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To: David C. Childs A-76comments/OMB/EOP@EOP

cc: "Litman, David" <David.Litman@ost.dot.gov>, "Lawson, Hayward" <Hayward.Lawson@ost.dot.gov>
Subject: Department of Transportation Comments on the Proposed Revision to A-76 Circular

Please find attached a letter of transmittal, signed by Ms. Melissa Allen, Assistant Secretary for Administration, and the Department of Transportation's comments on the Proposed Revision to A-76 Circular.

<<Angela B. Styles.pdf>> <<DOT FINAL comments A -76 Revision 4.doc>>

We will also be sending a Fax and hard copy of the above cited material.

If you have any questions, please contact either myself or David Litman at (202) 366-4263.

Babs Fallat
Office of Senior Procurement Executive
(202) 366-4974

- Angela B. Styles.pdf
- DOT FINAL comments A -76 Revision 4.doc

U.S. Department of Transportation

Assistant Secretary
for Administration

400 Seventh St., S.W.
Washington, D.C. 20590

December 19, 2002

The Honorable Angela B. Styles
Administrator
Office of Federal Procurement Policy
Office of Management and Budget
Washington, DC 20503

Dear Ms. Styles:

Thank you for the opportunity to comment on the proposed revisions to the Office of Management and Budget (OMB) Circular A-76, Performance of Commercial Activities.

We applaud OMB's effort to simplify and rationalize A-76, and we believe that the draft circular has taken large steps toward achieving that goal. However, we have some serious concerns about the organizational impact of some of the policy decisions reflected in the revised circular. We also think there could be further significant improvements to the procedures for conducting A-76 competitions.

The U.S. Department of Transportation (DOT) remains committed to accomplishing the President's Management Agenda. To that end, we believe that some of the provisions of the draft A-76 work against some of those objectives, especially the development of an effective human capital strategy. By mandating competitions every 3 to 5 years regardless of who wins a competition, the draft circular will hinder an agency's ability to develop a long-term work force strategy for recruiting and retaining top-notch people for government service. This is inconsistent with best commercial practices that embrace the benefits of long term supplier relationships in producing desired organizational outcomes through a stable and committed work force. The use of short-term contracts or performance agreements will also hinder the use of some of the state of the art business strategies and incentive arrangements being used in performance based acquisitions, such as award term contracting and managed services.

We strongly suggest OMB reconsider the inclusion of inter-service support agreements in this competition initiative. Subjecting intra-agency agreements to competition infringes on the Secretary's statutory authority to direct work within his own agency. Subjecting inter-agency agreements to competition infringes on the Secretary's authority to exercise the right under the Economy Act to determine that another agency can best meet the requirements.

We are very concerned about the 12 month limit placed on competitions. OMB has stated that it wants A-76 competitions to be conducted substantially in accordance with the Federal Acquisition Regulation (FAR), but the imposition of arbitrary time limits on competitive acquisitions is inconsistent with the FAR and could even be viewed as an arbitrary and capricious action in the event of potential litigation. We think that agency officials are in the best position to determine the appropriate timeframe for a competition with oversight from the 4.e. official and OMB.

We agree with OMB's concept to conduct A-76 competitions substantially in accordance with the FAR. Unfortunately, the draft circular deviates from that concept significantly by introducing unexplained exceptions and deviations to the FAR competitive process, identifying official roles and responsibilities inconsistent with the FAR, and creating procedures and concepts that either duplicate or deviate from FAR coverage. We believe that the circular should adopt FAR procedures with minimal exceptions and strongly urge OMB to gather a small worlung group of senior contracting professionals to bring the procedures more in alignment with the FAR.

Finally, we want to express our concern about the potential resource impact of the draft circular. The creation of new official positions, the identification of new responsibilities for existing officials such as the Human Resource Advisor and contracting officer, the stringent conflict of interest requirements, and the need for frequent recompetitions will create a resource burden under current budget constraints. Although adopting DOT recommendations to eliminate inter-service support agreements from consideration, increase the amount of time between competitions, and align the procedures more closely with the FAR, will provide some relief, the resource burden of the new circular is still expected to be substantial with no new resources identified to support it.

The revised OMB Circular A-76 is a vital business tool to both advance the President's Management Agenda and support Agency mission accomplishment. We would be happy to work with OMB to make the necessary policy and procedural changes to the draft Circular A-76 to ensure achievement of these important outcomes. It is essential to take a little extra time now to seriously consider the issues we have raised and make the needed changes.

We have also enclosed detailed section by section comments. If you have any questions, please contact David Litman at 202-366-4263.

Sincerely,

Melissa J. Allen
Assistant Secretary for Administration

Enclosures

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

General Comments About the Revision

DOT sees the following as positive steps in this revision:

- The new Inherently Governmental definition.
- Involvement of HR and Procurement.

General Comments on the Document.

- Federal Register announcement states competition will be under the FAR. This document is not FAR based. Cite the applicable FAR Part. Then list only the exceptions to the FAR in the Attachments.
- This document should be written as guidance not regulation.
- Document is not internally consistent. Policy is placed in definitions and definitions are in policy. All relevant guidance/policy should be included under sections. Continuous reference to other attachments is confusing and misleading.
- Document format should be consistent. Follow format outline in Attachment B for Attachment C and D.

- OMB should monitor process not approve. Delegate authority to 4.e. official and monitor.

- All References to "Conflict of Interest" should be moved into the Circular and simplified so it is clear exactly who is on First and what happens to MEO and PWS participants if the ATO loses.

