responsibilities for the Assistant Secretary of the Army for Installations and Environment and the Assistant Secretary of the Army for Acquisition, Logistics and Technology to bring them into compliance with Federal Acquisition Regulation 15.303, Army Acquisition Regulation Supplement 5115.303, and the Army Source Selection Manual, 27 February 2007 (paras 1-4a and 1-4b).
- o Makes administrative changes (throughout).

Effective 27 July 2008

## Management

### Competitive Sourcing Program

---

By Order of the Secretary of the Army:

GEORGE W. CASEY, JR.  
*General, United States Army*  
*Chief of Staff*

Official:

  
JOYCE E. MORROW  
*Administrative Assistant to the*  
*Secretary of the Army*

**History.** This publication is a rapid action revision. The portions affected by this rapid action revision are listed in the summary of change.

**Summary.** This regulation implements Office of Management and Budget Circular A–76, 29 May 2003, Revised Supplemental Handbook; DODD 4100.15; and DODI 4100.33. It provides guidance for managing and executing the Competitive Sourcing Program. This regulation establishes procedures and provides instructions for conducting A–76 studies to determine the most cost effective performance as to whether contract, public reimbursable provider, or Government

personnel will perform the commercial activity.

**Applicability.** This regulation applies to the Active Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve, unless otherwise stated.

**Proponent and exception authority.** The proponent of this regulation is the Assistant Chief of Staff for Installation Management. The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the policy proponent. Refer to AR 25–30 for specific guidance.

**Army management control process.**

This regulation contains management control provisions in accordance with AR 11–2, but does not identify key management controls that must be evaluated.

**Supplementation.** Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from the Assistant Chief of Staff for Installation Management (DAIM–CD), 600 Army Pentagon, Washington, DC 20310–0600.

**Suggested improvements.** Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Assistant Chief of Staff for Installation Management, (ATTN: DAIM–CD), 600 Army Pentagon, Washington, DC 20310–0600.

**Distribution.** This publication is available in electronic media only and is intended for command levels C, D, and E for the Active Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve.

---

#### Contents (Listed by paragraph and page number)

##### Chapter 1

##### Army Competitive Sourcing Program Overview, *page 1*

Purpose • 1–1, *page 1*

References • 1–2, *page 1*

Explanation of abbreviations and terms • 1–3, *page 1*

Responsibilities • 1–4, *page 1*

General policy • 1–5, *page 4*

Reporting requirements • 1–6, *page 5*

Providing information to Congress, the workforce, and the news media • 1–7, *page 6*

Information requests and the Freedom of Information Act • 1–8, *page 7*

---

\*This regulation supersedes AR 5–20, dated 23 May 2005.

## **Contents—Continued**

### **Chapter 2**

#### **Planning and Organizing the CS Competition, page 8**

##### *Section I*

*The Army Inherently Governmental and Commercial Activities (IGCA) Inventory and Legislative/Administrative Exclusions, page 8*

The IGCA and Federal Activities Inventory Reform Act • 2-1, page 8

Legislative/administrative exclusions • 2-2, page 9

Volunteers, inmates, and borrowed military manpower • 2-3, page 11

##### *Section II*

*Competition Criteria for Commercial Activities Initiatives, page 11*

Standard competitions • 2-4, page 11

Streamlined competition • 2-5, page 13

New requirement and expansion • 2-6, page 13

Competition deviation • 2-7, page 13

##### *Section III*

*Personnel Considerations, page 13*

Civilian personnel management • 2-8, page 13

Requirements for monthly consultation with employees • 2-9, page 14

Right of first refusal • 2-10, page 14

Reduction-in-force planning • 2-11, page 14

Military personnel • 2-12, page 14

Phase-in plan • 2-13, page 14

### **Chapter 3**

#### **Performance Work Statement Actions, page 15**

Delegated competitive sourcing official • 3-1, page 15

PWS team • 3-2, page 15

### **Chapter 4**

#### **Agency Tender Procedures, page 15**

Requirements for agency tender • 4-1, page 15

Certification and implementation of MEO • 4-2, page 16

Independent review • 4-3, page 16

### **Chapter 5**

#### **Calculating Competition Costs, page 16**

Introduction • 5-1, page 16

Standard Competition Form • 5-2, page 16

Streamlined Competition Form • 5-3, page 16

### **Chapter 6**

#### **Solicitation and Source Selection, page 17**

Developing the solicitation • 6-1, page 17

Source Selection Evaluation Board • 6-2, page 18

Source selection and performance decision • 6-3, page 18

### **Chapter 7**

#### **Cost Comparison, page 20**

Competing the agency tender and private-sector offers • 7-1, page 20

No satisfactory private-sector source • 7-2, page 20

Contests (appeals) • 7-3, page 21

Government Accountability Office protests • 7-4, page 21

Economic effects analysis • 7-5, page 21

## **Contents—Continued**

Final performance decision • 7-6, *page 22*

Annual net savings • 7-7, *page 22*

### **Chapter 8**

**Contract Administration and Quality Assurance**, *page 22*

Contract implementation • 8-1, *page 22*

Contract reviews • 8-2, *page 23*

Post-MEO performance review • 8-3, *page 23*

Contract performance review • 8-4, *page 23*

### **Chapter 9**

**Phase-in Plan and Follow-on Competition**, *page 24*

Phase-in plan • 9-1, *page 24*

Best practices and lessons learned • 9-2, *page 24*

Follow-on competition • 9-3, *page 24*

**Appendix A.** References, *page 25*

### **Table List**

Table 1-1: Summary of reporting and announcement requirements, *page 6*

### **Figure List**

Figure 2-1: Inherently governmental and commercial activities, *page 9*

Figure 2-2: Competition thresholds and reporting requirements, *page 12*

Figure 7-1: Algorithm for calculating annual net savings, *page 22*

### **Glossary**



# Chapter 1

## Army Competitive Sourcing Program Overview

### 1–1. Purpose

The goal of the Army's Competitive Sourcing (CS) Program is to use competition to obtain the most cost effective commercial services the Army needs to accomplish its mission. This regulation provides policy for determining whether recurring commercial activities should be operated (a) in-house using Army facilities and personnel or (b) under contracts or agreements with either commercial entities or other Government agencies. This regulation implements Office of Management and Budget (OMB) Circular A–76, revision 29 May 2003 and the Department of Defense (DOD) guidance found on the SHARE A–76! Web site (<http://www.acq.osd.mil>). Deviations from this regulation require prior written approval from the Assistant Chief of Staff for Installation Management (ACSIM). Types of A–76 initiatives include streamlined and standard competitions.

### 1–2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

### 1–3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

### 1–4. Responsibilities

*a. Assistant Secretary of the Army for Installations and Environment (ASA(I&E)).* The ASA (I&E) is the Army's Component Competitive Sourcing Official (CCSO) as designated by the Department of Defense Competitive Sourcing Official (CSO) (Deputy Under Secretary of Defense for Installations and Environment). The CCSO may delegate the inventory process responsibility outlined in OMB Circular A-76 to another Army-level Secretariat Official.

(1) As such, the CCSO will, in writing, appoint a Delegated Competitive Sourcing Official (DCSO) for each Army Command (ACOM), Army Service Component Command (ASCC), and Direct Reporting Unit (DRU) that will be conducting commercial activity (CA) A-76 competitions. The DCSO is responsible for appointing, in writing, competition officials and holding these officials accountable for the timely and proper conduct of streamlined or standard competitions through the use of annual performance evaluations.

(2) The competition officials (all inherently governmental) are the agency tender official (ATO), contracting officer (CO), performance work statement (PWS) team leader, and human resource advisor (HRA).

(3) The ASA(I&E) provides oversight and guidance for CS Program policies and will designate an agency official as the point of contact for resolving CS Program related issues.

*b. Assistant Secretary of the Army for Acquisition, Logistics and Technology (ASA(ALT)).* The ASA(ALT) provides acquisition management expertise and develops, coordinates, and publishes guidance concerning the unique aspects of A–76 competitive sourcing contracting requirements, such as but not limited to: acquisition planning, source selections, and protests (in other words, contests) to support the Army CS Program. ASA(ALT) will ensure that Army contracting offices have a sufficient number of adequately trained civilian employees to satisfactorily conduct the public–private competitions scheduled during the fiscal year in accordance with OMB Circular A–76, including a sufficient number of employees to administer any resulting contracts. The Army Acquisition Executive (AAE), the Head of the Contracting Activity (HCA) or the Principal Assistant Responsible for Contracting (PARC) are responsible for appointing the Source Selection Authority (SSA).

*c. Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA(M&RA)).* The ASA(M&RA)—

(1) Provides civilian personnel and manpower management expertise and reviews the use of anticipated and actual civilian space savings resulting from CS Program implementation.

(2) Establishes policies and determines which activities are inherently governmental, exempt from competition (exempt), and competition-eligible.

(3) Serves as the inventory appeal authority for the Army list of commercial activities as provided in section 3(d) of the Federal Activities Inventory Reform (FAIR) Act (Public Law 105–270).

(4) Maintains the inventory of inherently governmental and commercial activities (IGCA) and the FAIR inventory.

*d. Assistant Secretary of the Army for Civil Works (ASA(CW)).* The ASA(CW)—

(1) Represents the Army on Civil Works CS Program issues with ASA(M&RA), ASA(I&E), OSD, OMB, Congress, Federal agencies, and other military Services.

(2) Provides broad oversight for CS Program policies and exceptions to policy for purely civil works–funded activities and the civil works portion of activities funded through a mix of civil works and defense appropriations.

*e. Director, Small and Disadvantaged Business Utilization (SADBU).* The Director, SADBU, will provide Small Business Program and Small Disadvantaged Business expertise and develops, coordinates, and publishes guidance on SADBU policies and procedures to support Army CS Program implementation.

*f. General Counsel of the Army.* The General Counsel advises the Army Secretariat on all legal matters related to the CS Program.

g. *Assistant Secretary of the Army (Financial Management & Comptroller) (ASA(FM&C))*. The ASA(FM&C) provides financial management and cost estimating expertise and budgets and funds transition costs resulting from CA competitions. Through its budget liaison, ASA(FM&C) (SAFM-BUL) represents the Army on program issues before the congressional appropriation/authorization committees.

h. *Chief of Legislative Liaison (CLL)*. The CLL will—

- (1) Represent the Army on program issues before the congressional appropriation/authorization committees.
- (2) Monitor the development and passage of legislation affecting the CS Program and provide ACSIM with timely reports on pertinent legislation.
- (3) Notify Congress of the Army's intent to conduct competition studies and of the competition results and respond to specific congressional inquiries regarding competition studies.
- (4) Provide guidance and advice to the ACSIM on dealing with inquiries from Congress.

i. *Chief of Public Affairs (CPA)*. The CPA will represent the Army on CS Program issues before the news media and the public and coordinate responses to media inquiries.

j. *The Auditor General (AG)*. The Auditor General will—

- (1) Publish audit guides and provide training for Internal Review and Audit Compliance auditors on performing post-most efficient organization (MEO) performance.
- (2) When requested, and resources are available for competition studies with more than 65 announced CA (full-time equivalents (FTEs)), may perform the baseline work year audit to verify the baseline work years documented in the agency tender used to calculate savings. The Army Audit Agency prepares audit guides and conducts audits as required by the AG. The ATO includes the baseline work years in the Final Performance Decision Report.

k. *The Inspector General*. The Inspector General will conduct special assessments/inspections of the CS Program upon request.

l. *The Judge Advocate General (TJAG)*. TJAG will provide legal guidance and advice to the Army Staff, ACOMs/DRUs/FOAs/HSSAs, and DCSOs to support CS Program implementation.

m. *Assistant Chief of Staff for Installation Management*. The ACSIM serves as the single point of contact for HQDA on issues affecting the CS Program.

(1) The ACSIM will—

- (a) Develop, coordinate, and publish policies and procedures to implement the CS Program.
  - (b) Interpret OSD and OMB policy for the Army CS Program.
  - (c) Respond to requests for deviation from this regulation.
  - (d) Monitor and support the execution of the CS Program.
  - (e) Provide periodic reports to the senior leadership on competition progress and milestone management.
  - (f) Respond to inquiries and correspondence related to CS Program issues.
  - (g) Provide information to ASA(FM&C) and the Deputy Chief of Staff, G-8 (DCS, G-8) as needed to ensure availability of funding for CS Program execution.
  - (h) Represent the Army on CS Program issues.
- (2) The Army Competitive Sourcing Division (CD) of ACSIM will—
- (a) Program and budget funding for conducting CS studies.
  - (b) Coordinate the Commercial Activities Proposed Action Summary (CPAS) initial announcement and the Final Performance Decision Report with the DCS, G-3/5/7 and apprise DCS, G-3/5/7 on any approved MEO changes approved by the ACOM, who will retain an up-to-date audit trail.
  - (c) Participate in review of proposed exceptions to CA policies and procedures.
  - (d) Manage the Army portion of the OSD CA Management Information System (CAMIS), which is a database of all OSD competitions.

(e) Manage the Army CA Inventory System (CAIS) in order to capture and provide to the CCSO competition status data elements for the IGCA and the FAIR inventory.

(f) Review guidance on improvements in staffing, organization structure, and work methods to increase the operating efficiency and competitiveness of CA studies.

n. *Deputy Chief of Staff, G-1*. The DCS, G-1 will—

- (1) Provide guidance on civilian and military personnel management, force structure, and skill sustainment.
- (2) In coordination with DCS, G-3/5/7; DCS, G-8; and ASA(M&RA), review anticipated and actual military space savings resulting from CS Program implementation and program and budget transition costs resulting from scheduled CA competitions.
- (3) Develop, coordinate, and publish rotation base policy.
- (4) As the proponent of AR 570-4, formulate, coordinate, and supervise manpower policies, plans, and programs to ensure they are consistent with the CS program.

o. *Deputy Chief of Staff, G-3/5/7*. The DCS, G-3/5/7 will—

- (1) Manage the Army's Force Structure and Manpower accounting process; provide discipline and maintenance of

all manpower and force structure requirements and authorizations in the Structure and Manpower Allocation System (SAMAS); and oversee the Army Authorization and Documentation processes.

(2) Upon the initial announcement of the CPAS, freeze in SAMAS all associated military and civilian requirements and authorizations under competition.

*p. HQDA elements that are proponents for DRUs.* DRUs report directly through their Headquarters operating agency or HSSA and are resourced through their own operating agency rather than a shared operating agency such as OA22. HQDA elements that are a proponent for DRU, FOA, or HSSA will have CS Program oversight responsibility.

*q. Component Competitive Sourcing Official.* The CCSO will appoint, in writing, based on the designation by Commanders/Directors of ACOMs, DRUs, FOAs and HSSAs, a DCSO to manage the implementation of their CS Program and ensure fair and equitable competitions. The DCSO will appoint, in writing, the ATO, CO, PWS team leader, HRA and SSA.

*r. Commanders/directors of ACOMs, DRUs, FOAs, and HSSAs.* Commanders/directors of ACOMs, DRUs, FOAs, and HSSAs will—

(1) Complete a streamlined competition within 90 days of public announcement. The CCSO, before public announcement, may grant a time limit waiver, in writing, allowing for no more than 135 days.

(2) Complete a standard competition within 12 months of public announcement. The OSD CSO, before public announcement, may grant a time limit waiver, in writing, allowing for no more than 18 months.

(3) For each CA, review the capabilities of industry to meet the needs of a streamlined or standard competition. Submit exemption requests, with written justification, to the CCSO for CAs that should not be competed.

(4) Provide guidance, funding, and onsite assistance to CS competition efforts.

(5) Update and ensure the accuracy of the CAIS and CAMIS.

(6) Appoint Contest Authority members on formal orders at the ACOM, DRU, FOA, and HSSA level. Ensure the specific roles and responsibilities of key individuals provide clarity of authority and empower the appointees to execute assigned responsibilities.

(7) Ensure that Post-MEO Performance Reviews are conducted annually for all MEOs that are greater than 65 FTE and at least 50 percent of MEOs with less than 66 FTE.

(8) Document net (less costs of conducting the competition) resource savings (military and civilian authorizations and funds) resulting from CS Program implementation.

(9) Ensure all CS participants (for example, PWS team, MEO team, and so on) are trained in their requisite aspects of the CS Program.

(10) Input data into OSD CAMIS as events occur. Input competition status codes into CAIS in response to annual data call. Ensure the Army modules of the OSD CAMIS are accurate and up to date.

(11) Review the cost of commercial activities (MEO and contract), identify ways to improve efficiency, and implement identified improvements.

(12) Select or provide input into the process of selecting the commercial activities studies.

(13) Provide information on the CS competition process to managers, employees, labor unions, and other employee representatives to promote understanding of the Program's objectives, to provide the opportunity to contribute to the competition process, and to gain support for program implementation. Comply with Section 2467, Title 10, United States Code (10 USC 2467), which requires monthly consultations with the workforce regarding development of the PWS and MEO.