- List of all participants in the A-76 process should be listed in one place with a description of their general roles and functions. Exceptions or additions should be added in the relevant Attachment or Sections:
  - SSA function is overstated and out of context with established FAR procedures. SSA never negotiates, SSA and CO would never approve ATO costs estimate. Source Selection Process and SSEB will validate ATO cost estimate as part of the source selection process.
  - CO does not have authority to designate personnel outside his/her authority to the PWS.
  - According to FAR only CO can make Announcements. HR should not make Public Announcements of Competitions.
  - Define role of Program Office and/or Requiring Activity.
  - Define role of CFO or Budget shop. Approves PR. May approve ATO cost estimate. CFO role is needed to assure that competitions are in accordance with Agency Budgets to OMB.
  - Define or reference FAR for role of SSEB.
  - Define Agency. Is it just the Department or can it be sub-organizations? Agency takes on different meanings indifferent Attachments. Clarify in each Attachment how Agency is being used and if it does or does not include sub-organizations.
  - 4.e. official role has greatly expanded. Only three functions are non-delegateable. Other functions assume a centralized office at headquarters. DOT would need flexibility in delegating 4.e official functions.
  - COTR is missing from list.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

General Comments About the Revision

- In general, the circular makes a distinction between the MEO and the requiring activity but in practice agencies will often have trouble distinguishing between the two. Recommend further guidance be provided.

- Past Performance issues as they relate to Tender Offer must be re-thought. A separate past performance measure may need to be developed to allow the MEO to have fair footing with private sector. At a minimum the MEO must be given a neutral. This is neither positive nor negative and may still not be fair, but at least it is not zero.

- Timeframe of all processes, but especially the Standard Competition:
  - 8 months for issue of the solicitation is reasonable.
  - 4-month source selection progress is unacceptable. Especially where technical evaluations are involved. There are any numbers of things, like a protest, that can occur during the technical/discussion phase that would require the process to go beyond 4 months. 4.e official should have authority to approve revisions with OMB receiving copy. If OMB has concerns, we can sit down and negotiate.
  - The 4-month limitation could force CO into making decisions that would be considered arbitrary and capricious under litigation.
  - This process should be under the 4.e official or their designee and progress reports provided at key stages to OMB if announced schedule cannot be met.
  - If a technical phase goes beyond the 4 months a revised schedule should be provided OMB by the 4.e official. If OMB disagrees with 4.e official approved plan, they may intervene.
  - Business Case Analysis should be extended to 90 days. If Business Case Analysis results in agreement with present organization, time must be allowed to develop agreement and performance measures.
  - No timeframe is set for Direct Conversions, WHY?

- Workload Issues:
  - Circular appears to assume a centralized, well-staffed office without providing sufficient funds to establish such an office. DOT is a de-centralized department and organizationally could not support a centralized approach, except for oversight.
  - Major Areas of Impact;
    - Inventory Process- Additional requirements for "Non-FAIR Act Commercial Activities" List will be considerable on many organizations. Revisions of present Inventories to comply with new requirements will add to burden. Recommend putting off until CY04 the implementation of the "Non-FAIR Act Commercial Activities" List.
    - Post Award- Contract Administration activities would need to be doubled to comply with monitoring requirements under the Circular. There just are not enough trained personnel to carry out this function, unless OMB authorizes agency to hire and train Contract Administrators. Contracting Offices monitoring their own agencies employees could present significant ethical and morale problems.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

General Comments About the Revision

- ISSA- if the ISSA requirements of Attachment D are implemented as presently written, DOT would not have sufficient contracting staff to do both A-76 Competitions and ISSA competitions. In five years we may be better able to incorporate ISSA competitions, with the authorization to hire additional contracting personnel.
- Human Resources- The role and functions of Human Resource personnel is new and large. No one HR person is versed in all the aspects of Employee impact areas. HR Office in DOT currently does not have sufficient personnel to dedicate a person or persons to each MEO team.

- Definitions:
  - Need to have clear definitions for "Activity" and "Function" that explains the differences between the two areas. These definitions must be consistent between the FAIR Act use of terms and the Circular's use of these terms.

- HR impact on government employees:
  - Has OPM reviewed and commented on the implications for HR in this document.
  - Will agency vacancy announcement have to notify applicants that the position they are applying for is considered commercial and subject to competition?
  - How will agencies classify those employees in an MEO where their jobs are competed every 3 to 5 years? They could not be considered in a permanent status.
  - Impact on issues of workforce diversity issues. For smaller Agencies or sub-agencies where Direct Conversion is often the only method, the impact of contracting-out does affect the minorities and women more than any other group.
  - The Federal workforce may be disadvantaged under the proposed process. Specifically, the Federal workforce is governed by Title 5 employment laws and associated OPM regulations (i.e., 5 CFR). There are many items that cannot be done in the HR arena with the MEO teams due to these laws. They include pay (salary, benefits, bonuses, incentives), classification, reduction-in-force placement procedures, and qualifications for employment, legal processes for hiring and removing employees, etc. Agencies are automatically put on a lower playing field when it comes to competition. If OMB is serious about providing Federal employees an opportunity to truly compete, they will have to work with Congress to make adjustments to many laws that currently govern the Federal employment program.
  - Likely impact on Human Capital Initiative and other PMA initiatives is significant.

- Non-FAR agencies:
  - Provide specific direction on what procedures Non-FAR Agencies are to use.
  - DOT by Statue cannot do oversight on FAA. How does this effect Central Oversight Function?
  - Establish clear concise guidance on how agencies or sub-agencies currently not covered by FAR, and in some cases Title 5, are to comply with this Circular.

- There are inconsistencies between the proposed A-76 revision, FAR, the Economy Act, and other applicable laws and regulations:

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

General Comments About the Revision

- OMB intent is not clear, resulting in conflicts in implementation. In some cases, the draft Circular appears to contradict with the FAR.
- Establish precedence among these laws and regulations.

- Bundling Issue with the combination of activities needs to be addressed with SBA. The proposed circular does not address conversions, which may include smaller parts that are contracted separately. Of particular concern are these smaller parts that are being performed by small, small disadvantaged, women-owned small, veteran-owned small, and historically underutilized business zone small businesses. Including these contracted units in larger conversions constitutes bundling (see FAR 7.107 and 2.101) and this needs to be addressed in the Circular.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

A-76 Circular

Document Reference	Comments
# 7 of Circular	Implementation should begin at least 90 after FR announcement. It should apply to those competitions where the "Public Announcement" is made in compliance with the new circular. Individual agency will need to discuss with OMB competitions that are underway.
	Implementation of NON-FAIR Act List in June 2004

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment A

Document Reference	Comments
D.1.	Insert "separable" before recurring in the second sentence of the paragraph.
D.1.	Commercial ISSAs are referenced; nowhere in the materials is the distinction, if any, from ISSAs provided. Define the difference in the Glossary
D.3.	Make Reason Codes map back to old A-76 Circular.
D.3.	Agencies are required to make written justifications for designating activities as inherently government "available to OMB and the public upon request." It is urged that text be clarified as to whether a determination must be made to OMB [which is what I think the rule is] or only upon request. If the former, it should read "…to OMB, and to the public upon request." Page A-3 Para. D-3 further requires a written justification for agency performance of commercial activities, but, unlike paragraph E (page A-3) that provides detailed guidance in determining whether an activity is inherently governmental, no guidance or factors for consideration appear to be provided for formulating a Reason Code A. This, or a cross-reference, would be helpful.
E.3.d.	For clarity replace the word "proscribed" in the last sentence with "prohibited" as proscribed can mean "condemned".
F.1.	Allow for more than one Challenge Review Official but only one Challenge Appeal Official. Criteria for appointment can remain as stated.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment B

Document Reference	Comments
	Effectiveness of the revision would be increased if perceived conflicts and ambiguities were resolved. Incorrect cites and references Use of FAR acronyms and terms with differing roles and responsibilities. The revision uniquely requires the SSA to validate the Agency Cost Estimates and Public Reimbursable Cost Estimates to determine if estimates have been calculated in accordance with Attachment E (Attachment B, paragraph C.4.a.(1)(b)1). The SSA has little or no information available upon which to determine if the estimates, particularly the Public Reimbursable Cost Estimates, have been prepared in accordance with Attachment E, Calculating Public-Private Competition Costs. The Circular states that the SSA shall correspond through the CO (Attachment B, paragraph C.4.a.(3)(a)1). The Circular requires the SSA to conduct discussions in the LPTA Source Selections (Attachment B, paragraph C.4.a.(3)(b)). The Circular cites the rationale for tradeoff required by FAR 15.406 be included in the decision document (Attachment B, paragraph C.4.a.(3)(c). There is a requirement in FAR 15.308. These and other instances FAR alignments (FAR 15.303, in particular) should be used. Misuse of key definitions and words. The Circular uses the FAR terms Source Selection Authority and Contracting Officer but revises their responsibilities. Attachment B, paragraph C.2.a.(4) states that when a Standard Competition is performed the CO shall identify a Circular-based procedure to be used to select the source. FAR 15 Source Selection procedures are not an option. One of the Circular's four procedures that conflict with the FAR is the use of "Negotiated Procurement using Low Price Technically Acceptable Source Selection Procedures in paragraph B.4.b.(a) of this attachment (cite is wrong for all four procedures). The LPTA procedures do not include critical and customary FAR Part 15 requirements; does not require the use of Uniform Contract Format (UCF) (FAR 15.204-1); does not require the FAR required written source selection decision including any business judgments (FAR 15.308); does not require the CO to establish a common cut-off date for receipt of final proposals revisions; and does not address the FAR cited limitations on the conduct of federal personnel. OMB should require an interdepartmental review team of Government acquisition and human resource professionals to improve the accuracy and integration of the Circular with other laws and regulations.
Page B-1	Redo chart to accurately reflect when the decision is made for Type of Acquisition. See Attached.
A.1.a.	Provides for the 4e official to issue a revised date with notice to OMB. C.1.b(3) states that the 4e official can grant one six-month extension with approval from OMB. Is this in addition to the already established revised date?
A.1.a.	The revision requires OMB approval to use alternative competitive processes. We recommend that an exception allowing use of alternative processes previously approved for other agencies be added. Allow Agencies to use alternative processes that have