(14) Ensure the HRA makes every effort to avoid the involuntary separation of permanent employees and assist all employees adversely affected by competitions in finding suitable employment. These efforts will include retraining, job placement assistance, and right of first refusal to jobs with the offeror (Federal Acquisition Regulation (FAR) Subpart 52.207-3).

(15) Ensure that the MEO or contract activities operate in the most cost-effective and efficient manner after the performance decision through annual MEO or Contract Cost-Effectiveness Reviews.

(16) Document annual net (less costs of conducting the competition) resource savings (manpower and dollars) and performance measures resulting from CS Program implementation. See paragraph 7-7 of this regulation for the algorithm to develop annual net savings.

(17) Submit A-76 request for funding requirements to support CS studies.

(18) Preliminary planning: before public announcement of a streamlined or standard competition, at a minimum, the following steps will be completed:

(a) *Scope.* Determine the activities and FTE positions to be competed.

(b) *Grouping.* Conduct preliminary research to determine the appropriate grouping of activities as business units (for example, consistent with mission needs, market, and industry structures).

(c) *Workload data and systems.* Assess the availability of workload data, work units, quantifiable outputs of activities or processes, agency or industry performance standards, and other similar data. Establish data collection system as necessary.

(d) *Baseline costs.* Determine the activity's baseline costs as performed by the incumbent service provider.

(e) *Type of competition.* Determine the use of streamlined or standard competition.

1. *Streamlined competition.* An ACOM/DRU/FOA/HSSA will use either a streamlined or standard competition if a commercial activity is performed with an aggregate of 65 or fewer FTEs and any number of military personnel or with a public reimbursable source and an aggregate of 65 or fewer FTEs and any number of military personnel. Public Law 108–87, Section 8014 requires, for any activity performed by more than 10 civilian employees, a public–private competition and a most efficient and cost effective organization.

2. *Standard competition.* An ACOM/DRU/FOA/HSSA will use a standard competition if the commercial activity is performed with an aggregate of more than 65 FTEs or a private-sector or public reimbursable source with an aggregate of more than 65 FTEs and any number of military personnel.

(f) *Schedule.* Develop preliminary competition and completion schedules.

(g) *Roles and responsibilities of participants.* Determine roles and responsibilities of participants in the process and their availability for the duration of the streamlined or standard competition.

(h) *Competition officials.* The DCSO will ensure that this is accomplished in accordance with attachment B, paragraph 8 of OMB Circular A–76.

(i) *Incumbent service providers.* Inform any incumbent service providers of the date that the public announcement will be made.

(j) *Milestone.* Develop original and planned milestones for the competition and enter this information into the Army module of OSD CAMIS.

(k) *State and local sales tax.* Ensure that the impact of State and local sales tax payments paid by the contractor for Government materials and supplies is evaluated during the preliminary planning phase on each competition. For example, the additional costs incurred on contracts with cost plus award fees.

(19) The CPAS is required for streamlined and standard competitions. After preliminary planning is completed prepare a CPAS requesting announcement of the competition to Congress. Provide workforce, union and local notifications after announcement to Congress. Within 30 days after the initial submission of the CPAS, ACOMs/DRUs/FOAs/HSSA will provide DCS, G–3/5/7 with a FM Unit Identification Code (UIC)/Army Management Structure Code (AMSCO)/Management Decision Package (MDEP) level of detail for all requirements and authorizations identified in the competition. For CPAS and FDR documents, ACSIM will enter the appropriate data into the Army module.

(20) Convene A–76 PWS team with a firewall between the ATO, the HRA, and the MEO team.

(21) Develop PWS. PWS is a description of the work to be performed by the activities under competition. It is included in the solicitation.

(22) Develop the quality assurance surveillance plan (QASP). This is the Army’s inspection plan of the work to be performed.

(23) Assist the CO in determining contract type and assist in developing the source selection plan.

(24) Forward PWS to the CO providing support.

(25) Prepare in-house cost estimate (IHCE) using COMPARE (go to <http://www.compareA76.com> and phase-in plan).

(26) Conduct competition.

(27) Provide information as requested to the Contest Authority.

(28) Prepare and forward reduction-in-force (RIF)/voluntary early retirement authority (VERA)/voluntary separation incentive pay (VSIP) package to higher headquarters.

(29) Prepare FDR and Notification Package for Congress. ACOMs/DRUs/FOAs/HSSAs will within 30 days after the FDR, provide DCS, G–3/5/7 FM UIC/AMSCO/MDEP level of detail for all requirements and authorization savings identified in FDR. ACSIM will update Final Performance Decision Report data into the Army module of the OSD CAMIS.

(30) Perform Post-MEO Performance Review and annual Contract Cost-Effectiveness Review. The Army Audit Agency (AAA) will perform Post-MEO Performance audits on Post-Performance Reviews on competitions of over 65 FTE positions when directed by the Auditor General.

s. *Agency tender official.* After public announcement, the ATO will appoint an MEO team comprised of technical and functional experts. The MEO team will assist the ATO in developing the agency tender. The ATO will make all final management decisions regarding the agency tender. Other individuals with expertise in management analysis, position classification, work measurement, value engineering, industrial engineering, cost analysis, procurement, and the technical aspects of the activity may also assist this team. Directly affected Government personnel (and their representatives) may participate on the MEO team; however, to avoid any appearance of a conflict of interest, members of the MEO team (including, but not limited to, the ATO, HRA, advisors and consultants) will not be members of the PWS team.

## **1–5. General policy**

a. Until 30 September 2008, Section 336 of Public Law 108–136 allows the use of best value source selection procedures to conduct A–76 competition for the performance of information technology services. Otherwise, the

procurement of supplies and/or services from the private sector must be based upon a cost that is lower than the cost at which in-house personnel can provide the same supplies and/or services.

b. Army Component Competitive Sourcing Official (CCSO) approval will be obtained before converting any activity to or from contract or agency tender or intragovernmental support performance, as provided in paragraph 2–5.

c. Streamlined competitions will be completed within 90 days of public announcement. Prior to public announcement, the CCSO can request an additional 45 days from the OSD CSO with rationale for the extension.

d. Complete standard competitions within 12 months of public announcement. If the CCSO believes the standard competition may be difficult or requiring more time, a request for an additional 6 months, with justification, must be received from the OSD CSO prior to public announcement.

e. Public Law 108–136, Section 334 requires that schedules for completion of public–private competitions must be based on an analysis that there are sufficient personnel, training, and technical resources to carry out such competition in a timely manner. Scheduled milestones may be extended if the necessary resources are insufficient.

f. Work as a contractor or subcontractor to the private sector will not be performed unless specific statutory authority exists or the CSO receives prior written OMB approval.

g. Proposed CA studies will not be modified, reorganized, divided, or in any way changed for the purpose of circumventing the requirements of this regulation. Construction solicitations or contracts will not be used for competitive sourcing.

h. CA studies that have been announced to the Congress will not be canceled without prior written approval from the CSO.

i. Contracts for consultant support for CA studies must include a requirement that the consultant implement a “firewall” between individuals who develop the performance work statement (PWS) and individuals who develop the agency tender. The same consultant (firm, not individual) can develop both the PWS and agency tender, but an internal firewall must be established.

j. Directly affected Government personnel may participate on the PWS team; however, to avoid any appearance of a conflict of interest, members of the PWS team will not be members of the MEO team. Members of the MEO team will not be members of the PWS team or the Source Selection Evaluation Board (SSEB). Directly affected personnel with knowledge of the agency tender will not participate in any manner on the SSEB.

## 1–6. Reporting requirements

a. *Best practices and lessons learned.* ATOs will post best practices and lessons learned resulting from a streamlined or standard competition process on SHARE A–76! (<http://emissary.acq.osd.mil/inst/share.nsf/>). This will be done within 30 days after completion of the phase-in plan.

b. *CPAS and Final Performance Decision Report.* Commanders/directors will submit for higher headquarters approval a CPAS on DA Form 7375–R (Commercial Activities Proposed Action Summary) (RCS CSCOA–112) for Congressional announcement and prior to public announcement before beginning a competition; and, a CA Final Performance Decision Report on DA Form 7379–R (Commercial Activities Final Decision Report) (RCS CSCOA–113) before implementing the results of any competition. There must be Congressional notification before proceeding in the paragraphs under 1–7c, below. ACOM/DRU/FOA/HSSAs will forward a copy of the approved CPAS to HQDA (DAIM–CD) within 5 workdays of commander/director approval. ATOs will submit a revised CPAS if the addition or removal of activities from an ongoing competition causes any of the thresholds to be exceeded.

c. *Congressional/public notifications.*

(1) *Preliminary planning (PREPLAN) announcement.* A congressional announcement of intent to compete is required before FedBizOpps.gov announcement of an in-house activity. The ACOM/DRU/FOA/HSSA submits a request for Congressional announcement to ACSIM (DAIM–CD). This request will be in the Information for Members of Congress (IMC) format (activity or location where the competition is to be conducted and the broad function(s) for possible competition). Once Congress has been notified, the ACOM/DRU/FOA/HSSA will be informed to begin their PREPLAN. The commander/director will conduct the nine PREPLAN steps outlined in chapters 1 through 6 of this regulation. When the PREPLAN is completed, the Commander/Director of a programmed competition will submit a CPAS and a request for public announcement through the ACOM/DRU/FOA/HSSA to ACSIM (DAIM–CD).

(2) *Competition announcement.* Once received, ACSIM notifies the ACOM/DRU/FOA/HSSA to make the public announcement of the competition in the FedBizOpps.gov, which is the competition start date.

(3) *Final performance decision.* For a contract decision, by law (10 USC 2461), the contract may not be awarded before the formal notification to Congress (Studies with more than 10 civilian employees). For an agency tender decision, the MEO may be fully implemented prior to notification to Congress.

(4) *Military personnel.* Military personnel are not included in Congressional notifications.

d. *Reports following performance decision.* The performance decision is the result of the cost comparison resulting from a request for proposal or an invitation for bid.

(1) In a contract decision, a performance decision is required.

(2) The following information must be provided to the ACSIM Competitive Sourcing Division within 1 workday of a comparison decision:

(a) The total dollar value for each line on the Streamlined Competition Form (SLCF)/ Standard Competition Form (SCF) (lines 1–17).

(b) The number of MEO work years.

(c) The number of contract offers that were received.

(d) Whether the decision was contract or agency tender.

(e) The date and time that the decision will be announced to the workforce.

(3) Provide the Final Performance Decision Report (DA Form 7379) to ACSIM within 10 workdays following cost comparison bid opening if there are no appeals or protests. If there is an appeal(s) or protest(s), then the form will be submitted 10 workdays after adjudication. The SLCF/SCF will accompany the Final Performance Decision Report.

*e. Final Performance Decision Report.*

(1) The Final Performance Decision results from the resolution of any award disputes (contests, GAO protests and court actions).

(2) The ACOM/DRU/FOA/HSSA will forward the DA Form 7379 and Congressional announcement to ACSIM within 10 calendar days of receipt of the DA Form 7379. ACSIM will forward the announcement to the to the Secretary of the Army for approval to notify Congress.

(3) After Congressional notification, ACSIM will notify the appropriate ACOM/DRU/FOA/HSSA, who may now implement the agency tender or contract.

**1–7. Providing information to Congress, the workforce, and the news media**

*a.* Periodic public announcements will be made to affected employees and other interested parties on plans and progress regarding competition studies. This includes the following as a minimum:

(1) The ATO announces the intent to conduct a competition immediately after the preliminary competition has been announced to Congress and the ACOM/DRU/FOA/HSSA returns the approved CPAS (DA Form 7375) to the garrison/installation/mission/tenant.

(2) At or following the tender/offer opening for a standard competition, the CO will offer a debriefing to the ATO and directly affected Government personnel in accordance with the FAR. The CO announces to the workforce and union the performance decision as well as the start date and duration of the public review and contests period. In the case of a contract performance decision, HQDA will be notified before the CO notifies the workforce. While the workforce is being notified, the CO must notify all offerors of the performance decision and public review and contest period. Once these notifications are complete, the Public Affairs Office (PAO) should notify the local media.

(3) At the conclusion of the contested process, the ATO/CO or designee must notify higher headquarters and the workforce. The CO notifies all offerors and the ATO of the final performance decision. Once these notifications are complete, the PAO will notify the local media.

(4) For streamlined competition studies, the CO announces the decision after the contract/letter of obligation is issued.

*b.* At the direction of the commander/director, the PAO will inform the local members of Congress of the status of their competitions (at announcement, solicitation, performance decision, contest/protest decision, and final performance decision).

*c.* Table 1–1 summarizes reporting and announcement requirements. E-mail and attachments are encouraged vice postal service.

**Table 1–1  
Summary of reporting and announcement requirements**

Responsible organization	Action	When action required
Garrison/installation/mission	Submit CPAS to ACOM/DRU/FOA/HSSA.	Upon completion of PREPLAN.
ACOM/DRU/FOA/HSSA	Approve CPAS and forward to ACSIM.	Within 5 workdays of CPAS receipt from garrison/installation/mission.
ACSIM	Establish OSD CAMIS record (entering data from CPAS) and notify ACOM/DRU/FOA/HSSA of competition number.	Within 1 business day following receipt of CPAS.
ACOM/DRU/FOA/HSSA	Return approved CPAS to installation/mission.	Within 1 business day of receipt of competition number (for studies not announced to Congress) or notice from ACSIM the competition has been announced to Congress.
Garrison/installation/mission	Submit CPAS through ACOM/DRU/FOA/HSSA to ACSIM.	When activities are added to or deleted from the competition.

**Table 1–1  
Summary of reporting and announcement requirements—Continued**

Responsible organization	Action	When action required
Garrison/installation/mission	Update OSD CAMIS records.	When milestones are completed or rescheduled and as actual data becomes available (funding, FTEs, and so on).
ACOM/DRU/FOA/HSSA	Submit request for Congressional announcement to ACSIM.	Prior to competition start and within 5 workdays of receipt of CPAS from installation/mission.
CLL	Announce competition to Congress.	Following when ACSIM receives notice.
ACSIM	Notify ACOM/DRU/FOA/HSSA that Congressional announcement has been made.	One workday following CLL notification.
ACOM/DRU/FOA/HSSA	Notify installation/mission that Congressional announcement has been made.	One workday following ACSIM notification.
Garrison/installation/mission	Public announcement in FedBizOpps.gov.	When ready.
Garrison/installation/mission	Announce competition to workforce/contractor.	One workday following ACOM/DRU/FOA/HSSA notification.
Garrison/installation/mission	Announce competition to local media.	Same or following day of announcement to workforce.
Garrison/installation/mission	For in-house award, submit requisite information through ACOM/DRU/FOA/HSSA to ACSIM for notification to HQDA leadership.	One workday following tender/offer performance decision.
Garrison/installation/mission	For contract award, submit requisite information through ACOM/DRU/FOA/HSSA to ACSIM for notification to HQDA leadership.	One workday following the cost competition but <b>prior to</b> notification of workforce and offeror.
Garrison/installation/mission	CO briefs ATO and notifies workforce and union. PAO notifies local Congressional officials and media.	As soon as possible following final performance decision. Also, as soon as possible following administrative contest decision (or public review period if no contest) and GAO tender/offer protest decision (or protest period if no protest filed).
Garrison/installation/mission	Local media notification.	After workforce and offeror are notified.
Garrison/installation/mission	Submit Final Performance Decision Report to ACOM/DRU/FOA/HSSA.	Within 10 workdays of final performance decision
ACOM/DRU/FOA/HSSA	Submit Final Performance Decision Report and request for Congressional notification to ACSIM.	Within 10 workdays of receipt from garrison/installation/mission/tenant.
CLL	Notify Congress of final performance decision.	As soon as possible from when ACSIM receives final performance decision.

## 1–8. Information requests and the Freedom of Information Act

*a.* The Freedom of Information Act (FOIA) (Exemption 5), DODD 5400.7–R, and AR 25–55 exempt from disclosure the competition information listed in *b* through *d*, below, before tender/offer comparison. After implementation of the MEO, documents pertaining to the agency tender (formally management study) can be released under the FOIA. Commanders/directors of garrison, installation, mission, tenant, DRU, FOA, and HSSA will appoint an official to receive information requests and release information related to the competition. The releasing official will follow the guidelines in the FOIA, DODD 5400.7–R, and AR 25–55 when responding to all information requests.

*b.* The releasing official will consult with the ATO (if under his/her cognizance), legal advisor, and CO before responding to each information request.

*c.* If the table of distribution and allowances (TDA) is not equivalent to the MEO, then the releasing official will provide it upon request. If the TDA is equivalent to the MEO, then the releasing official must provide the prior year TDA.