Document Reference	Comments
	been approved by OMB for other Federal agencies.
A.1.a.	Use the FAR based deviation model set forth in FAR 1.403 and 1.404 that distinguishes between individual and class deviations while providing agency authority to approve deviations.
A.1.c.	Appears to prohibit agencies from performing work as a contractor or subcontractor to the private sector or other reimbursable source unless there is a specific statutory authority or OMB approval. This may present an obstacle on OPM and OMB efforts to limit the number of payroll/personnel systems, with other agencies contracting with those limited agency systems.
B.	Proper oversight of contracts or Letters of Obligation is critical for the Government to effectively implement the circular and achieve real savings, and proper oversight is contingent on the role of the Contracting Officer's Technical Representative (COTR). The role of the COTR is absent throughout the document. Recommend the duties/role of the COTR at a minimum be specifically included in the list of inherently governmental activities (Attachment A, paragraph E) and in the discussion of roles and responsibilities under Attachment B, paragraph B.
B.	The concept of independence as it interrelates between the ATO, CO, and HRA needs to be clarified and/or thought out. For example, one could interpret in subparagraph 2 that the CO cannot be in the same organization as where the activity resides which would mean a CO could not conduct a standard competition for any of his/her agency activities. That could cause significant difficulty for agencies to conduct standard competitions, i.e., who could act as the CO? The same applies for the HRA and is compounded as he/she must also be independent of the CO.
B.2.	Rather than the CO designating the PWS team, it should be the program manager for the activity being competed who appoints the PWS team, which will include the CO as an advisor. The program manager or official should be an integral and key figure in the A-76 process.
B.3.a.	Assume (c) applies to incumbent agency service providers. If so, should be clarified and if not, it is not the role of HRA to inform contractor service providers of competitions. Under (d), what purpose is served by the HRA putting announcements in FedBizOpps? If it is to notify agency employees it serves no purpose as employees would not be familiar with or monitor FedBizOpps and contractor employees would be notified upon the synopsis as is done with standard Government procurements, i.e., it would be duplicative to what the CO does.
B.3.a.	HRA should not be making announcements in FedBizOpps. The CO should make such announcements, as required by FAR. CO should coordinate content of announcement with HR office to assure all HR issues are addressed.
B.4.	The meaning of "independent" is not clear. It is noted that at paragraph C, Standard Competitive Procedures (pages B-4/B-5), various inherently governmental officials are identified who must be independent, ostensibly to avoid any conflicts of interest.
C.1.b.(1)	This says the 4e official shall hold competition officials accountable through annual performance evaluations. Is this intended to imply that the ATO, CO, HRA, SSA and AAA would all report to the 4e official organizationally? We think it will often be

Document Reference	Comments
	the case that the ATO in particular might be in another part of the organization (unless this effectively mandates otherwise).
C.1.b.(1)	There is an apparent requirement to designate all officials, including the Appeal Authority prior to commencement of "each or all" studies. This, too, is a change, and could lead to a permanent Appeals Authority. The issue remains as to how far, organizationally, independence goes. In any case, this may present problems at smaller units/installations where there is not a depth of personnel, especially when in the PWS "team" and the MEO "team" members are added into the equation.
C.1.b.(13)	Need to include the following items as not applicable: bonds, liability insurance, and service contract act and Davis Bacon wage determinations. Also the references to C.6.b.(2) and C.6.d.(2) do not exist.
C.1.b.(4)	This section would require all competition officials and individuals participating in the process to comply with "procurement integrity, ethics and standards of conduct rules" but fails to define these rules. The GAO significantly expanded the reach of certain conflicts of interest rules in the Jones-Hill protest decision. This section should spell out what rules apply (i.e. FAR etc.), in this section as well as later, where the rules for PWS and MEO team formation is discussed.
C.1.b.(8)	States "agencies shall provide assistance to adversely affected Federal employees in accordance with 5 CFR Part 351." Part 351 is the RIF chapter. An employee looking in this chapter will find it hard to see how RIF will be of assistance. If the intent is to say "agencies will carefully follow RIF regulations including placement issues," then it is recommended that it be so worded.
C.2. And C.4.a.(3)(c)2.a	It is unclear whether a Statement of Objectives (SOO) approach can be used in lieu of a performance work statement (PWS). The biggest trend in recent years concerning performance-base contracting is to use the more streamlined SOO approach when it is impractical to develop a PWS or when the agency wishes to focus more on solutions and outcomes rather than how the work is done. The Circular does not mention the SOO technique, so we are unsure whether it is permissible. We believe the SOO approach should be encouraged, as it would provide yet another means of advancing competitive sourcing, and we note that "decreasing the complexity of performing source selections" is a goal stated elsewhere in the Circular (Attachment B, paragraph C.2.a.(11)).
C.2. a (12).	This paragraph needs to incorporate exclusion of the cost associated with background investigations resulting from the implementation of Government Information Security Reform (GISRA). Since the costs associated with security clearances are to be excluded on the SCF for an agency tender, private sector offer, or public reimbursable tender, then any costs for the background investigations should also be excluded.
C.2.a.	The Draft provides "agencies shall not issue a solicitation that increase, or places additional risk on one offeror over another; violates industry service or service grouping norms…" This is very vague: what are "grouping norms," and are they local, state, or federal norms?
C.2.a.(11)	"A matrix shall clearly identify proposal reference information as it relates to the PWS, contract line items (CLIN), Sections L and M, Proposal Volume and Section, and Contract Data Requirements List (CDRL) references. This matrix should be

Attachment B

Document Reference	Comments
	modified to account for proposed performance standards that differ from the requirements in a solicitation when CTTO source selections are used." Remark: This change is not found in Attachment E of the Draft Circular covering costing, but it applies to a cross-matrix requirement that deals with costing procedures and contract fulfillment. Thus, the In-House bid must be developed in accordance with the solicitation requirements, i.e., CLIN structure. So in addition to developing a bid on the Standard Competition Form (SCF) for costing purposes, you must also develop a bid that maps back to the CLIN Matrix requirement referenced above.
C.2.a.(3)	It is noted that neither FAR clause cited here addresses the new "Integrated Process." Both clauses are based on the process outlined in previous versions of A-76.
C.2.a.(4).	(b) The correct paragraph citation is B.4.a.(3)(b).
C.2.a.(4).	(c) The correct paragraph citation is B.4.a.(3)(c)1.
C.2.a.(4).	(d) The correct paragraph citation is B.4.a.(3)(c)2.
C.2.a.(5)	The limitations on performance periods should be identified in this section not in Attachment E. We strongly recommend that OMB consider allowing longer performance periods, in conformance with private sector business practices, when a contractor/tender is performing well. This is one of the incentives used under a PBSA contract.
C.2.a.(13)	It is not clear why we are making them exempt for the Agency Tender. Conduct competition as required under FAR.
C.3.a	This entire section has significant deviations from FAR process. We recommend they be eliminated. We also do not understand why agency tender cannot utilize new contracts in their offers. This could have an impact on small business.
C.3.a.(4)	Most Efficient Organization. The Draft instructs that the MEO can never be the current organization, which seems to be a remarkably prescient statement. That would seem to be a judgment matter for the ATO to make when putting together the Agency Tender. Since there is no guidance as to how much change is minimally required, better language might be something like: "The MEO often will not reflect the current organization, but is the product…"
C.3.a.(9)	Delayed Delivery. The draft does not say that the agency is subject to traditional late proposal/bid rules, but states that the 4.e. official will review and determine whether it should be accepted. But by what rules or guidance?
C.3.a.(3)	The CO, not the SSA, should conduct negotiations. In the following pages, the SSA takes significant role in the negotiation process that is normally the authority of the CO, such as conducting negotiations. On smaller procurements, the CO may be the SSA. But the SSA is not the CO.
C.3.a.(4)	"from in" (one of those 2 words should not be there).
C.3.a.(4) and C.3.c.	The last sentence of paragraph C.3.a.(4) does not make sense. C.3.c. states "Public reimbursable tenders respond to the solicitation in accordance with **Attachment C** and prepares tenders in accordance with paragraph C.3.a. Attachment C is Direct Conversions, so a public tender is not required.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment B

Document Reference	Comments
C.3.a.(7)	Requires the phase in costs be computed for the agency tender phase in plan. It is assumed this does not include the costs of severance pay, running RIFs, etc., as this would make it nearly impossible for the agency to win. It is important that this issue be clarified.
C.3.d.	This section is very confusing because it talks about non-responsive and non-responsible, but it is impossible for public reimbursable to be non-responsible. I think this section should be broken down to talk about these issues separately.
C.3.d.(2)	This paragraph also imposes duties on the 4.e. Official, which he/she may not be qualified to make. Even if qualified, the decision to revise the solicitation or implement the agency tender would not seem to need to be decided at such a high level, and will likely overwhelm the system. Also, FAR 15.503 makes no provision for "debriefing" in this situation.
C.3.d.(2)	"**(a)** revise solicitation or **(2)** implement the Agency Tender." Need to be consistent when numbering.
C.3.d.(2)(a)	The paragraph states "Before revising or reissuing the solicitation, the CO shall return **the sealed Agency Tender** to the ATO." C.4.a.(1)(a) states "The SSA shall evaluate all offers concurrently." These two statements would be conflicting if this is a revision after a determination of non-responsiveness by the private sector offers.
C.3.d.(3)(b)	This paragraph references paragraph C.5.b.(1)(a) and (b), these paragraphs do not exist.
C.4.a.(1)(b)	This section states the SSA shall perform Cost/Price Realism. This should be a joint effort between the SSA and the CO. If the CO is responsible for awarding a resultant contract if the private sector offer is determined to be the most cost effective, then they must be involved in this process.
C.4.a.(1)(b)(2)	If the Agency Tender is to be evaluated on the same basis as the private offers, it is difficult to see why a "cost realism" analysis can be performed only on the Agency Tender in a Sealed Bid Acquisition. Mistake in Bids analysis, set out in FAR 15.404-1(d)(2) would seem more appropriate.
C.4.a.(2)	This paragraph references paragraph C.4.b this paragraph does not exist. It appears that C.4.a.(2)(c) may be missed numbered and this is the actual reference.
C.4.a.(3).(a)	This paragraph states "Exchanges between the SSA and the ATO, officials responsible for public reimbursement tenders or **other offerors after receipt of proposals** may include (1) clarifications, where offerors clarify certain aspects of proposals or resolve minor or clerical errors where …(3) discussions, which are undertaken after establishment of a competitive range…" and then goes on to state FAR 15.306 procedures shall apply. 15.306 states the CO is responsible for negotiations.
C.4.a.(3).(b)	This paragraph references paragraph C.4.b, See same comment above this paragraph does not existing.
C.4.a.(3).(c).1	This paragraph references paragraph C.4.a.(1)(c), this paragraph does not exist. It appears that C.4.a.(3)(a) is the correct reference.
C.4.a.(3).(c).2.c.	This paragraph implies that the ATO signature on the SCF is part of the certification of a decision. In reality (at least according to the SCF in the draft), all the ATO's signature does is certify to the quality of the agency tender, not the decision about