*d.* The releasing official will not release any information that reveals the agency tender. Such information is exempt from mandatory release under the FOIA. Information which cannot be released includes—

- (1) The agency tender and MEO subcontracts.
- (2) Preliminary management studies and products of manpower requirements determination processes if they reveal the in-house staffing estimates.
- (3) Budgets for the activity if they show the projected operating costs or personnel resources of the MEO.
- (4) Proposal evaluation information.

- (5) The private-sector offers competing with the agency tender.
  - (6) Public-reimbursable tender and their subcontracts.
- e.* The CO will provide offerors with the requisite information to fully understand the nature and scope of work being competed. Information that should be provided to offerors includes—
- (1) Past, current, and projected workload requirements necessary to prepare an offer.
  - (2) Past or current TDA documents and staffing information.
  - (3) Past or current operating procedures.
  - (4) Past budget execution reports or other historical reports on resource consumption and the total cost of operations. This includes baseline competition information.

## **Chapter 2**

### **Planning and Organizing the CS Competition**

#### **Section I**

#### **The Army Inherently Governmental and Commercial Activities (IGCA) Inventory and Legislative/Administrative Exclusions**

##### **2–1. The IGCA and Federal Activities Inventory Reform Act**

*a.* The IGCA inventory lists all commercial (reviewable and exempt) and inherently governmental activities performed by or for the Army. It consists of a copy of all manpower documents (TDA and modified table of organization and equipment (MTOE)) with two added columns: activity code and criteria code. The criteria code column categorizes each manpower authorization as either inherently governmental/exempt (prohibited from performance by contract) or reviewable (eligible for competition). (Throughout this regulation, “reviewable” activities are referred to as “contractible.”) The IGCA inventory also includes contract manpower equivalents (CMEs).

*b.* The ASA(M&RA) uses the IGCA inventory to develop a separate inventory required by the FAIR Act. The main difference between the FAIR Act inventory and the IGCA inventory is that the FAIR inventory groups FTEs by activity at each location, while the IGCA inventory shows each line on the TDA or MTOE. Although the FAIR Inventory groups by FTEs in each activity, the sequencing in the IGCA inventory is by paragraph and line number. The FAIR Act excludes depot maintenance and activities performed by military and indirect-hire overseas civilian personnel; however, aggregate data may be provided.

*c.* The FAIR Act requires that the FAIR Inventory be reviewed annually as a basis for developing plans regarding which activities will be competed. Thus, it will be used by the Secretary of the Army to establish competition goals and by ACSIM and ACOMs/DRUs/FOAs/HSSAs to develop competitive sourcing plans. The inventory will be consistent with determinations made by ASA(M&RA), in an annual policy memorandum, regarding what activities are inherently governmental, exempt from competition or conversion to contract, or subject to competition. Deviation from FAIR classifications is not authorized without ASA(M&RA) approval.

*d.* As a matter of policy, inherently governmental activities are services that are so intimately related to the public interest as to mandate performance by Government personnel. These activities require the exercise of substantial discretion in applying Government authority and/or in making decisions for the Government. These include activities that require exercising discretionary authority to set or change regulatory policies, or making value judgments in the act of governing. Many individual positions perform both contractible (reviewable) and noncontractible (inherently governmental or exempt) activities. The management study conducted during the competition will identify the MEO for contractible activities and the continuing Government organization (CGO) for inherently governmental/exempt activities. Inherently governmental/exempt activities may not be converted to contract and therefore will not be included in the PWS.

*e.* Recent legislation, including the Government Performance and Results Act (GPRA) and the Clinger–Cohen Act, has clarified what functions are inherently governmental and what functions could be carried out by contractors depending on their cost and benefits to the agency. Figure 2–1 summarizes the distinctions between these two categories of functions.

*Note.* This list is not official or authoritative; it is only a suggested list for study and research purposes.

<b>Inherently governmental</b>	<b>Commercial activities</b>
Strategic planning: defining strategic goals, vision, desired outcomes, initiatives (GPRA)	Facilitating strategic planning retreats, documenting and publishing strategic plans
Defining performance assessment metrics, goals, targets, schedules, collection & reporting processes (GPRA)	Collecting data for performance evaluations, doing surveys
Budgeting for strategic initiatives	Accounting and financial data processing
Establishing or approving standards, policies, procedures, and guidelines	Writing instruction documents and manuals
Evaluating vendors for specific mission tasks, benchmarking	Testing vendor equipment, evaluating and comparing product performance; negotiating service level agreements
Honest broker of vendor products and services, government and consumer advice	Providing multivendor contracts, bundling standard interoperable packages
Defining security and data access policies	Grounds guards, security testing
Mediating disputes between private parties	Supporting government investigations of third parties
Defining Common Operating Environments for interoperability	Certifying interoperability of systems

**Figure 2-1. Inherently governmental and commercial activities**

f. Requests to exempt specific activities may be submitted by a HQDA functional proponent to the ASA(M&RA). Such requests must be substantiated with a well-reasoned case that contracting out the activity would pose a risk to national security. A request to exempt specific activities may also be submitted by a ACOM/DRU/FOA/HSSA commander/director to the CCSO. These requests must be substantiated with a well-reasoned case that it is impractical to package a competition for those otherwise reviewable activities or based on other grounds specifically required by CCSO policies. To support a national security exemption, it must be substantiated that contracting out an entire activity, Army-wide, poses an articulated, identifiable risk to national security. The current level of contracting an activity is a relevant factor when assessing a national security exemption.

(1) Approved exemptions will be reviewed and validated on an annual basis. A functional audit trail will be required, which includes Army Management Structure Codes (military or civilian occupational skills).

(2) Specialties, or standardized documentation conventions that will enable the CCSO to readily and consistently identify authorizations on a functional basis from year-to-year, will be documented in the IGCA inventory.

g. To substantiate a packaging exemption requires evidence that alternative approaches to competing an activity were considered and found to be impractical; include bundling functions with other activities at garrison/installation/mission/tenant, and conducting ACOM/DRU/FOA/HSSA-wide or Army-wide functional competitions.

## **2-2. Legislative/administrative exclusions**

a. As of the date of publication of this regulation, the following are excluded from using OMB Circular A-76.

However, prior to beginning a new competition under OMB Circular A-76, it is recommended that the Staff Judge Advocate or legal counsel review recent DOD Appropriations and Authorization Acts in order to ascertain if Congress has further modified the A-76 process. In recent years, these modifications have become common.

(1) Depot-level maintenance of mission-essential materiel at Army depots (core logistics) may not be converted to contract using provisions of OMB Circular A-76. The Secretary of Defense may waive this exclusion on a case-by-case basis (10 USC 2464(b)). Any waiver of this exclusion will be made by the Secretary of Defense upon a determination that Government performance of core logistics (depot maintenance) workload is no longer required for national defense reasons. Requests to waive this exclusion and use the procedures in this regulation will confirm that—

(a) Private-sector performance will not adversely affect mobilization requirements or other readiness considerations.  
(b) The private sector is capable of providing the technical competence and resources necessary to perform the activity.

(c) The private sector is capable of performing if surges occur.

(d) The activity is separable from those core logistics activities that do require performance by Army personnel.

(e) The Army retains essential management responsibility.

(f) The Army retains ownership and accountability of essential facilities and equipment.

(2) Installations that are 180 days from closure as a result of base realignment and closure (BRAC) action may convert certain activities to contract without a competition. Contracts must not start before the announced closure date. Police services, fire protection services, and airfield operations at BRAC installations may be contracted with the local Government (Public Law 103-160, Section 2907). Contracts will be awarded in accordance with the FAR. BRAC contractual provisions are in Section 2905(b)(8)(A) of the Defense Base Closure and Realignment Act of 1990 and 10 USC 2687.

(3) Production operations performed in Government-owned plants may only be converted to contract in accordance with procedures established pursuant to AR 700-90.

(4) Privatizations are not subject to the competition requirements of this regulation (10 USC 2871-2885 for housing and 10 USC 2688 for utilities). Privatization of a CA occurs when the Army transfers ownership, control, and responsibility for performance of the CA to a non-Federal entity. For example, privatization of a wastewater treatment plant or an electrical distribution system may be accomplished by transferring ownership of facilities, with or without land, along with the operation and maintenance responsibility for the plant or system, to a commercial utility company. The transfer to a non-Federal entity ends Army involvement in the activity and provision of service. The Army no longer determines requirements or provides quality assurance for the service, and does not have control of provision of the service or operation and maintenance of the facility.

b. Outside the continental United States (OCONUS) excludes Alaska and Hawaii; commanders/directors may use either OMB Circular A-76 procedures or any alternative competitive sourcing procedure when doing so conforms to applicable laws, treaties, and international agreements. The current inventory of IGCA exempts local national positions in Korea and Japan from competition because, as a host nation, they pay part or all of the salary costs.

c. Title 10 USC 2465 prohibits both (1) contracting for new fire protection and security guard requirements and (2) outsourcing existing in-house fire protection and security guard services. Fire protection and security guard services will not be performed by contract, with the following three exceptions: (1) contracts (or renewal thereof) for performance of a activity under contract prior to September 24, 1983; (2) contracts to be performed outside of the United States (including U.S. commonwealths, territories, and possessions) where armed forces members would have to be used to perform the fire protection or security guard services at the expense of unit readiness; and (3) contracts carried out on Government-owned but privately-operated installations (10 USC 2465). The prohibition also does not apply to purely civil works fire protection and security guard activities, as these are funded through separate civil works appropriations and not through DOD-appropriated funds. In addition, firefighter and guard services already under contract may be converted to in-house performance if justified by conducting a competition.

d. Public Law 108-136, Section 331 allows contracting for the performance of firefighting functions if the contract is for a period of 1 year or less and covers only the performance of firefighting functions that, in the absence of the contract, would have to be performed by members of the armed forces who are not readily available to perform such functions by reason of a deployment.

e. Section 317 of Public Law 99-661, 100 Stat. 3855 (1986) prohibits the Operation of the Crane and McAlester ammunition plant activities and USAR/USNG military technicians being converted from in-house to contract performance.

f. Other activities determined to be Government in nature/inherently governmental (GIN) or exempt from competition during the development of the IGCA inventory and the FAIR Act inventory will not be included in a PWS and competed with the private sector. Requests to change IGCA inventory determinations should be submitted to the ASA(M&RA). After approval by OMB, the DOD FAIR Act inventory Web site address is publicly announced.

g. Operations funded entirely by nonappropriated funds (NAF) may be converted to contract without conducting a competition. However, a competition must be performed before converting CAs staffed partially with DOD employees paid by or reimbursed from appropriated funds, such as libraries and other morale, welfare, and recreation activities.

### **2-3. Volunteers, inmates, and borrowed military manpower**

*a.* Depending on whether the competition results in a contract or an in-house decision, commanders/directors must determine how activities now performed by volunteers, inmates, or borrowed military manpower (BMM) will be performed when the phase-in plan is implemented. The use of voluntary services is governed by 31 USC 1342. Volunteers may be used only when authorized by law.

(1) *Option 1, include activities in PWS.* If the commander elects to include these activities in the PWS—and the competition is contract or MEO—volunteers, inmates or BMM will not perform such activities after the phase-in plan is completed. After the phase-in plan is completed, the affected volunteers, inmates or BMM either will be assigned other work on the installation or their use will be discontinued. The Department of Labor (DOL) has cited that personnel performing work included in a contract must be paid in accordance with The Service Contract Act of 1965 (41 USC 351 et seq.).

(2) *Option 2, exclude activities in PWS.* Alternatively, the commander may elect to exclude activities now performed by volunteers, inmates, or BMM from the PWS. Under this option, volunteers, inmates, or BMM will not perform activities included in the PWS.

*b.* Regardless of the option chosen, in no case may contractor or MEO personnel be designated or otherwise serve as the supervisor of volunteers, inmates, or BMM after the completion of the phase-in plan. Instead, volunteers and BMM will be reassigned for supervisory purposes to non-MEO Government personnel. In the case of inmates, prison guards will continue to be designated as their supervisor.

## **Section II**

### **Competition Criteria for Commercial Activities Initiatives**

#### **2-4. Standard competitions**

Competition studies determine whether in-house personnel or contract will perform a CA. The resulting method of performance is used for future work unless a later competition changes the determination. Except for criteria in paragraph 2-2, activities will not be converted to or from in-house or contract without a competition. A CPAS (DA Form 7375) will be submitted through the ACOM/DRU/FOA/HSSA for HQDA approval before beginning a streamlined or a standard competition. (Fig 2-2 lists competition thresholds and reporting requirements for standard and streamlined competition.) A Final Performance Decision Report (DA Form 7379) will be submitted before implementing the results of a competition. The major process components of a standard competition are—

- a.* Packaging and preliminary planning.
- b.* Appoint competition officials in accordance with OMB Circular A-76.
- c.* Develop and issue solicitation.
- d.* Develop tender and accept offers.
- e.* Perform source selection.
- f.* Make performance decision.
- g.* Award contract or issue.

<b>Standard competition</b>	<b>Streamlined competition<sup>1</sup></b>
<b>Nomination requirement</b>	
CPAS (DA Form 7375 ) Submitted by MACOM/DRU/FOA/HSSA to ACSIM	CPAS (DA Form 7375) Submitted by MACOM/DRU/FOA/HSSA to ACSIM
<b>Thresholds</b>	
Required if > 65 FTEs	Required if 11–65 FTEs (need to check new Law requiring MEO for 10 or less)
<b>Congressional notification (military and contract personnel are not included)</b>	
Pre-competition Announcement: Required prior to start of competition if > 50 civilian employees on-board (10 USC 2461).	Pre-competition Announcement: Only required if > 50 civilian employees on-board (10 USC 2461).
Final Performance Decision Congressional Notification: Required after Final Performance Decision if > 10 civilian employees under competition. (MEO or contract decision). Contract may not be awarded before this notification. MEO may be implemented anytime after certification. MACOM/DRU/FOA/HSSA forwards approved Final Performance Decision Report to ACSIM. 10 USC 2461 and Section 8014 of the FY04 DoD Appropriations Act require MEO certification.	Final Performance Decision Congressional Notification: Same as Standard Competition. Also, both 10 USC 2461 and Section 8014 of the FY04 DOD Appropriations Act require MEO certification.
<b>Competition timelines</b>	
Congressional announcement—followed by FedBizOpps.gov announcement “clock starts date.”	Congressional announcement—followed by FedBizOpps.gov announcement “clock starts date.”
Performance decision or one year after Public announcement—followed by FedBizOpps.gov announcement “clock stops date.”	Performance decision, or 90 days after Public announcement, or when converted to standard competition—followed by FedBizOpps.gov announcement “clock stops date.”
<b>Study components</b>	
Baseline PWS QASP  <b>FIREWALL</b> Agency Tender (MEO, Quality Control Plan, Phase-in Plan, IHCE).	If over 10 civilians, Agency Tender, Agency Cost Estimate, conduct a MEO, and Certify existing in-house workforce in accordance with OMB Circular A-76, Attachment C.  <b>FIREWALL</b> Develop estimated contract price for activity or solicit cost proposals in accordance with the FAR.
1. See P.L. 108-87	

Figure 2–2. Competition thresholds and reporting requirements

## **2-5. Streamlined competition**

*a.* A streamlined competition is a procedure that may be used when the Government determines that a simplified performance decision will serve the equity and fairness purposes of OMB Circular A-76 for conversion to or from in-house or contract. Public Law 108-87, Section 8014 requires, for any activity performed by more than 10 civilian employees, a public-private competition and an MEO. However, prior to beginning a new competition under OMB Circular A-76, it is recommended that the Staff Judge Advocate or legal counsel review recent DOD Appropriations and Authorization Acts in order to ascertain if Congress has further modified the A-76 process. In recent years, these modifications have become common.

*b.* Streamlined competition procedures (DA Pam 5-20, paragraph 5-22) may be used to convert in-house activities to contract or contract to in-house performance when the following criteria are met:

- (1) The activity is staffed with 65 or fewer civilian FTEs and any number of military personnel.
- (2) The agency cost estimate must be certified as the cost of incumbent activity or MEO in accordance with OMB Circular A-76, attachment C6.
- (3) The activity is one that competes largely on a labor and material cost basis such as, but not limited to, custodial, grounds, refuse, pest control, warehousing, and maintenance services.
- (4) The activity will not require significant capital asset purchases or all equipment requirements will be Government furnished/offeror operated.
- (5) The activity is commonly contracted by the Government to the private sector (in other words, there is a private-sector source providing services of the same general type and scope and an estimated contract cost for the private sector can be made).

*c.* A firewall will be established to ensure the individual(s) preparing the in-house cost estimate and the individual(s) preparing the private-sector/public reimbursable cost estimate are different and will not share information concerning their respective estimates.

*d.* Three certifications are required on the streamlined cost form in accordance with OMB Circular A-76, attachment B. A different individual will make each of these certifications.