Document Reference	Comments
	whether or not to use it. Recommend the language be clarified or the reference to the ATO deleted.
C.4.a.(3)(a)2.	This paragraph does not make sense.
C.4.a.(3)(a)3.	Deficiencies. The last sentence notes that if the ATO and the SSA cannot resolve a deficiency issue in the Agency Tender, someone appointed by the 4.e. official will resolve it. This may be taken to mean that this person will determine if the deficiency still exists and impose his/her determination on the SSA as sort of an ad hoc competitive range appeal authority. This direction is very loose. If the reviewing official can independently make determinations, it should be so stated. It is also noted that standards for appointment are not specified. The FAR clearly states what should happen. Thus, why rewrite the FAR?
C.4.a.(3)(c)1.	This paragraph again states the SSA will negotiate. FAR 15.306 states the CO is responsible for negotiations.
C.4.a.(3)(c)1.b.	This paragraph references C.4.a.(3), this reference is for the same general paragraph that the reference appears in. Need to be more specific.
C.4.a.(3)(c)2.	This paragraph implies that the Agency Tender must always be determined technically acceptable. What if it is so technically deficient as to preclude a determination of acceptability?
C.4.a.(3)(c)2.a.	This paragraph states "In consultation with the requiring organization, the SSA shall determine whether any of the proposed performance standards are necessary and within the agency's current budget limitations." Shouldn't this be limited to someone outside the PWS team to avoid conflict of interest? Also, how do you determine if the standard is within the agency's current budget when all you will have is a discrete cost or price difference for that performance standard?
C.4.a.(3)(c)2.b.	This paragraph states "If the solicitation is amended as a result of Phase One, the SSA shall request the ATO who bid the requirements of the solicitation to submit an update to the Agency Tender to meet the revised solicitation (see paragraph C.3.a.(3) above)." C.3.a.(3)(c)2.a. requires the Agency Tender to meets the revised performance standards of the amended solicitation before proceeding to Phase Two, so why would this statement be in Phase Two?
C.4.a.(3)(a).3.	Sixth line. Cost or price realism should be performed on all offers or tenders in the competitive range instead of all offers and tenders. If we are to treat ATOs the same as commercial offers, there really should be no disagreement between the ATO and SSA. The SSA's job is to determine whether the Agency Tender should be in the competitive range in accordance with the selection criteria. If the Agency Tender cannot be changed to change it from materially deficient to satisfactory, it should be eliminated.
C.4.a.(3)(b)	Second to last sentence. Again, C.4.b does not exist.
C.4.a.(3)(c)	States that under CTTO an agency may accept an offer or agency tender that is not the lowest cost proposal if that offer is within the agency's budgetary limitations. If technical is considered much more important than cost, as most CTTOs are, the likelihood of greater-than budget offers is high. If the solicitation sets forth a cost/price limit, that will be the baseline cost

Attachment B

Document Reference	Comments
	around which everyone will hover, and the competition will turn out to be what can you accomplish for X dollars. If the highest rated technical offers are above the budget, and the lowest is the only one below the budget, doesn't that invalidate the criteria for award? Does the 10 percent differential allowed between agency tender and other private offers apply to the Integrated Method when the decision document is not the SCF but the SSA decision? Does it apply under Phased Method?
C.4.a.(3)(c).(1)	Having an individual other than the CO determine to exclude the agency tender from the competitive range takes away the authority of the CO, detracts from the goal of making the A-76 process closer to standard procurement, and further complicates the competition - as well as subsequent appeals.
C.4.a.(c)2.	Since the Phased Evaluation Process (the old two step) is no longer contained in the FAR, need to clearly distinguish what is different in this process from LPTA. Can CO negotiate in Phase Two for example?
C.4.a.(c)2.a.	"When the SSA and the ATO determine that the Agency Tender meets the revised performance standards of the amended solicitation, the SSA shall proceed to Phase Two." Does this mean to imply that the SSA and ATO will meet until the MEO offer is technically acceptable? What is the purpose of this meeting? There can be no appearance of technical leveling under the FAR. Is this meant to be an exception to the FAR.
C.4.a.3.b.	The paragraph states that if the solicitation is amended as a result of phase one, the SSA shall request the ATO to update the agency tender and refers to C.3.a.(3). This sentence implies that if no amendment is completed, the SSA does not request an update to the tender. However, the referenced paragraph is about tenders that are materially deficient. Material deficiencies and changed requirements are not equivalent. Remove all reference to SSA and change to CO as required by FAR. There is no paragraph C.4.b.
C.5.a.	Head of Requiring Org isn't defined.
	More detail should be devoted to the "Letter of Obligation" concept. Who from the MEO has the authority to sign such a document? Presumably, the Letter of Obligation could include, for example, a liquidated damages clause or some other vehicle by which the MEO would be obligating funds. Government officials cannot obligate funds unless authorized by law. 31 U.S.C. § 1341. The proposed revision points to no such authority for the MEO side of the Letter of Obligation.
C.5.a.(2)	Reference to "4.a official" appears to be typo and should be "4.e. official". Also, having head of requiring activity issue ISSA conflicts with TAR/TAM, which requires ISSA's to be issued by CO. Recommend replacing "head of requiring organization" with "the head of the requiring organization or other agency designated official such as the CO."
C.5.a.(2)	The 4.a. official should be changed to read 4.e. official.
C.5.a.(2):	Head of Requiring Org doesn't issue ISSA. Just say, "the customer will issue an ISSA.
C.5.c.(3)	Agencies cannot use agency personnel as a temporary "fix" in cases of non-performance without the permission of the 4.e. official. There should be an exception for exigent circumstances with subsequent approval by the 4.e. official as soon as