## **2-6. New requirement and expansion**

A streamlined or standard competition is not required for private-sector performance of a new requirement, private-sector performance of a segregable expansion (30% or more increase in operating costs, including FTEs, or total capital investment) of an existing commercial activity performed by Government personnel, or continued private-sector performance of a commercial activity. Expansion is an increase in the operating cost of an existing commercial activity based on modernization, replacement, upgrade, or increased workload. Before Government personnel may perform a new requirement, an expansion to an existing commercial activity, or an activity performed by the private sector (a segregable expansion), a streamlined or standard competition will be conducted to determine whether Government personnel should perform the commercial activity.

## **2-7. Competition deviation**

*a.* An A-76 competition deviation, when approved by OMB, allows conversion to or from in-house or contract without a competition. Deviation requests must include sufficient justification and be submitted through command channels to the CCSO for HQDA approval and forwarding to OSD. Additionally, the deviation will apply to the entire cost comparison process and may not be used to deviate from specific provisions or cost factors within the process.

*b.* The deviation request must also contain documentation that demonstrates that the various legal restrictions on converting DOD activities to contract (such as Section 8014 of the FY04 DOD Appropriations Act, 10 USC 2461, 2462, 2465, and 2469) do not apply. Approval of an "OMB Circular A-76 deviation" does not constitute a deviation of any law.

*c.* Deviations may be granted to DOD for Federal installations scheduled for closure or in cases where activities are designated for termination on specific dates.

*d.* Justification for a deviation is subject to administrative contest procedures, but a decision not to issue a deviation is not subject to contest.

*e.* Commanders/directors will provide Federal employees adversely affected by a decision to deviate from a competition, the same personnel considerations provided in paragraph 2-8.

## **Section III**

### **Personnel Considerations**

## **2-8. Civilian personnel management**

An HRA, appointed in writing by the DCSO, will ensure that the Civilian Personnel Advisory Center (CPAC)

participates in the planning, review, and conduct of competition studies. The CPAC will participate in the development of the MEO and phase-in plan as required by the HRA. Also, the CPAC should coordinate with the Civilian Personnel Operations Center (CPOC), management officials, the Equal Employment Opportunity office, the Civilian Assistance and Re-employment (CARE) office, employees, and union officials to minimize personnel turbulence and adverse effects on employees.

## **2-9. Requirements for monthly consultation with employees**

During the development and preparation of the PWS and the agency tender, the commander/director or designee will consult with civilian employees who will be affected by the competition at least monthly and consider their views on the development and preparation of the PWS and agency tender. This monthly consultation will normally be face-to-face, and it must be face-to-face if requested by the organization's representative (for example, union). In those instances where employees are represented by a labor organization accorded exclusive recognition under 5 USC 7111 and 10 USC 2467(b), the consultation requirement is satisfied by consultation with representatives of that labor organization.

*Note.* Management reserves the authority to determine agency tender resources, but affected employees or their representatives are encouraged to participate in providing management improvements such as process improvements and organizational streamlining.

## **2-10. Right of first refusal**

*a.* Federal employees adversely affected by a decision to convert to contract performance have right of first refusal for jobs for which they are qualified that are created by the award of the contract (FAR Subpart 7.305(c)). Such adversely affected employees (in other words, those who are identified by the CPAC/CPOC for release from their competitive level as a result of the performance decision) could include employees outside the activity being competed. Permanent and part-time Government employees will have priority over temporary employees.

*b.* The standard clause at FAR Subpart 52.207-3 is included in A-76 competition notifying potential offerors of this requirement. Right of first refusal is afforded to all eligible Federal employees adversely affected by conversion to contract performance. However, the contractor determines the number of available vacancies and if the Federal employee is qualified for the vacancy.

## **2-11. Reduction-in-force planning**

The goal of RIF planning is to minimize adverse personnel actions. Commanders/directors will ensure that every reasonable effort is made to place or retrain civilian employees displaced as a result of CA competition. Where no vacancies exist or are projected, coordinate with appropriate state and local employment offices to pursue possibilities for retraining opportunities under the Job Training Partnership Act or similar retraining programs for transitioning to the private sector. A RIF may be unavoidable even after all reasonable placement efforts have been made. The appropriate level of approval is required for RIF and VERA/VSIP actions, if necessary.

## **2-12. Military personnel**

*a.* It is Army policy that military positions will not be included in the agency tender. If military positions are being competed and work assigned to those positions is included in the PWS, the agency tender will include civilian positions to perform that work. Upon implementation of the final performance decision, incumbents of military positions will be reassigned in accordance with Army requirements.

*b.* When military positions are converted to contract, or to civilian as a part of the agency tender, "military buyback" may become an issue. After performance decision, the ACOM/DRU/FOA/HSSA proponent submits a Military Buyback Request to ACSIM for the difference between the Operations and Maintenance, Army funding at the time the CPAS was submitted and the cost of the in-house workforce or contract.

*c.* Inclusion of military personnel costs in the cost of contract administration is also prohibited. Contract administration costs included in line 8 of the Streamlined Competition Form (SLCF)/Standard Competition Form (SCF) will be calculated using only civilian personnel costs. (Ref. DOD guidance found on the SHARE A-76! Web site at <http://emissary.acq.osd.mil/inst/share.nsf/contdeflook/home-index>.)

## **2-13. Phase-in plan**

The CO will include in the solicitation a requirement for a phase-in plan in Section L with evaluation criteria specified in Section M. Private-sector, public reimbursable and agency sources will propose a phase-in plan to replace the incumbent service provider. The phase-in plan is implemented in the first performance period and includes details to minimize disruption and start-up requirements. The phase-in plan will consider recruiting, hiring, training, security limitations, and any other special considerations of the prospective offerors to reflect a phase-in period of realistic length and requirements. The phase-in will be included in the costing proposal.

## **Chapter 3**

### **Performance Work Statement Actions**

#### **3–1. Delegated competitive sourcing official**

The DCSO will appoint, in writing, the PWS team leader and members of the PWS team.

#### **3–2. PWS team**

The PWS team will—

- a.* Develop the PWS including supporting workload data, performance standards, and all information relating to the activity being competed. Members of the PWS team cannot be members of the MEO team.
- b.* Determine Government-furnished property (GFP) certifies its availability, justify in writing, and obtain approval by the DCSO.
- c.* Assist the CO in development of the solicitation.
- d.* Develop a quality assurance surveillance plan and, as required, update this plan based on performance decision.
- e.* Assist the CO in implementing the performance decision.

## **Chapter 4**

### **Agency Tender Procedures**

#### **4–1. Requirements for agency tender**

*a.* An agency tender will be developed for all standard competitions that responds to the requirements of the solicitation, including section L (Instructions, Conditions and Notices to Offerors or Respondents) and Section M (Evaluation Factors for Award). Agency tender includes, as a minimum, the MEO, certified cost estimate, quality control plan, and phase-in plan. Public Law 108–87 requires an MEO for all studies over 10 FTE.

*b.* The MEO is an agency’s staffing plan as identified in the agency tender. An MEO may be comprised of either Government personnel or a mix of Government personnel and MEO subcontracts. The MEO team will assist the ATO in developing the agency tender. Directly affected Government personnel (and their representatives) may participate on the MEO team; however, to avoid any appearance of a conflict of interest, members of the MEO team (including, but not limited to, the ATO, HRA, advisors, and consultants) will not be members of the PWS team and SSEB.

*c.* The ATO will develop and certify the agency cost estimate using the COMPARE costing software (for the software, go to <http://www.compareA76.com>). The ATO will include a quality control plan in the agency tender, as required by the solicitation. The quality control plan will, at a minimum, include an MEO self-inspection plan; MEO internal staffing (which will be included in the agency cost estimate for personnel costs on SCF line 1); and procedures that the MEO will use to meet the quantity, timeliness, responsiveness, customer satisfaction, and other requirements of the solicitation.

*d.* The ATO will include a phase-in plan in the agency tender, as required by the solicitation, to replace the incumbent service provider with the MEO, even if the agency is the incumbent service provider. The ATO will include phase-in costs for the agency tender on SCF lines 1–6.

*e.* Required funding approval for acquisition or lease of equipment and facilities must be obtained before the ATO approves the agency tender. This applies unless such approval depends on the outcome of the cost comparison. Effort to obtain conditional approval will be documented.

*f.* ATO will ensure the MEO is responsive to the solicitation, to include projected workload, requirements of the PWS, and budgeted resources. Changes to the agency tender, including the IHCE, after the closing date of the solicitation are not permitted except in the following instances:

- (1) A solicitation amendment issued in accordance with the FAR.
- (2) The CO’s request for final proposal revisions to offers and tenders in accordance with FAR Subpart 15.307.
- (3) Official changes to inflation factors, pay rates, or other mathematical changes (for example, fringe benefit rates).
- (4) Version upgrades to the COMPARE costing software issued by DOD.
- (5) Resolution of a contest or protest of a performance decision. The CO will retain documentation regarding any changes to the agency tender as part of the competition file and in a form suitable for audit.

*g.* For sealed bid acquisitions, FAR Subpart 22.1014 requires the contracting activity verify with the DOL that the wage determination obtained earlier is still current if the acquisition is delayed more than 60 days. If a more recent wage determination has been issued during that 60-day period, the wage determination must be updated.

*h.* Refer to the DOD guidance found on the SHARE A–76! Web site (<http://emissary.acq.osd.mil/inst/share.nsf/contdeflook/home-index>) for additional policies and procedures specific to IHCE modifications and resubmissions.

*i.* If essential information in the agency tender is classified, the classified material will be included in a separate classified appendix.

#### **4-2. Certification and implementation of MEO**

*a. MEO certification.* The MEO is certified by the ATO. (Ref. OMB Circular A-76, page B-2).

*b. MEO implementation.*

(1) Where practical and where it can be done without revealing the MEO to prospective offerors, management improvements should begin to be implemented upon approval of the MEO by the ATO. This precludes the continued expenditure of excessive resources and allows the MEO and methods improvements to be tested.

*(a)* The ATO will ensure work that is not in the PWS is not being performed.

*(b)* Cost-effective methods will be implemented as they are identified.

*(c)* Where practical, attrition and management-initiated reassignments of employees from excess positions will be used to implement the MEO. There is no policy in this regulation that further restricts the commander's authority to locally determine whether to use RIF procedures prior to cost comparison.

(2) Once a final performance decision is reached to retain a CA as an in-house operation, commanders/directors and managers at all levels will ensure that—

*(a)* If not previously implemented, the agency tender is implemented according to the scheduled milestone.

*(b)* The work and mission requirements performed by the agency tender are in accordance with the PWS.

*(c)* The activity is performed within the cost levels established in the agency tender unless there are changes to the PWS.

*(d)* The in-house operation implements levels of performance and quality control measures described in the PWS.

*(e)* As workload changes, the PWS, to include workload data, is updated.

#### **4-3. Independent review**

The agency tender is treated by the SSEB in the same way as other offerors. Therefore, the SSEB becomes the independent reviewer. The CO will conduct price analysis and cost realism as required by OMB Circular A-76, attachment B.

## **Chapter 5**

### **Calculating Competition Costs**

#### **5-1. Introduction**

*a.* This chapter provides a general description of how the costs are estimated for the cost comparison that determines whether a commercial activity will be performed in-house or by the selected contractor. The IHCE shows the cost to the Government of performing the work in the PWS with the proposed in-house organization (MEO). The IHCE also establishes the costs to be added to the contract price to arrive at the full cost of contract performance. Detailed policy and procedures for preparing the IHCE are provided in the DOD guidance found on the SHARE A-76! Web site (<http://emissary.acq.osd.mil/inst/share.nsf/contdeflook/home-index>). Compliance with this DOD guidance is mandatory.

*b.* Except as otherwise provided by law, supplies and services must be obtained from a source in the private sector if such source can provide the supply or service at a cost that is lower than the in-house cost (ref. 10 USC 2462). Federal policy (OMB Circular A-76) and law require that a formal competition be held to determine the least-costly mode of performance, whether in-house or contract. This mode of performance will be used for future services unless a later competition changes the outcome.

*c.* The decision to contract or not to contract a CS is determined by the SSEB evaluation of the agency tender and the other contract offers. The contractor offers are based on the same solicitation (and PWS) as the IHCE. To ensure fairness, the IHCE and contract estimates are not disclosed by the SSEB until the "performance decision" is announced.

#### **5-2. Standard Competition Form**

*a.* The SCF is the document used to compare the IHCE of the MEO versus a contract offer using COMPARE, which is a software program that calculates several lines automatically based upon standard factors including the minimum conversion differential. The procedures in the DOD guidance available on the SHARE A-76! Web site (<http://emissary.acq.osd.mil/inst/share.nsf/contdeflook/home-index>) will be used to complete the SCF for a competition. The COMPARE software, along with a detailed user manual and costing help desk, is available at <http://www.compareA76.com/>.

*b.* For standard competitions, calculate and manually enter the required cost data in COMPARE.

#### **5-3. Streamlined Competition Form**

*a.* The SLCF is the document used to compare the estimated cost of current in-house workforce versus contract performance using COMPARE.

*b.* For streamlined competitions, calculate and manually enter the required data.

c. The most critical aspect for proper preparation of an IHCE is thorough documentation. This includes both COMPARE-generated worksheets and additional supporting documentation such as receipts and subcontractor invoices that are required to provide clear and thorough explanations for how all cost elements, calculations, and estimates were determined and how common cost elements were identified. The supporting documentation (manual calculations, other pay, entitlements, equipment costs, and so on) must be developed so that diverse audiences that are typically not involved in the A-76 cost comparisons easily understand it. These will include but are not limited to the individuals certifying the SLCF, potential contests, the Contest Authority chair, lawyers, judges, and auditors. In most instances, these individuals rely solely upon the written record (in other words, supporting documentation) to understand, validate, defend, dispute, and resolve issues surrounding the rationale for and calculations of the IHCE.

## **Chapter 6**

### **Solicitation and Source Selection**

#### **6-1. Developing the solicitation**

A solicitation will not place any prospective provider at an unfair competitive advantage. Any restricted solicitation without any offerors or acceptable offerors will be reissued as an unrestricted solicitation. Public Law 108-199 states that the length of performance periods of 5 years or less under OMB Circular A-76 no longer applies. In determining appropriate performance periods, the CO should consider the nature and risk associated with the services to be provided.

a. *Review and release of information.* All releases of the PWS and solicitation, including drafts, will be by the CO. With the exception of information related to the performance or productivity of the incumbent organization, historical data or other existing information that is available to the ATO or MEO team will be made available to all prospective offerors. Information that is developed by the ATO or MEO team will be considered procurement sensitive.

b. *FAR provisions.* The CO, in consultation with the PWS team, will determine the acquisition strategy in accordance with FAR Part 7. When the agency is the incumbent service provider, the CO will comply with FAR Subpart 7.305(c) regarding the right of first refusal. The CO will comply with FAR Subpart 22.10 to obtain the applicable wage determination from the DOL.

c. *Acquisition process and source selection provisions.* The CO will identify in the solicitation whether the acquisition procedures will be sealed bid or negotiated procedures. If negotiated procedures will be used, the CO will identify in the solicitation the type of source selection process.

(1) *Evaluation factors.* All evaluation factors will be clearly identified in the solicitation.

(2) *Tradeoff source selection solicitation provisions.* For tradeoff source selections, the solicitation will identify the specific weight given evaluation factors and sub-factors, including cost or price as specified in FAR Subpart 15.101-1. Also see paragraph 1-5b of this regulation.

d. *Solicitation provisions unique to agency tender.* A solicitation will state that the agency tender is not required to include—

- (1) A labor strike plan.
- (2) A small-business strategy.
- (3) A subcontracting plan goal.
- (4) Participation of small disadvantaged business.
- (5) Licensing or other certifications.

(6) Past performance information (unless the agency tender is based on an MEO that has been implemented in accordance with revised OMB Circular A-76, 29 May 2003 or previous OMB Circular A-76).

e. *Solicitation closing date.* The date for delivery of offers and tenders will be the same.

f. *Performance periods.* The ATO will use a minimum of 3 full years of performance, excluding the phase-in-period, in a standard competition. The solicitation will not use performance periods for the agency tender that differ from performance periods for private-sector offers and public reimbursable tenders. The DCSO will obtain prior written approval from OMB to use performance periods that exceed 5 years.

g. *Government-furnished property (GFP).* The PWS team will be responsible for determining whether the agency will make Government property available to all prospective offerors. Agency determinations to provide or not provide GFP will be justified, in writing, and approved by the DCSO. The ATO, MEO team, and any individual assisting in the development of the agency tender will not be involved in the determination to provide GFP.

h. *Common costs.* The CO will describe common costs in the solicitation.

i. *Performance bond.* If the CO requires a private-sector source to include a performance bond, the CO will obtain prior written approval from the DCSO. The CO will exclude the cost of the performance bond from the contract price before entering the contract price on SCF line 7. The agency tender does not require a performance bond.

j. *Incentive fee.* Because of the impossibility of establishing a level playing field in the cost comparison, a cost-plus-incentive-fee arrangement is not authorized for an A-76 solicitation. If a fixed-price-incentive-fee type contract is to be

used, the CO will require the private-sector offeror to propose a target and maximum cost, a target and maximum fee, a share line, and a ceiling price. The CO will insert the ceiling price on SCF line 7.