Attachment B

Document Reference	Comments
	practicable. Without such authority, the government would be prohibited from using agency employees to perform a national security related duty due to any non-performance - even if related to a failure to appear for work due to weather conditions.
C.5.a.(4)	This paragraph references paragraphs C.7.(a) above and C.7.b.(2) below, however there is no paragraph C.7.
C.5.b.(2)	Uses terms "head of requiring activity" and "head of requiring org". Neither term is defined.
C.5.b.(2)	This paragraph states, "For future Standard Competitions, the CO shall include agency past performance criteria in the solicitation requirement." OMB has directed agencies to use electronic means for collections of past performance. Under the NIH system the "contractor" must have a DUNS and Taxpayer Identification Number (TIN). This will require the ATO of obtain a DUNS and TIN for that "agency tender." Is it intended to be collected as currently required by the FAR 42.1500? If so, it needs to state that, otherwise there will be inconsistent collection of data by federal agencies
C.5.c.(2)	If a public tender is terminated for default, do the FAR provisions regarding eligibility for competition and reprocurement costs apply?
C.6.	It is not clear how the Administrative Appeal procedures interact with the right to protest. Is an Administrative Appeal legal proceeding? How does it affect protest rights? Can the processes operate simultaneously? Does an appeal stop the GAO clock for protests?
C.6.a.(1)	The language in this paragraph is not clear. While private sector offers are "not subject to appeal," their compliance with the scope and technical requirements are subject to appeal. It is hard to discern any difference in "appealing" a proposal and ascertaining if that proposal complies with the requirements.
D.1.	Having the HRA define whether or not a government worker is qualified is a new requirement. It will place the government in the position of taking on performance responsibility. Could Government lose termination rights, if employee found qualified by HRA proves unqualified and performance of contract can be traced to this individual. Delete.
D.1.	2) How are "non-appropriated fund civilian employees' and franchise fund or revolving fund employees, such as: TASC employees treated in reference to Right of First Refusal??
D.1.	What is the definition of "adversely affected Federal civilian employees" for the Right of First Refusal (ROFR) consideration? OMB took that definition out. Also, it would be important to see what type of actions exclude Federal employees from having ROFR consideration. There is no ROFR definition in the definitions section. Having the human resources function perform qualification determinations for displaced employees as it relates to ROFR is appropriate.
D.1.	If an agency is providing public reimbursable service (e.g., like in TASC) and is the winner of the competition, this paragraph requires Right of First Refusal for the employees of the losing agency by the gaining agency. RIF regulations govern the transfer of a function from one agency to another. They do not distinguish A-76 competition from any other reason for such a transfer. It is misleading to imply that employees are treated according to rules contained in this policy.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment B

Document Reference	Comments
D.1.	Clause cited should be 52.207-3.
D.2.	Responsibilities of MEO team and PWS team should be discussed. Identify any guidelines for either group. Discuss firewalling or segregating of duties between MEO and PWS team members should be covered under Conflict of Interest in Circular. D.2 should be moved to B. on page B-3. Consider making B a separate Attachment to be reference in other Attachments.
D.2..a(1)	Recommend the first sentence of this subparagraph be deleted. Many times the functional and technical expertise resides solely with the MEO team, and therefore a separate PWS team is not possible. The CO and SSA involvement mitigate appearance of conflict of interest.
D.2.a.(1)	Last sentence "Members of the MEO Team shall not be member of the SSEB." This sentence should appear under D.2.b.(1) as it pertains to the MEO Team and not the PWS Team.
D.2.a.(2)	Excludes those who personally and substantially participate in the development of the Performance Work Statement (PWS) from the ROFR. This may limit union member participation on PWS teams, although they will still be able to offer suggestions/recommendations for the team's consideration. Requires the PWS Team and the MEO Team be comprised of technical and functional experts. These are new skills that have to be immediately built into workforce planning. One of the bases for using an interagency agreement is when a requiring agency does not have the internal expertise to contract for needed supplies or services. If an agency needs to obtain the expertise of another agency to contract for needed service, how does that agency now have the "expertise" to effectively perform this task for the standard competition process? Nor does the circular consider the benefit to the government of maximizing the use of its in-house capability (i.e., agency to agency) efficiently and effectively, without all the added cost, time and duplication of effort that is inherent in the proposed circular process. The private sector model rarely requires such machinations in order for one segment of a corporate entity to utilize readily available resources within its organization. The government could be criticized as not applying good business practices.
D.2.c.	This says the SSA appoints the SEB (should be SSEB). Attachment F says the CO appoints the SSEB. Also, the reference C.3.a is incorrect and should read C.4.a.
D.3.	Circular argument. Refers to "D3 above" which doesn't exist.
	Need to address how architect & engineering (Brooks Act) procurement fit into this Circular.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment C

Document Reference	Comments
A.	Any one of the 10 criteria allow for direct conversion to or from an agency, private sector or public reimbursable source, but some seem to apply only in certain situations and should be clarified accordingly. For example, A.2 seems to apply only in relation to conversions from agency source.
A.1.	The Direct Conversion section needs to clarify what is meant by a small activity. Is it an activity, which currently needs 10 or fewer employees to perform its function, or is it an activity, which actually needs more than 10 employees to perform the function, but is currently manned by fewer than 10 employees?
A.1. And A.2.	Should some of the criteria be grouped since any one of them apply? For example, under the provisions of A.1, it appears an activity performed by 10 or fewer Government employees could be directly converted to a private source without guaranteed reassignment to comparable Federal positions, which is specified under A.2. Should A.1 and A.2 be combined?
C.2.	No competition waivers for Alaska Native-American firms? Protection should still be afforded federal employees.
D.	Business Case Analysis should be given a separate Attachment. It is a separate process, which could result in selection. It is not part of the Direct Conversion. I would never look for it here.
D.	Other agencies' past experience indicates that the lack of definable standards, particularly those on what constitutes a "comparable" contract, makes the process unworkable in many cases. It is also noted that the 15-day time shown is probably unrealistically short. Fifteen days to complete a Business Case Analysis is unreasonable.
D.2.a.	The first and second sentences are inconsistent. The first sentence states "(2) develop an Agency Tender in accordance with Attachment B" and the second sentence states "The ATO shall not develop an MEO." It would be clearer if these sentences were consolidated and stated that the ATO should provide an agency cost estimate only based upon the current organization, costs, performance and structure.
D.2.b.	Amend to allow comparison with existing labor hour or time and material contracts as well as firm fixed price.
E.2.a.	This paragraph requires a performance work statement to be prepared for a direct conversion, yet this subject is not discussed in the Business Case Analysis section (paragraph D), so it is unclear how this should occur and whether there are any time limits, in light of the 15-day rule in D.1.e.
E.2.a.	Doesn't require an Agency Tender for direct conversion to the private sector source but is silent about the need for an Agency Tender for direct conversion to a public reimbursable source. It is assumed that an Agency Tender is not required in that situation either, but it is recommended that this intent be directly stated in the context of the entire paragraph. Please be explicit about the role of the ATO.
F.	Paragraph cited in the parenthesis should be D.1.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment C