*k. Award-fee contract.* Cost-plus-award-fee contract is very labor-intensive to administer, and there is no legal mechanism for payment of an award fee to the agency tender. This type of contract requires the development of an award-fee rating plan. The maximum fee (base fee plus award fee) will not exceed regulatory profit limitations.

*l. Phase-in plan.* The CO will include in the solicitation a separate contract line item number (CLIN) for a phase-in plan. Private-sector, public reimbursable, and agency sources will propose a phase-in plan to replace the incumbent service provider. The CO will designate the phase-in period as the first performance period (see OMB Circular A-76, attachment C). The CLIN is limited to the phase-in costs associated with phase-in actions as documented in the phase-in plan. Phase-in plans will include details to minimize disruption and start-up requirements. The phase-in plan will consider recruiting, hiring, training, security limitations, and any other special considerations of the prospective providers to reflect a phase-in period of realistic length and requirements. Depending on the complexity of the activities, phase-in period should not exceed 60-90 calendar days.

*m. Quality control plan.* The CO will include in the solicitation a requirement for prospective offerors to include a quality control plan and internal staffing in offers and tenders.

*n. Offerors' site visit of Army facilities.* Site visits will be conducted during working hours, unless exceptional circumstances exist that are documented in writing. The functional manager should caution affected employees about talking with offeror representatives during site visits and establish guidelines for recognizing authorized and unauthorized visitors. The CO is the offerors' only authorized source of information on questions relating to the competing activity.

*o. Contract wage rates.* CA contracts will require application of The Service Contract Act of 1965 (SCA) and/or The Davis-Bacon Act (DBA) (40 USC 3141 et seq.). Work will not be separated or aggregated to avoid the applicability of either the SCA or the DBA.

*p. Occupational Safety and Health Act (OSHA).* As employers, both the Government and the private sector are required to provide a safe workplace. With the exception of military unique equipment, systems, and operations, the standards established under OSHA for private-sector employers are the Army safety standards. Solicitations will list the deficiencies in work sites identified in the most recent annual inspection. Solicitations will not include work to bring Government-furnished facilities into compliance with OSHA. Likewise, OSHA-required repairs will not be included in the in-house cost estimate. Offerors will be informed of the Government's intention to correct the deficiencies, or any deficiencies later discovered, at its expense, taking into account safety and health priorities.

## **6-2. Source Selection Evaluation Board**

The SSA will appoint an evaluation team (referred to as the SSEB) in accordance with FAR Subpart 15.303. The SSA will ensure that the SSEB complies with the source selection requirements of the solicitation and source selection plan. PWS team members who are not directly affected Government personnel may participate on the SSEB. Directly affected personnel (and their representatives) and any individual (including, but not limited to, the ATO, HRA, MEO team members, advisors, and consultants) with knowledge of the agency tender (including the MEO and agency cost estimate) will not participate in any manner on the SSEB.

## **6-3. Source selection and performance decision**

The CO will select one of the procedures described below to conduct a standard competition and will not employ any other procedure in conducting the standard competition. The SSEB will not evaluate the private-sector offers separately from the agency tender.

*a. Sealed bid acquisition.* The CO will conduct a sealed bid acquisition in accordance with FAR Subparts 14.1 through 14.4 and OMB Circular A-76, attachment B. On the solicitation closing date, the CO will open the agency tender, private-sector bids, and public reimbursable tenders. The CO will enter the price of the apparent lowest priced private-sector bid or public reimbursable tender on SCF line 7 to complete the SCF calculations. The CO will then evaluate private-sector bids for responsiveness and responsibility in accordance with the FAR and determine if SCF lines 8-18 have been prepared in accordance with OMB Circular A-76, attachment C. The CO will certify the SCF in accordance with OMB Circular A-76, attachment C. The CO makes the performance decision by certifying the SCF.

*b. Negotiated acquisition.*

(1) *Lowest price technically acceptable source selection.* The CO will conduct a lowest price technically acceptable source selection in accordance with FAR Subpart 15.101-2 and OMB Circular A-7, attachment B. During the source selection process, the CO will open and evaluate all offers and tenders (including the agency tender) to determine technical acceptability. The performance decision will be based on the lowest cost of all offers and tenders determined to be technically acceptable. The CO will conduct price analysis and cost realism as required by OMB Circular A-76, attachment B. The CO may conduct exchanges in accordance with FAR Subpart 15.306 to determine the technical acceptability of each offer and tender. The CO will enter the lowest contract price or public reimbursable cost on SCF line 7 to complete the SCF calculations. The CO will sign the SCF, and the SSA will certify the SCF, in accordance with OMB Circular A-76, attachment C. The SSA makes the performance decision by certifying the SCF.

(2) *Phased evaluation source selection process.* The CO will conduct a phased evaluation source selection in accordance with FAR Part 15 and by attachment B, OMB Circular A-76. In the phased evaluation process, the CO will evaluate technical capability in phase one and cost in phase two. The performance decision will be based on the lowest cost of all technically acceptable offers and tenders from all offerors, public reimbursable sources, and the ATO. The solicitation will require the submission of complete offers and tenders, including separate technical proposals and cost proposals/estimates, by the solicitation closing date. The solicitation will permit submission of alternate performance standards that differ from the solicitation's performance standards. To differentiate between the alternate standards and the solicitation's standards, the solicitation will require that offers and tenders include a compliance matrix specifying the alternate performance standards; an explanation of how the alternate standards differ from the solicitation standards; the cost of meeting each alternate standard; the cost difference between the alternate and solicitation standard; a cost-benefit analysis explaining the rationale for each alternate standard; and proposed language to include alternate performance standards in an amended solicitation. If the agency receives no alternate performance standards, or does not accept any of the alternate standards, then the SSA will determine a performance decision based on the solicitation's performance standards.

*c. Phase one.* The CO will open and evaluate the technical proposals submitted by private-sector offerors, public reimbursable sources, and the ATO. The CO will not open or evaluate agency or public reimbursable cost estimates or private-sector price proposals during phase one. The CO may conduct exchanges in accordance with FAR Subpart 15.306 and OMB Circular A-76, attachment B to determine the technical acceptability of each offer and tender. If an agency receives offers and tenders that include alternate performance standards, the CO will evaluate each alternate performance; consider the discrete cost or price difference associated with the alternate standard; determine, in consultation with the requiring activity, whether an alternate standard is necessary and, if so, within the agency's budget limitations; and document, in writing, the evaluation of each alternate performance standard. If the SSA accepts an alternate performance standard, the CO will issue an amendment to the solicitation to identify the specific change to the solicitation's performance standard without conveying proprietary information about technical approaches or solutions to meet the new performance standard; and request the resubmission of offers and tenders in response to the amended solicitation. Upon receiving revisions to offers and tenders, the CO may conduct exchanges in accordance with FAR Subpart 15.306 and OMB Circular A-76, attachment B to determine the technical acceptability of each offer and tender.

*d. Phase two.* The CO will perform price analysis and cost realism of private-sector cost proposals, public reimbursable cost estimates, and the agency cost estimate in accordance with OMB Circular A-76, attachment B on all offers and tenders determined to be technically acceptable at the conclusion of phase one. The CO then will enter the lowest contract price or public reimbursable cost on SCF line 7 to complete the SCF calculations. The SSA will certify the SCF, and the CO will sign the SCF in accordance with OMB Circular A-76, attachment C. The SSA will make the performance decision by certifying the SCF, which is the performance decision document.

*e. Information technology pilot program.*

(1) Public Law 108-354, Section 336 authorized a pilot program for best-value source selection for performance of information technology (IT) services. The Secretary of Defense may carry out a pilot program for the procurement of IT services for DOD that uses a best-value criterion in the selection of the source for the performance of the IT services. Under the pilot program, the Secretary of Defense will modify the examination otherwise required by 10 USC 2461(b)(3)(A) to be an examination of the performance of an information technology services function by DOD civilian employees and by one or more private contractors to demonstrate whether—

(a) A change to performance by the private sector will result in the best value to the Government over the life of the contract, as determined in accordance with the competition requirements of OMB Circular A-76.

(b) Certain benefits exist, in addition to price, that warrant performance of the function by a private-sector source at a cost higher than that of performance by DOD civilian employees.

(2) Section 2462(a), Title 10, United States Code does not apply to the procurement of IT services under the pilot program.

(3) The authority to carry out the pilot program begins on the date on which the Secretary of Defense submits to Congress the report on the effect of the recent revisions to OMB Circular A-76 and expires on 30 September 2008.

*f. Special considerations.*

(1) *Evaluation of private-sector offers, public reimbursable tenders, and agency tender.* The CO will not evaluate the private-sector offers separately from the agency tender. The CO, SSA, and SSEB will not (a) convey, require, make, direct, or request adjustments to a tender or offer that would identify any proprietary or procurement sensitive information from another offer or tender; or (b) require, direct, or make specific changes to an offer or tender, including the approach and staffing requirements (for example, adding a specific number of employee positions to the MEO). The CO will ensure that oral presentations do not provide an unfair advantage for or inherently benefit a prospective provider, public or private.

(2) *Exchanges with private-sector, public reimbursable, and agency sources.* If the CO conducts exchanges with private-sector offerors, public reimbursable sources, and the ATO during the course of the standard competition, those exchanges will be in accordance with FAR Subpart 15.306, with the following exceptions: for an agency tender, the

CO will correspond with the ATO, in writing, and will maintain records of all such correspondence as part of the competition file; the CO and ATO will include clear, sufficient, and unambiguous information in the correspondence to adequately convey concerns, responses, or information regarding the agency tender.

(3) *Deficiencies in an offer or tender.* If the CO perceives that a private-sector offer, public reimbursable tender, or agency tender is materially deficient, the CO will ensure that the ATO, private-sector offeror, or the public reimbursable tender official receives a deficiency notice. The CO will afford the ATO, the private-sector offeror, or the public reimbursable tender official a specific number of days to address the material deficiency and, if necessary, to revise and re-certify the tender or offer. If the ATO is unable to correct the material deficiency, the DCSO will determine if a commitment of additional resources will enable the ATO to correct the material deficiency within the specified number of days. If the DCSO determines that the ATO cannot correct the material deficiency with a reasonable commitment of additional resources, the DCSO may advise the SSA to exclude the agency tender from the standard competition. If the CO determines that a private-sector offeror or public reimbursable tender official has not corrected a material deficiency, the SSA may exclude the private-sector offer or public reimbursable tender from the standard competition. If the agency tender is excluded from the standard competition, an agency will calculate the SCF as required by OMB Circular A-76, attachment C, and the SSA will make the performance decision based upon the source selection decision document and will document the reason for elimination of the agency tender on the SCF.

(4) *Price analysis and cost realism of private-sector cost proposals, public reimbursable cost estimates, and agency cost estimates.* Regardless of the contract type stated in the solicitation, the CO will perform price analysis and cost realism (as defined in FAR Part 2) on all private-sector cost proposals, all public reimbursable cost estimates (SCF lines 1a-6a), and the agency cost estimate (SCF lines 1-6). If price competition is determined to be adequate, cost analysis (in accordance with FAR Part 15) is not required for a standard competition but may be performed at the discretion of the SSA.

(a) *Agency and public reimbursable cost estimates.* The CO will ensure that the agency and public reimbursable cost estimates are calculated in accordance with OMB Circular A-76, attachment C; are based on the standard cost factors in effect on the performance decision date; and use the version of the COMPARE costing software that is in effect on the performance decision date.

(b) *Conversion differential.* All standard competitions will include the conversion differential. The CO will ensure that the conversion differential is calculated in accordance with OMB Circular A-76, attachment C and reflected on SCF line 14. The conversion differential is a cost that is the smallest of 10 percent of the MEO personnel-related costs (reflected on SCF line 1) or \$10 million over all the performance periods stated in the solicitation. This conversion differential is added to the cost of performance by a nonincumbent source. If the incumbent provider is a private-sector or public reimbursable source, the conversion differential is added to the cost of agency performance. If the agency is the incumbent provider, the conversion differential is added to the cost of private-sector or public reimbursable performance. The conversion differential precludes conversions based on marginal estimated savings and captures nonquantifiable costs related to a conversion, such as disruption and decreased productivity.

(c) *SCF overview.* As part of the requirement to conduct price analysis and cost realism, the CO will ensure that the SCF has been prepared in accordance with OMB Circular A-76, attachment C and that the required signatures and certifications are on the SCF. (OMB Circular A-76, attachment B, figure B4 provides an overview of the detailed guidance for developing the agency and public reimbursable cost estimates.)

## **Chapter 7**

### **Cost Comparison**

#### **7-1. Competing the agency tender and private-sector offers**

After the agency tender competes with the private-sector offers through the SSEB, the selected offeror's or reimbursable service provider's bid or proposal is compared to the agency tender—a cost comparison.

a. At cost comparison, the agency tender and the contractor or reimbursable service provider bid or proposal cost is entered on the SCF/SLCF.

b. The result of the cost comparison is the performance decision (in other words, tentative in-house, or contract decision).

#### **7-2. No satisfactory private-sector source**

If an attempt is made to perform a standard competition but the CO does not receive private-sector offers or public reimbursable tenders, determines that all offers and public reimbursable tenders are nonresponsive, or determines that prospective offerors are not responsible, the CO will take the following actions:

a. *Determine reasons.* The CO will consult with private-sector sources to identify restrictive, vague, confusing, or misleading portions of the solicitation; the reasons provided by sources for not submitting responses; and possible revisions to the solicitation to enhance competition. The CO will, in writing, describe the results of these consultations and propose a course of action to the DCSO.

*b. Required action.* The DCSO will evaluate the CO's written documentation and make a written determination to either (a) revise the solicitation or (b) implement the agency tender. If revising a solicitation would result in exceeding the established time limit for the standard competition, the CSO will consult with the Deputy Director for Management, OMB. The CO's written documentation, as well as the DCSO decision to either revise the solicitation or implement the agency tender, will be retained as part of the competition file.

*c. Revise the solicitation.* Before revising or reissuing the solicitation, the CO will return the sealed agency tender to the ATO. The CO will then revise and reissue the solicitation.

*d. Implement the agency tender.* If the DCSO decides to implement the agency tender, the CO will proceed to evaluate the agency tender as required by OMB Circular, attachment B and the solicitation. The agency will complete the SCF, leaving line 7 blank; omit the costs on lines 8 through 12; and annotate "agency" on line 18. The SSA will state, in the certification on the SCF, that the DCSO implemented the agency tender because the agency received no offers or tenders in response to the solicitation; no offers or tenders received were responsive; or no prospective offerors were responsible. The SSA and CO will sign the SCF to certify the performance decision and retain the SCF and agency tender with the competition file. The ATO will make a public announcement of the performance decision (at the local level and via FedBizOpps.gov). The CO will make the SCF (including the documentation of no satisfactory private-sector source) available to the public, upon request. The CO will notify the ATO of the performance decision, and the HRA will notify directly affected employees (and their representatives).

### **7-3. Contests (appeals)**

#### *a. Standard competitions.*

(1) A directly interested party may contest any of the following actions taken in connection with a standard competition:

(a) A solicitation.

(b) The cancellation of a solicitation.

(c) A determination to exclude a tender or offer from a standard competition.

(d) A performance decision, including, but not limited to, compliance with the costing provisions of this circular and other elements in an agency's evaluation of offers and tenders.

(e) A termination or cancellation of a contract or letter of obligation if the challenge contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the performance decision.

(2) The pursuit of a contest by a directly interested party and the resolution of such contest by the agency will be governed by the procedures of FAR Subpart 33.103.

(3) *Noncontestable items.* Noncontestable items include—

(a) Selection of one offeror over another for competition with the agency tender.

(b) Award to one offeror in preference to another.

(c) Government management decisions involving the certified MEO.

*b. Streamlined competitions.* No party may contest any aspect of a streamlined competition, unless there is a straightforward error(s).

*c. Submission and processing.* Contests to competition studies are submitted to the CO. To be eligible, the contest must be submitted in writing and received within 20 calendar days after the date that all supporting documents are made public by the CO. The CO may extend this public review period up to 30 calendar days if the competition is particularly complex. The CO should acknowledge receipt of the contest and forward to the ACOM/DRU/FOA/HSSA within 5 calendar days. The ACOM/DRU/FOA/HSSA will assign an official or officials to serve on the Contest Administrative Board (CAB), as well as a CAB chair, for that contest. The CAB should render their decision within 30 calendar days of receipt of the contest.

### **7-4. Government Accountability Office protests**

In accordance with the Competition in Contracting Act (31 USC 3551(2)), only an interested party may submit a protest to the Government Accountability Office (GAO). An interested party means an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award the contract. The official responsible for submitting the Federal Agency Tender is also an interested party in public-private competitions conducted under OMB Circular A-76 if the current function being competed is performed by at least 65 FTE employees of the Federal agency. If an interested party files a protest regarding an A-76 competition involving more than 65 FTE employees of the Federal agency, a person representing a majority of the employees of the Federal agency who are engaged in the performance of the activity or function subject to the A-76 competition, and the agency tender official may also intervene in an ongoing GAO protest. The CA A-76 process will stop until GAO issues its recommendation. GAO recommendations do not always result in a performance decision. Implementation of the GAO recommendations may require revising the PWS, obtaining new offers, or conducting another cost comparison.

### **7-5. Economic effects analysis**

By law (10 USC 2461), if implementation of a competition studies from in-house to contract decision directly affects

more than 50 civilian employees, an economic effects analysis must be included with the Final Performance Decision Report (DA Form 7379).

**7-6. Final performance decision**

- a. Final performance decision occurs—
  - (1) When the public review period ends and no A-76 administrative contest or protest has been submitted; the performance decision becomes the final performance decision.
  - (2) When the result of a “contract” decision is contested and there is no protest; the contest decision becomes the final performance decision.
  - (3) When the result of an “in-house decision” is contested and there is no protest; the contest decision becomes the final performance decision.
  - (4) Following GAO completed recommendations or decisions of protests.
  - (5) Following issuance of an unrestricted solicitation, no contract offer is received before the due date for receipt of contract offers, or none of the contract offers received are found to be technically acceptable, resulting in a final in-house decision.
- b. After the Contest Authority has issued decisions on all contests, and after all GAO protests have been resolved, the Final Performance Decision Report will be forwarded through the ACOM/DRU/FOA/HSSA to HQDA (DAIM-CD) for Congressional notification and clearance to provide notice to proceed to the offeror or implement the MEO if it has not been previously implemented.

**7-7. Annual net savings**

To document annual net savings, the algorithm in figure 7-1 will be used.

ANNUAL NET SAVINGS								
	Cost of Contractor Support	Plus	*Cost of CA Study Team	Plus	*Cost of SSEB	Equals	Total CA Study Costs	
Annual Baseline Costs	Times	No. Years of Performance	Equals	Total Baseline Costs	Minus	Bid amount	Equals	Total Savings
Total Savings	Minus	Total CA Study Costs	Equals	Total Net Savings	Divided By	No. Years of Performance	Equals	Annual Net Savings
*Cost is only for personnel that are hired to back-fill these members who are considered “Ad Hoc, at no cost to the study” - Number of FTEs to Two Decimal Points								

Figure 7-1. Algorithm for calculating annual net savings

**Chapter 8  
Contract Administration and Quality Assurance**

**8-1. Contract implementation**

While many people are important in ensuring that an offeror performs according to the requirements of the contract, the CO is responsible for the overall administration of the contract. The roles and responsibilities of the functional managers, the contracting officer’s representative (COR) and the quality assurance evaluator during the phase-in and after conversion must be clearly defined and documented in the quality assurance surveillance plan. For a performance decision favoring the Government, the CO will establish an MEO letter of obligation with an official responsible for

performance of the MEO. The CO will incorporate appropriate portions of the solicitation and the agency tender into the MEO letter of obligation and distribute the letter to appropriate individuals including the ATO.

## **8–2. Contract reviews**

- a.* Contracted CAs will be continually monitored to ensure that performance is satisfactory and cost effective.
- b.* If an offeror selected through the competition defaults during phase-in or the first period of full performance, the following procedures apply:
  - (1) If a “next in line” offeror was determined in the original source selection and is willing to accept the balance of the work at the originally offered price, adjusted as appropriate for the remainder of the contract term, the CO will award to that offeror. (Such adjustments will include the most recent DOL SCA wage determinations, which can be found at <http://www.wdol.gov>.) If that offeror is the MEO, and MEO implementation is still feasible, then the activity will return to in-house performance.
  - (2) If the “next in line” offeror is not the MEO, then issue a new solicitation to continue private-sector performance without a competition, contract with another offeror who offered a reasonable price on the original solicitation, or justify conversion to in-house as soon as possible after the original offeror defaults.
- c.* If the offeror defaults after the first period of full performance, the following procedures apply:
  - (1) Seek interim contract support. If interim contract support is not feasible, the ACOM/DRU/FOA/HSSA will approve in-house performance on a temporary or emergency basis not to exceed 1 year. Installations will staff interim commercial activities solely with temporary-status civilian employees, permanent employees on temporary assignment, or the use of soldiers on special duty. Impacts of special duty on readiness must be reported in accordance with provisions of AR 220–1. See AR 570–4 for specific guidance on use of special duty.
  - (2) Issue a new solicitation to continue private-sector performance without a competition or select an offeror who offered a reasonable price on the original solicitation.
- d.* Should the contract price become unreasonable or quality unacceptable, the CO will negotiate with the offeror to obtain reasonable prices or acceptable quality. If the negotiation fails, issue a solicitation with private-sector competitors. Notify the ACOM/DRU/FOA/HSSA whether or not the manpower required to perform the activity in-house is available prior to issuing the solicitation.
- e.* Before transferring contracted work to in-house performance, a streamlined or standard competition will be performed.
- f.* Commanders/directors may temporarily transfer contracted work to in-house performance by MTOE units without a competition when required for unit training or sustainment of critical skills. HQDA (DAIM–CD) approval must be obtained before transferring contracted work to a MTOE unit. When the unit departs the installation or no longer requires the work to satisfy training requirements, the CO will issue a solicitation to return the work to contract performance.

## **8–3. Post–MEO performance review**

- a.* When services are performed in-house as a result of a competition, a post-MEO performance review of the MEO is conducted at the end of each full year of performance. If the review reveals failure to implement the MEO in accordance with the agency tender and deficiencies are not corrected, the MEO letter of obligation will be terminated in accordance with OMB Circular A–76.
- b.* Typically, the AAA will audit the completeness and accuracy of the post-MEO performance reviews conducted by the garrison/installation/mission/tenant. The AAA will usually perform the audits for studies of over 65 spaces when approved by the Auditor General. The garrison/installation/mission/tenant is responsible for performing the post-MEO performance reviews.
- c.* The organization, position structure, and staffing of the reorganized activity (MEO) will not normally be altered for at least 1 year after implementation of the MEO. The exception is that the MEO may be changed in the first year if significant workload in the PWS changes. After the activity is reorganized into the MEO, it will operate under the performance standards established by the PWS and solicitation just as an offeror would have been expected to do. The performance standards should not be modified when changes in activities or workloads occur after the initial reorganization. Any reorganization or change to the MEO during the performance periods will be fully documented in the competition records, to include a revised PWS and the reasons for the change (workload increase/decrease, mission changes, performance standard change, and so on). The MEO should operate like an offeror and should document any significant changes (increases or decreases) to workload, mission or other changes that impact on the MEO or costs to perform the work required by the PWS.
- d.* The post-MEO performance reviews must be conducted annually on all MEOs that are greater than 65 FTE and at least 50% percent of MEOs equal to or less than 65 FTE.

## **8–4. Contract performance review**

While a formal review can take place annually for the purpose of a decision on an option exercise, performance monitoring and review must take place continually. In the case of an award fee contract, a formal review for fee setting

is normally conducted every quarter or 6 months. In all cases, invoices need to be certified monthly and performance quality reviewed in accordance with the quality assurance surveillance plan. If there is a deduct schedule (highly recommended under the performance-based concept), that review will take place monthly.

## **Chapter 9**

### **Phase-in Plan and Follow-on Competition**

#### **9-1. Phase-in plan**

The agency tender will include a phase-in plan. A well-written phase-in plan is essential to ensure a smooth changeover from the current method of operation to the new method (for example, from current in-house operation to contract or to MEO).

#### **9-2. Best practices and lessons learned**

ATOs will post best practices and lessons learned resulting from a streamlined or standard competition process on SHARE A-76! at <http://emissary.acq.osd.mil/inst/share.nsf/>. This will be done within 30 days after completion of the phase-in plan.

#### **9-3. Follow-on competition**

For organization or public reimbursable performance decisions, an organization will complete another streamlined or standard competition of the organization by the end of the last performance period on the SCF or SLCF, unless a specific exemption is granted by the CSO before the end of the last performance period. The CSO may extend the performance period for a high-performing organization if the CSO determines that continued cost saving justifies the extension, documents these cost savings through the use of a COMPARE-generated SCF or SLCF, limits the extension to no more than 3 years after the last performance period, and makes a formal announcement of the extension via FedBizOpps.gov. For private-sector performance decisions, the CO will comply with the FAR for follow-on competition.

## **Appendix A References**

### **Section I Required Publications**

#### **FAR**

Federal Acquisition Regulation. (Cited in paras 1-4r(14), 1-7a(2), 2-2a(2), 2-10a, 2-10b, 4-1f(1), 4-1f(2), 4-1g, 6-1b, 6-1c(2), 6-2, 6-3a, 6-3b(1), 6-3b(2), 6-3c, 6-3f(2), 6-3f(4), 7-3a(2), and 9-3.) (Available at <http://www.arnet.gov/far/>.)

#### **OMB Circular A-76**

Performance of Commercial Activities, Revised 29 May 2003. (Cited throughout.) (Available at <http://www.whitehouse.gov/omb/circulars/>.)

### **Section II Related Publications**

A related publication is a source of additional information. The user does not have to read it to understand this regulation.

#### **AFARS**

Army Federal Acquisition Regulation Supplement. (Available at <http://deskbook.dau.mil/jsp/default.jsp>.)

#### **AR 5-14**

Management of Contracted Advisory and Assistance Services

#### **AR 25-55**

Freedom of Information Act

#### **AR 220-1**

Unit Status Reporting

#### **AR 570-4**

Manpower Management

#### **AR 700-90**

Army Industrial Base Process

#### **Competition in Contracting Act (31 USC 3551 and 3552)**

(Available at <http://www.gpoaccess.gov/uscode/index.html>.)

#### **DA Pam 5-20**

Commercial Activities Study Guide

#### **DFARS**

Defense Federal Acquisition Regulation Supplement. (Available at <http://www.acq.osd.mil/dpap/>.)

#### **DODD 4100.15**

Commercial Activities Program. (Available at <http://www.dtic.mil/whs/directives/>.)

#### **DODD 5400.7-R**

Defense Freedom of Information Act. (Available at <http://www.dtic.mil/whs/directives/>.)

#### **DODI 4100.33**

Commercial Activities Program Procedures. (Available at <http://www.dtic.mil/whs/directives/>.)

#### **Public Law 99-661**

National Defense Authorization Act for Fiscal Year 1987. (Available at <http://thomas.loc.gov/bss/>.)

**Public Law 105–270**

Federal Activities Inventory Reform Act of 1998. (Available at <http://thomas.loc.gov/bss/>.)

**Public Law 108–87**

Department Of Defense Appropriations Act, 2004. (Available at <http://thomas.loc.gov/bss/>.)

**Public Law 108–136**

National Defense Authorization Act for Fiscal Year 2004. (Available at <http://thomas.loc.gov/bss/>.)

**Public Law 108–199**

Consolidated Appropriations Act, 2004. (Available at <http://thomas.loc.gov/bss/>.)

**5 CFR Part 351**

Reduction in force. (Available at <http://www.gpoaccess.gov/cfr/index.html>.)

**5 USC Chapter 35**

Retention Preference, Restoration, and Reemployment. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**5 USC 7111**

Exclusive recognition of labor organizations. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2461**

Commercial or industrial type activities: required studies and reports before conversion to offeror performance. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2462**

Contracting for certain supplies and services required when cost is lower. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2463**

Collection and retention of cost information data on converted services and functions. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2464**

Core logistics capabilities. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2465**

Prohibition on contracts for performance of firefighting or security-guard activities. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2466**

Limitations on the performance of depot-level maintenance of materiel. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2467**

Cost comparisons: inclusion of retirement costs; consultation with employees; waiver of comparison. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2468**

Military installations: authority of base commanders over contracting for commercial activities. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2469**

Contracts to perform workloads previously performed by depot-level activities of the Department of Defense: requirement of competition. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2470**

Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**10 USC 2687**

Base closures and realignments. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**31 USC 1342**

Limitation on voluntary services. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**40 USC 3141 et seq.**

The Davis-Bacon Act. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**41 USC 351 et seq.**

The Service Contract Act of 1965. (Available at <http://www.gpoaccess.gov/uscode/index.html>.)

**RCS CSCOA-112**

Commercial Activities Proposed Action Summary

**RCS CSCOA-113**

Commercial Activities Final Decision Report

**Section III****Prescribed Forms**

This section contains no entries.

**Section IV****Referenced Forms**

Unless otherwise indicated DA forms are available on the APD web site [www.apd.army.mil](http://www.apd.army.mil).

**DA Form 2028**

Recommended Changes to Publications and Blank Forms

**DA Form 7375**

Commercial Activities Proposed Action Summary.

**DA Form 7379**

Commercial Activities Final Decision Report.

**SCF**

Standard Competition Form (Generated through COMPARE costing software.)

**SLCF**

Streamlined Competition Form (Generated through COMPARE costing software.)

## **Glossary**

### **Section I Abbreviations**

**AAA**

Army Audit Agency

**ACA**

Army Contracting Agency

**ACOM**

Army Command

**ACSIM**

Assistant Chief of Staff for Installation Management

**AP**

acquisition planning

**AR**

Army regulation

**ASA(ALT)**

Assistant Secretary of the Army (Acquisition, Logistics and Technology)

**ASA(CW)**

Assistant Secretary of the Army (Civil Works)

**ASA(FM&C)**

Assistant Secretary of the Army (Financial Management & Comptroller)

**ASA(I&E)**

Assistant Secretary of the Army (Installations & Environment)

**ASA(M&RA)**

Assistant Secretary of the Army (Manpower & Reserve Affairs)

**BMM**

borrowed military manpower

**BRAC**

base realignment and closure

**CA**

commercial activity(ies)

**CAB**

Contest Administrative Board

**CAIS**

Commercial Activities Inventory System

**CAMIS**

Commercial Activities Management Information System

**CCSO**

Component Competitive Sourcing Official

**CLIN**

Contract Line Item Number

**CLL**

Chief Legislative Liaison

**CO**

contracting officer

**CONUS**

continental United States

**COR**

contracting officer's representative

**CPA**

Chief of Public Affairs

**CPAC**

Civilian Personnel Advisory Center

**CPAS**

Commercial Activities Proposed Action Summary

**CPOC**

Civilian Personnel Operations Center

**CSO**

Competitive Sourcing Official

**DA**

Department of the Army

**DBA**

Davis-Bacon Act

**DCSO**

Delegated Competitive Sourcing Official

**DOD**

Department of Defense

**DOL**

Department of Labor

**DRU**

direct reporting unit

**FAIR**

Federal Activities Inventory Reform

**FAR**

Federal Acquisition Regulation

**FOA**

field operating agency

**FOIA**

Freedom of Information Act

**FTE**

full-time equivalent

**DCS, G-1**

Deputy Chief of Staff, G-1

**DCS, G-3**

Deputy Chief of Staff, G-3

**DCS, G-8**

Deputy Chief of Staff, G-8

**GAO**

Government Accountability Office

**GFE**

Government-furnished equipment

**GFP**

Government-furnished property

**GIN**

Government-in-nature/inherently governmental

**HQDA**

Headquarters, Department of the Army

**HRA**

human resources advisor

**HSSA**

Headquarters staff support agency

**IGCA**

inherently governmental and commercial activities

**IHCE**

in-house cost estimate

**IT**

information technology

**MEO**

most efficient organization

**MTOE**

modification table of organization and equipment

**NAF**

nonappropriated fund(s)

**OCONUS**

outside the Continental United States

**OMB**

Office of Management and Budget

**PREPLAN**

preliminary planning

**PWS**

performance work statement

**RFP**

request for proposal

**RIF**

reduction in force

**SADBU**

Small and Disadvantaged Business Utilization

**SCA**

The Service Contract Act of 1965

**SCF**

Standard Competition Form

**SLCF**

Streamlined Competition Form

**SSA**

source selection authority

**SSEB**

Source Selection Evaluation Board

**SSP**

source selection plan

**TJAG**

The Judge Advocate General

**TDA**

table of distribution and allowances

**TOE**

table of organization and equipment

**USC**

United States Code

**VERA**

voluntary early retirement authority

**VSIP**

voluntary separation incentive pay

**Section II****Terms****acceptable level of performance**

The maximum percent defective or the maximum number of defects per hundred units considered satisfactory for purposes of a sampling inspection. It is the allowable variance from a standard expressed by narrative description before the Government will reject the specific service.

**acquisition plan**

Addresses the technical, business, management, and other significant considerations that will control acquisition.

**activity analysis**

Analysis that states what starts a job, what takes place when doing the job, and the outcome of the job.

**acquisition planning**

The process in which the efforts of all personnel, responsible for acquisition, are coordinated and integrated in a comprehensive plan in fulfilling the organization need in a timely manner and at a reasonable cost.

**activity**

A specific task or grouping of tasks that provides a specialized capability, service or product based on a recurring Government requirement. Depending on the grouping of tasks, an activity may be an entire function or may be a part of a function. An activity may be inherently governmental or commercial in nature.

**advanced acquisition planning system**

Dollar thresholds for acquisition strategy development are lower than those for acquisition plans. An advanced acquisition planning system is prepared when acquisitions are over ACOM/DRU/FOA/HSSA-established dollar thresholds but under the acquisition plan dollar threshold.

**adversely affected civilian personnel**

Federal civilian employees serving competitive or excepted service appointments in Tenure Groups I, II, or III, who are identified for release from their competitive level by an agency as a direct result of a performance decision resulting from a streamlined or standard competition. This includes both employees in the activity converted to contract and employees outside the activity who are affected adversely by reassignment of employees in the activity converted to agency tender or contract. It includes reassignment requiring displacement, changes to lower grades or separation or the exercise of bumping or retreat rights.

**agency tender**

The agency management plan submitted in response to a solicitation for a standard competition. The agency tender includes an MEO, agency cost estimate, MEO quality control plan, MEO phase-in plan, and copies of any MEO subcontracts (with the private-sector providers' proprietary information redacted).

**agency tender official**

An inherently governmental agency official with decision-making authority who is responsible for the agency tender and represents the agency tender during source selection.

**affected parties**

Federal employees that will or could be impacted by a decision to convert to or from in-house or contract performance as a result of a cost comparison, and their representatives, are affected parties. An agency, or parts of agencies, that submit a tender or offer to provide services through a service provider are also considered affected parties.

**asset acquisition cost**

Sum of the purchase price and of the costs (for transportation; packing, crating, handling; installation, and so on) incurred to place an asset in use.

**asset useful life**

Estimated period of economic usefulness of an asset in a particular operation.

**augmentation contract**

Means of performing recurring projects or continuing services portions of a CA workload without using MEO personnel; augmentation contracts may be awarded without A-76 competition.

**baseline workyear**

The number of personnel workyears it has taken to perform the work being studied during the 12 months prior to public announcement. For civilian workyear, include work performed by assigned, temporary, seasonal, intermittent, part-time, borrowed, and detailed civilian personnel as well as overtime; and for military workyear, include assigned, borrowed, diverted, and detailed military personnel. Include workload eliminated for management efficiencies during the development of the PWS. Exclude inherently governmental work and work that has been exempted from competition. Calculate baseline workyear by conversion to FTEs. For full and part-time civilians, total the hours and divide by 1,776 annual available hours to determine the number of FTE positions. For intermittent civilians, divide by 2,007. For military, divide by 1,740. Round down less than one-half year of effort, and round up one-half year or more. Use these workyear figures as the baseline for determining the personnel savings identified by the management plan.

**bench stock**

On-hand supplies appropriate for assignment to the individual worker in advance of need.

**best value**

Expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement.

**bid**

A prospective offeror who submits a one-time bid to the Government in response to an invitation for bid (IFB).

**capital assets (tangible)**

Structures, machinery, and equipment having an original acquisition cost of \$25,000 or greater.

**capital improvement costs**

Cost of major overhauls and modifications that add to the value or prolong the life of capital assets.

**casualty and liability insurance costs**

Cost of Government self-insurance against casualty losses and liability claims.

**casualty losses**

Costs of replacing equipment, facilities, materials, supplies, and minor items destroyed by fire, earthquake, tornado or flood.

**civilian employees**

Individuals who work for a federal agency on an appointment, without time limitation, and are paid from appropriated funds, which include working capital funds. Not included: foreign national employees, temporary employees, term employees, NAF employees, or uniformed personnel.

**collective bargaining agreement**

The negotiation of employment matters between employers and employees through the use of a bargaining agent designated by an uncoerced majority of the employees within the bargaining unit.

**commercial activity**

A recurring service that can be performed by the private sector. This recurring service is an agency requirement that is funded and controlled through a contract, fee-for-service agreement, or performance by Government personnel. Commercial activities may be found within, or throughout, organizations that perform inherently governmental activities or classified work.

**commercial source**

A commercial source is any business or other concern that is eligible for contract award in accordance with Federal Acquisition Regulation (FAR).

**common/"wash" costs**

Costs that will be incurred regardless of the outcome of the competition and are, therefore, not included in the cost comparison (for example, Government-furnished property, security clearance processing, quality assurance, utilities, joint inventory costs, and other facilities support services).

**COMPARE**

The Windows-based A-76 costing software that incorporates the costing procedures of the OMB A-76 Circular and that agencies must use to calculate and document the costs on the SLCF for a streamlined competition or the SCF for a standard competition.

**competition**

A formal evaluation of sources to provide a commercial activity that uses pre-established rules (for example, the FAR, OMB Circular A-76). The term, as used in this regulation, includes streamlined and standard competitions performed in accordance with OMB Circular A-76 and FAR-based competitions for agency-performed activities, contracted services, new requirements, expansions of existing work, and activities performed under fee-for-service agreement. The term also includes cost comparisons, streamlined cost comparisons, and direct conversions performed under previous versions of the OMB circular.

**competition officials**

The inherently governmental agency officials appointed before a standard competition is announced. These individuals

perform key roles and have essential responsibilities for the successful completion of the standard competition. Competition officials are the agency tender official, contracting officer, human resource advisor, and PWS team leader.

**competitive sourcing official**

An inherently governmental agency official responsible for the implementation of OMB Circular A-76 within the agency.

**component**

A military Service or defense agency in DOD.

**component competitive sourcing official**

An Assistant Secretary of the Army official, delegated in writing by the OSD CSO, responsible for the implementation of OMB Circular A-76 within the Army.

**Contest Authority**

The independent forum or body of individuals designated by the ACOM/DRU/FOA/HSSA to evaluate contests submitted by eligible appellants during the public review period and to ensure that all costs are properly accounted for in accordance with the principles and procedures of this regulation.

**continuing Government organization**

The staffing, organizational structure, activities, and positions to perform those activities that are found to be GIN or exempt from either competition or A-76. Positions required to monitor and survey the offeror/MEO are also included in the continuing Government organization.

**contractible**

Any CA that is considered reviewable by the FAIR and is available in the private sector, and may therefore be included in the PWS.

**contract administration**

Includes those inherently governmental activities performed by warranted contracting officers, contract administrators, the contracting officer's representative, and related payment evaluation staff. Contract administration is not to be confused with contract quality control, performance evaluation, or inspection which are defined as commercial activities by this regulation.

**contract discrepancy report**

A report used by the COR to document unsatisfactory performance by the offeror.

**contracting officer (CO)**

The only person with the authority to create, modify or terminate a contract; the only official who can obligate the Government through a contract.

**contracting officer's representative (COR)**

The COR is the individual appointed in writing by the contracting officer and delegated specific authority to monitor offeror performance.

**conversion differential**

The minimum savings to be gained from converting from one method of operation to another. The differential reflects the unpredictable costs inherent in changing the status quo. These include such costs as retained pay and the temporary loss of productivity associated with a conversion. The conversion differential is the smallest of ten percent of personnel costs or \$10 million over the performance period.

**conversion from contract**

The change of a contractible activity from performance by contract with a commercial source to performance by Federal employees with Government resources. Unless ten or fewer contract employees perform the activity, a transfer competition must be conducted before the conversion. Also includes the conversion of expansions and/or new requirements (work) from contract performance to in-house performance. (Sometimes referred to as "re-federalization")

**conversion to contract**

The change of performance of a contractible activity from in-house performance by Federal employees to performance by a commercial source.

**cost-plus-award-fee contract**

A cost-reimbursement contract that provides for a fee consisting of a base fee amount (which may be zero) fixed at inception of the contract, and an award amount, based upon a judgmental evaluation by the Government, sufficient to provide motivation for excellence in contract performance.

**cost realism**

The costs in an offeror's proposal are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the various elements of the offeror's technical proposal.

**cost-reimbursement contract**

Cost-reimbursement contracts are suitable for use only when uncertainties involved with contract performance do not permit costs to be estimated with sufficient accuracy. The offeror would then be reimbursed for allowable expenses within a pre-established ceiling.

**crosswalk**

The tracking from the number of man-hours required to accomplish the workload to job descriptions that would perform the work.

**current operations**

The organization as it exists at the outset of the competition, including staffing, organization facilities, equipment, and any problems that affect efficient operation.

**decision table**

Identifies the possible causes of the unsatisfactory performance and lists a number of questions which, when answered, will probably pinpoint the source of the problem.

**delegated competitive sourcing official**

A senior-level, inherently governmental organizational official delegated by the Army Component Competitive Sourcing Official to be responsible for the implementation of OMB Circular A-76 within the organization.

**depreciation**

Method used to spread the total cost of a tangible capital asset, less residual value, over an asset's useful life. Annual depreciation cost is computed by dividing the depreciable basis (acquisition cost plus capital improvements less residual value) by the useful life of the asset.

**deviation**

Allows conversion to or from in-house or contract without a competition.

**directly interested party**

The agency tender official who submitted the agency tender; a single individual appointed by a majority of directly affected employees as their agent; a private-sector offeror; or the official who certifies the public reimbursable tender.

**direct reporting unit (DRU)**

A FOA of HQDA or HSSA; is resourced through its own operating agency.

**direct staffing**

Personnel directly involved in producing the outputs of the activity under study whose efforts can be directly traced to a unit of output.

**disposal value (same as residual value)**

Value at disposition (less costs of disposal/transfer) estimated at the time of an asset's acquisition.

**directly affected employees**

Civilian employees whose work is being competed in a streamlined or standard competition or under the provisions of Section 2014 of the FY04 Appropriations Act.

**directly interested party**

The agency tender official who submitted the agency tender; a single individual appointed by a majority of directly affected employees as their agent; a private-sector offeror; or the official who certifies the public reimbursable tender.

**displaced employee**

Any civilian employee, including a temporary employee, adversely affected by a conversion to agency tender or contract. Adverse actions include job elimination, grade reduction, and reassignment to another position. Displaced employees include those in the activity converted to contract and those outside the activity who are affected adversely by reassignment or the exercise of bumping or retreat rights related to a RIF resulting from the conversion. Reassignments of employees are not adverse actions.

**divestiture**

An organization's decision to eliminate a Government requirement for a commercial activity. No service contract or fee-for-service agreement exists between the agency and the private sector after a divestiture. By divesting of a commercial activity, an agency elects not to control the activity and cedes ownership and control of the activity's associated assets (for example, equipment, facilities, property) and resources (agency manpower and budgeting for the activity). The agency has no role in the financial support, management, regulation, or oversight of a divested activity. Moving, transferring, or converting a commercial activity from Government performance to private-sector or public reimbursable performance is not a divestiture.

**employee transition plan**

A written plan developed by the HRA for the potential transition of the agency's civilian employees to an MEO or to private-sector or public reimbursable performance. This plan is developed early in the streamlined or standard competition process, based on the incumbent Government organization, to identify projected employee impacts and the time needed to accommodate such impacts, depending on the potential outcomes of the competition. The employee transition plan differs from a phase-in plan, which is developed by prospective providers responding to a solicitation.

**exclusion**

Those activities outside the scope of the CS Program because of legislative or administrative requirements (for example, research, development, test, and evaluation activities; depot level maintenance; firefighting; and security guard activities).

**exempt**

Exempt activities are commercial activities which are not subject to the A-76 process either by statute (for example, security guards, fire department) or other rationale such as approved exemption requests to the ASA(M&RA).

**expansion**

An increase in the operating cost of an existing CA based on modernization, replacement, upgrade, or increased workload. Competition is required only if Government personnel are being considered for performing the work. A streamlined or standard competition will be used to determine whether Government personnel should perform on an expansion to an existing commercial activity, or an activity performed by the private sector if there is an increase of 30 percent or more in the activity's operating costs (including the cost of FTEs) or total capital investment.

**FedBizOpps.gov**

The public notification media by which U.S. Government agencies identify proposed contract actions and contract awards.

**Federal Activity Inventory Reform (Fair) Act inventory**

The inventory of FTEs, grouped by activity at each unit or location, determined to not be GIN, exempt from private-sector performance by reason of law, or exempt for private-sector performance by reason of national security.

**final performance decision**

The decision made upon resolution of contests and GAO protests (see *performance decision*). For a final contract decision, the CO awards the contract after the ACOM/DRU/FOA/HSSA submits the Final Performance Decision Report and the HQDA Office of the Chief Legislative Liaison (OCLL) makes the final performance decision notification to Congress. For a final in-house decision, the installation completes implementation of the MEO after the ACOM/DRU/FOA/HSSA submits the Final Performance Decision Report to HQDA (ACSIM) and Congress is notified.

**firewall**

Ensures that members of the PWS team do not participate on the MEO team and ensuring that members of the MEO team do not participate in the PWS team or SSEB.

**firm-fixed-price contract**

A firm-fixed-price contract uses the basic profit motive of business enterprise. It is used when the risk involved is minimal or can be predicted with an acceptable degree of certainty.

**first period of full performance**

The performance period following the phase-in period when the service provider becomes fully responsible for performing the activity. The first performance period is used to implement the new service provider's phase-in plan; therefore, full performance of the service provider does not occur until the second performance period, which may be referred to as the base period, full performance, or the first period of full performance. This first period of full performance may be less than or more than 12 months. The first period of full performance is the second performance period (the performance period immediately following phase-in period) regardless of the second performance period's length.

**fringe benefits**

Fringe benefits include such things as retirement (for example, 401k, CSRS, FERS), health insurance, life insurance, disability insurance, bonuses, and awards.

**full-time equivalent (FTE)**

The staffing of Federal civilian employee positions, expressed in terms of annual productive work hours (1,776) rather than annual available hours that includes nonproductive hours (2,080 hours). FTEs may reflect civilian positions that are not necessarily staffed at the time of public announcement and staffing of FTE positions may fluctuate during a streamlined or standard competition. The staffing and threshold FTE requirements stated in this circular reflect the workload performed by these FTE positions, not the workload performed by actual Government personnel. Two part-time employees working a total of 2,080 straight-time paid hours in a fiscal year equals one FTE. FTEs do not include military personnel, uniformed Services, or contract support.

**function code**

The DOD numerical code used to categorize an agency's commercial and inherently governmental activities for inventory reporting purposes.

**general and administrative overhead**

Identifies personnel outside the organization under study and exclusive of the first supervisory level above the organization under study. This includes such activities as civilian personnel, resource management, legal, procurement, and so forth.

**general and administrative (G&A) overhead costs**

All support costs, other than operations overhead costs, incurred for the activity under study.

**government-in-nature/inherently governmental**

Government activities that are so intimately related to the public interest as to mandate performance by Government employees or military personnel. These activities require the exercise of substantial discretion in applying Government authority and/or in making decisions for the Government. Governmental activities normally fall into two categories: (1) the act of governing (in other words, the discretionary exercise of Government authority), and (2) monetary transactions and entitlements. All activities are either GIN activities or contractible activities.

**Government personnel**

Civilian employees, foreign national employees, temporary employees, term employees, NAF employees, and uniformed services personnel employed by an organization to perform services.

**Government-furnished property (GFP)**

Government facilities and equipment on hand, programmed for use by the MEO, and offered to prospective bidders "as is."

**Government-owned contractor-operated**

A facility owned by the Government and operated by a contractor.

**human resources advisor**

An inherently governmental agency official who is a human resource expert and is responsible for performing human resource-related actions to assist the ATO in developing the agency tender.

**implementation date**

The date the contract becomes effective and the offeror begins operation or the date the ATO fully implements the MEO.

**independent government estimate**

The Government's estimate of the costs the private sector would charge to do the work; it documents cost estimates for all of the elements that contribute to the contract price and is used by the CO during negotiations with offerors for comparing the cost of doing business. It is used to ensure the offerors' cost estimates are not buy-ins or their costs elevated

**indirect staffing**

Personnel involved in support of producing the outputs of the activities under study whose efforts cannot be traced directly to a unit of output.

**incumbent service provider**

The source (in other words, agency, private-sector, or public reimbursable source) providing the service when a public announcement is made of the streamlined or standard competition.

**inherently governmental and commercial activities (IGCA)**

The inventory of all commercial (reviewable and exempt) and inherently governmental FTEs by location, unit, and organizational activity. It consists of the information from the manpower document TDA and MTOE with two additional columns, activity code and criteria code.

**information technology**

Any equipment or interconnected system(s) or subsystem(s) of equipment used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency. For purposes of this definition, equipment is used by an agency if the equipment is used directly by the agency or is used by a contractor under a contract with the agency that requires (1) its use or (2) to a significant extent, its use in the performance of a service or the furnishing of a product. Includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources, and does not include any equipment that is acquired by a contractor incidental to a contract; or contains imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, heating, ventilation, and air conditioning equipment, such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not information technology.

**in-house cost estimate (IHCE)**

The Government's bid. It is based on the MEO, which is developed during the management study. The staffing required to do the workload specified in the PWS is the basis for the in-house cost proposal (estimate).

**in-house performance**

The performance of work by Army employees, including military, civilian, and nonappropriated fund employees.

**interested parties (FAIR Act)**

For purposes of challenging the contents of an agency's CA inventory pursuant to the Federal Activities Inventory Reform Act, an interested party is (1) a private-sector source that is an actual or prospective offeror for a contract or other form of agreement to perform the activity and has a direct economic interest in performing the activity that would be adversely affected by a determination not to procure the performance of the activity from a private-sector source; (2) a representative of any business or professional association that includes within its membership private-sector sources referred to in (1) above; (3) an officer or employee of an organization within an executive agency that is an actual or prospective offeror to perform the activity; (4) the head of any labor organization referred to in 5 USC 7103(a)(4) that includes within its membership officers or employees of an organization referred to in (3), above.

**intermittent hours**

2007 hours worked during a fiscal year.

**inventory**

A list of activities performed by Federal Government sources for the executive agency that, in the judgment of the head

of the executive agency, are not inherently governmental activities and includes the workyears or FTEs expended on each contractible activity during the preceding fiscal year.

**invitation for bid**

The solicitation document used in sealed bid contracting.

**management plan**

The set of documents that outlines the changes that will result in the Government's MEO and the Government's CGO to perform the GIN and exempt activities to perform the contractible activity in-house. It provides the staffing patterns and operating procedures that serve as a baseline for in-house cost estimates. It includes the baseline, MEO, IHCE, quality control plan, and phase-in plan, which become the formal agency tender submitted to the CO.

**management study**

The process the Government uses to evaluate the in-house organization in order to develop the agency tender to compete with an offeror for a performance decision. The product of the management study is the management plan.

**minor items**

Nondepreciable durable items whose current replacement cost is less than \$5,000.

**most efficient organization (MEO)**

The Government's streamlined in-house organization to compete with offerors to perform a contractible activity. It may include a mix of Federal employees and contract support. It is the basis for all in-house costs entered on the Cost Comparison Form. Also the name of one of the documents produced from the management study that is part of the management plan.

**MEO letter of obligation**

A formal agreement that an agency implements when a standard or streamlined competition results in agency performance (for example, MEO).

**MEO subcontracts**

Contracts between an agency and the private sector that are included in the agency tender or fee-for service agreements with a public reimbursable source that are included in the agency tender. In addition to the cost of MEO subcontracts, agency or public reimbursable cost estimates must include support costs associated with MEO subcontracts such as Government-furnished property, and contract administration, inspection, and surveillance.

**MEO team**

A group of individuals comprised of technical and functional experts that is formed to assist the ATO in developing the agency tender.

**multifunction competition**

A competition that includes more than one CA function code as outlined in the DOD Inventory of Commercial and Inherently Governmental Activities Annual Guide to Inventory Submission.

**new requirement**

A streamlined or standard competition is not required for private-sector performance of a new requirement or an agency's newly established need for a commercial product or service that is not performed by (1) the agency with Government personnel; (2) a fee-for-service agreement with a public reimbursable source; or (3) a contract with the private sector. An activity that is performed by the agency and is re-engineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, is not considered a new requirement. New ways of performing existing work are not new requirements.

**non-pay categories of cost**

Costs in a cost estimate not related to pay. Non-pay categories of costs include, but are not limited to, materials, supplies, equipment, facilities, capital assets, and minor items and the inflation for these costs.

**net book value**

Depreciable basis less accumulated annual depreciation costs (see *depreciation*).

**offeror**

A prospective offeror or service provider who submits an offer (or bid) to the Government in response to the Government's request for proposal or invitation for bid.

**operations overhead costs**

Those costs incurred by the first supervisory work center one element above and in support of the activity under competition.

**organizational analysis**

This process is used to determine the accurate and complete mission statement of the activity. It provides a framework for determining what services (outputs) are provided by the activity under study.

**outsourcing**

The transfer of a activity previously performed in-house to an outside provider.

**overhead**

Includes two major categories of cost: operations overhead and general and administrative overhead. Operations overhead includes costs that are not 100 percent attributable to the activity being competed but are generally associated with the recurring management or support of the activity. General and administrative overhead includes salaries, equipment, space, and other tasks related to headquarters management, accounting, personnel, legal support, data processing management, and similar common services performed external to the activity, but in support of the activity being competed. A standard twelve percent overhead factor is an estimated federal agency overhead factor that is calculated in agency and public reimbursable cost estimates for streamlined and standard competitions.

**past performance**

An indicator that may be used in the source selection process to evaluate a prospective provider's previous performance on work comparable to that being competed, for the purpose of predicting the quality of future performance relative to other offers or public reimbursable tenders.

**performance decision**

Performance decision is the decision made at the time of cost comparison bid opening to retain as the agency tender or convert a CA to contract, in-house, or service provider performance. The performance decision may differ from the final performance decision because of actions such as public review of the competition, determinations of offeror responsibility, administrative appeals board decisions, and offeror protests to GAO.

**performance indicator/measure**

The tool used to measure actual occurrence to the performance standard. The performance indicator determines if the work performed was below, met, or exceeded the standard.

**performance measures**

A series of indicators, expressed in qualitative, quantitative or other tangible terms, that indicate whether current performance is reasonable and cost effective. Performance measures can include workload and output-to-cost ratios, transaction ratios, error rates, consumption rates, inventory fill rates, timeliness measures, completion and back order rates, and so on. Quality service measures may include responsiveness rates, user satisfaction rates, and so on.

**performance requirements summary**

A list of those tasks that are key performance indicators of the activity. The result is a list of key required services, standards of performance, associated acceptable levels of performance, the identification of the services to be counted, and the determination of appropriateness of the performance standards for evaluation.

**performance standard**

Verifiable and measurable levels of service in terms of quantity, quality, timeliness, location, and work units. Performance standards are used in a performance-based PWS to (1) assess (in other words, inspect and accept) the work during a period of performance; (2) provide a common output-related basis for preparing private-sector offers and public tenders; and (3) compare the offers and tenders to the PWS. The requiring activity's acceptable levels of performance are normally stated in the PWS. The solicitation includes performance standards.

**performance work statement (PWS)**

A pstatement of the technical, activity and performance characteristics of the work to be performed, identifies essential activities to be performed, determines performance factors, including the location of the work, the units of work, the

quantity of work units, and the quality and timeliness of the work units. It serves as the scope of work and is the basis for all cost entered in the Cost Comparison Form.

**personal services contract**

A personal services contract, by its expressed terms or how it's administered, makes offeror personnel appear to be Government employees. This happens when it appears that offeror personnel are subject to relatively close and continuous Government supervision.

**phase-in period**

Period when current operations transfer from the organization to a MEO or contractor operation.

**phase-in plan**

Agency tender and offerors plan to replace the current operation that is submitted in response to the solicitation. The phase-in plan is implemented in the first performance period and includes details on minimizing disruption, adverse personnel impacts, and start-up requirements. The phase-in plan is different from the employee transition plan developed by the HRA.

**post-MEO performance review**

When services are performed in-house, as a result of a competition, including those involving a service provider, a formal review and inspection of the MEO should be conducted. Typically, this review should be conducted following the end of the first full year of performance. Post-MEO performance reviews: confirm that the MEO has been implemented in accordance with the Phase-in plan; establish the MEO ability to perform the services of the PWS; and confirm that actual costs are within the estimates contained in the in-house cost estimate. Adjustments may be made and will be documented for formal mission or scope of work changes. Post-MEO performance reviews must be conducted for all MEOs that are greater than 65 FTE and at least 50% of MEOs 65 or less FTE.

**pre-award inquiries**

Written questions and comments about PWS specifications, terms, and conditions in the solicitation.

**pre-bid or pre-proposal conference**

A meeting held to provide a site visit, provide an opportunity for bidders/offerors to view the publications library assembled for their use in preparing a realistic bid or offer, explain any revisions made to the PWS and/or solicitation requirements, and answer any questions from bidders/offerors.

**privatization**

Changing a Government-owned and Government-operated commercial activity or enterprise to private-sector control and ownership. When privatizing, the agency eliminates associated assets and resources (manpower for and funding of the requirement). Since there is no Government ownership and control, no service contract or fee-for-service agreement exists between the agency and the private sector after an agency privatizes a commercial activity or enterprise. Moving work from agency performance with Government personnel to private-sector performance where the agency still funds the activity is not privatization.

**prospective providers**

Private-sector offers, public reimbursable offer, and ATO submitting a response to the CO's solicitation.

**provider**

The organization, private-sector, or public reimbursable source that is performing, or will perform, a commercial activity. This is referred to as a *service provider*.

**public announcement**

An organization's formal announcement on: (1) decision to perform a streamlined or standard competition, or (2) performance decision in a streamlined or standard competition.

**public reimbursable source**

A federal agency service provider performing a commercial activity for another federal agency, on a fee-for-service or reimbursable basis, using civilian employees or contracts with the private sector.

**public reimbursable tender**

A federal agency's formal response to another federal agency's solicitation for offers or tenders.

**PWS team**

A group of individuals comprised of technical and functional experts formed to develop the PWS and quality assurance surveillance plan and to assist the CO in developing the solicitation.

**price analysis**

Determines if the costs in an offeror's proposal are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the various elements of the offeror's technical proposal.

**proposed organization**

Detailed description of the MEO. This includes staffing, organization chart, facilities, equipment, and operating procedures. This also gives the staffing and organization for the GIN activities and discusses the relationship of the MEO to the GIN operation or of an offeror and the GIN operation.

**quality assurance**

A structured program used by the Army to monitor the actions of either the offeror or the MEO to ensure the Army gets the work done that is required by the PWS.

**quality assurance evaluator**

Personnel technically qualified with work experience in the type activities they will inspect. They also should be skilled in preparing reports and statistical analysis sampling.

**quality assurance surveillance**

The method by which Federal employees will monitor in-house or contract performance to ensure that the standards of the PWS are met within the proposed costs.

**quality assurance surveillance plan**

The formal document prepared by the Army to ensure a systematic inspection of the required services; sometimes referred to as *quality assurance plan*.

**quality control**

Actions taken by an offeror or the MEO to control the production of goods or services so that they will meet the requirements of the PWS.

**reasonable or competitive prices**

The expected range of prices resulting from experience obtained through the competitive free enterprise system for like or similar activities. Determinations are to be made by the contracting officer.

**recurring commercial activities**

Activities that are required by the Government on a consistent and long-term basis. This definition does not imply an hourly, daily, monthly or annual requirement, but must, in a general sense, be repetitive in nature, wherein the expected workload can be reasonably estimated.

**reduction-in-force (RIF)**

Release of civilian employees by separation, demotion, or reassignment requiring displacement resulting from lack of work, reorganization, or reclassification due to a change of duties—an involuntary reduction of civilian personnel.

**representatives of directly affected employees**

In the case of directly affected employees represented by a labor organization accorded exclusive recognition under 5 USC 7111, a representative is an individual designated by that labor organization to represent its interests. In the case of directly affected employees not represented by a labor organization under 5 USC 7111, a representative is an individual appointed by a majority of directly affected employees as their representative.

**request for proposal (RFP)**

The solicitation document used in the negotiation method. The RFP usually calls for separate technical (how to perform PWS requirements) and cost (how much) proposals from the offeror.

**restricted solicitation**

A solicitation where a select group (for example, small businesses) may submit a proposal.

**right of first refusal**

Federal employees adversely affected by a decision to convert to contract performance have right of first refusal for

jobs for which they are qualified that are created by the award of the contract. Such adversely affected employees could affect employees outside the activity being competed. The contractor determines the number of available vacancies and if the Federal employee is qualified for the vacancy.

**sample**

A sample consists of one or more service outputs drawn from a lot, the outputs being chosen at random. The number of outputs in the sample is the sample size.

**sampling guide**

The sampling guide identifies the acceptable level of performance associated with the requirement, the lot, and sample size, how the output sampling and inspection will be performed, and the number of defects that will be allowed before the performance is considered unsatisfactory.

**segregable expansion**

An expansion of currently contracted, in-house work that could be provided using the current approach or could, without severe additional administrative burden, be provided by another competitive offeror. Economy of scale is not justification for dismissing new or expanded work as segregable; economy of scale will be tested through competition.

**Share A-76**

DOD Web site that contains links to the A-76 process, best practices, and related documents (<http://emissary.acq.osd.mil/inst/share.nsf>).

**single-activity competition**

A competition that includes one CA function code.

**solicitation**

The formal document containing the PWS, attachments to the PWS such as maps and technical exhibits, and the conditions and terms prospective bidders/offerors must meet for procuring services by contract. (See definition for *request for proposal (RFP)*.)

**source selection**

The process of issuing a solicitation, receipt of tender/proposals, and evaluation of proposals.

**source selection authority (SSA)**

A competition official with decision-making authority that is responsible for source selection as required by the FAR and OMB Circular A-76. The SSA and CO may be the same individual.

**Source Selection Evaluation Board**

The team or board appointed by the SSA to assist in a negotiated acquisition.

**source selection plan**

The guide for the source selection process. It describes how proposals will be solicited from industry and how they will be negotiated. It reflects who will evaluate proposals, composition of the SSEB, activities to be presented, determination of security needs, and a timetable for contract execution.

**Standard Competition Form**

The agency form that documents and certifies all costs calculated in the standard competition.

**start date**

The start date for a streamlined or standard competition is the date that the agency makes a formal public announcement of the agency's decision to perform a streamlined or standard competition.

**Streamlined Competition Form**

The agency form that documents and certifies all costs calculated in the streamlined competition, in accordance with attachment C, OMB Circular A-76.

**standard competition**

A process that develops the PWS and MEO, solicits bids or offers, evaluates all offers and tenders and compares the in-house cost with the cost of the selected bidder or offeror to determine whether to continue or change the method of performance for providing services. (Also see *competition*.)

**streamlined competition**

An expedited process (65 or less FTEs and any number of military) that uses the current cost of in-house workforce performance for comparison to a private-sector source providing services of the same general type and scope, with an estimated or solicited contract cost for the private-sector source.

**surveillance activity checklist**

Used for those required services, which cannot be inspected, using random sampling techniques.

**surveillance schedule**

A schedule based on the quality assurance surveillance plan requirements, which indicates when the various PWS requirements will be monitored. The surveillance must cover all hours of operation to include nights, holidays, and weekends.

**tender**

The Government response to the solicitation.

**tender/offer opening**

For sealed tender/offer procurement, tender/offer opening is the date and time established to open, read aloud, and display the bids received in response to an RFP. For negotiated procurement action the term is solicitation closing date—the time set in the RFP and monitored by the contracting office at which time all proposals must be received. For sealed tender/offer procurement, *tender/offer opening* is the same as *performance decision* because the contract tender/offers are opened at the same time as the in-house cost estimate. For a negotiated procurement, only the price negotiated with the selected offeror and the in-house cost estimate are compared at *performance decision*.

**transfer**

A change in the method of performance from contract to in-house.

**transfer competition**

See definition for *conversion from contract*.

**tally checklist**

The tally checklist is used to tally information on inspection observations and defects.

**unrestricted solicitation**

A solicitation for which any organization, to include small businesses, can provide a proposal.

**useful life**

The estimated economic utility or life of a capital asset.

**voluntary early retirement authority (VERA)**

During the open window period, an employee meeting eligibility requirements may volunteer for early retirement; this is approved and delegated by DOD. In most cases, voluntary separation incentive pay (VSIP) is offered along with VERA.

**voluntary separation incentive pay (VSIP)**

During an open window period, with appropriate authority an employee may volunteer to resign or optionally retire with incentive pay in order to lessen the impact of a RIF. If the employee's request is approved, the employee receives up to \$25,000, or severance pay, whichever is less. Incentive pay is paid in a lump-sum amount.

**wage determination**

Sets the minimum wages and fringe benefits that offerors and/or their subcontractors must pay their employees subject to The Davis-Bacon Act or The Service Contract Act of 1965. The wage determination becomes part of the solicitation.

**Section III****Special Abbreviations and Terms**

This section contains no entries.

**UNCLASSIFIED**

**PIN 056555-000**