Document Reference	Comments
	Under the BCA, allow the average of the 4 contracts identified in lieu of the lowest price.
	Allow use of Federal Supply Schedules for the BCA process.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment D

Document Reference	Comments
A.	Change the fourth parenthetical to: "(4) the ISSA is designed to facilitate the use of a Federal multiple award schedule contract (MAS), government-wide acquisition contract (GWAC), or multi-agency contract where the customer (service requiring agency) is directly responsible for contract performance **and/or** all contract payments". Many such contracts directly make the contract payments on behalf of the customer; requests to use those contracts should not be subject to ISSA competition requirements while comparable contracts where payment is made directly by the customer are not.
A.	Doesn't really address the most typical Economy Act type of action: going to another agency that has a contract in place for the customer's needed supply or service to buy common requirements.
B.3.	Why not have the 4e official submit the report on why competition isn't feasible rather than the head of the customer agency, an undefined term.
B.4.	Just list the ISSA value. You may not know how many FTEs are performing.
C.b.3	There should be a grace period. Immediate implementation could cause interruption of services.
D.	Rather than have to amend the solicitation later why not just provide for the public reimbursable source to also submit a tender if they choose to do so.
D.	Assumes only a solicitation amendment will be required; however, after the proposal closing date a modification would be required and would "restart" the proposal process. It is recommended that an alternative process to the Standard Competition be established with a single procedure that eliminates the need to reissue, modify or extend the solicitation.
D.1.	Is the competition $1M in total as per first sentence or $1M in fee per second sentence?
E.	States, "A customer agency shall provide assistance to the customer agency's Federal Civilian employees in accordance with 5 CFR, Part 330." This seems to be saying that an agency will provide assistance to its own employees using the Reemployment Priority List - but normally within the same agency the CTAP would apply.
E.	Also, this paragraph says that if a customer agency competes the work of an Interservice Support Agreement (ISSA) and the work does not stay with the ISSA, the employees of the ISSA are not provided ROFR. Although not stated, they would be affected by RIF. Is there a reason why ROFR cannot be extended to this group, since they are already performing the work?
	INTRA agency agreements should not be subject to A-76. This subverts the authority of the Secretary to direct work within his own agency.
	I see no problem with Agencies being required to provide a list, approximate dollar value and approximate number of FTE of all INTER Governmental ISSAs. Agency should prepare a competition plan for ones the agency feels are appropriate to compete. If OMB disagrees with the ones not being competed, that should be a subject for negotiations.
	This process has not been vetted and all the potential implications reviewed. ISSAs are not a standard process in every

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment D

Document Reference	Comments
	agency**.**
	Application is overly broad. Eliminate the administrative burden of the ISSA requirements.
	Allow Agency exemption (4.e Official) for competition.
	Longer phase in period for this requirement – Agencies to focus first on competitive sourcing studies before embarking on competing ISSAs.
	Raise dollar threshold for competition to $10 million.
	Significant resource drain to gather listing by June 30, 2003.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment E

Document Reference	Comments
4.b.	Second sentence: "Any deviation FROM... " not "form". This is one a spellchecker might miss.
A.1.	The recompetition requirements of this Draft Circular appears to be driven by the number of years included in the SCF (Standard Competition Form). It appears that the SCF only provides for four performance periods. Since the SCF does not appear to go beyond four years, what form or procedure for costing should be used if the 4.e. Official approves in writing a longer performance period.
A.6.	The idea of having a separate contract line item number (CLIN) item for a phase-in period cost is a good idea to capture the full cost of implementation of one proposal to that of another. More guidance on applying these costs is required.
A.1.	Agencies should be allowed to conduct standard competitions for longer periods to accommodate award term contracts, which provides significant incentive for service providers, either public or private, to perform at a high level of competence..
A.5.	This requirement may cause some concern if and when the OMB provided inflationary factors differ from known or anticipated hourly pay rate increases.
A.10.	The requirement for the Source Selection Authority (SSA) to perform Cost Realism of the Public Reimbursable Tender's bid proposal to validate compliance with this Circular beyond a review that would also be given to any other Offeror/Tender submitting a proposal could appear to be a conflict of interest.
B.1.b.(1)	"ertime" should be "overtime".
B.1.d.	The ability to use personnel development positions in a bid proposal must be included in the solicitation to advise all offerors/tenders that such a position is acceptable.
B.1.k.	The impact of military personnel labor being included in the MEO is not clear. If they will continue to be available under contractor performance, the manner in which their services may be provided may cause organizational and personal services issues.
B.1.l.	This section would seem to allow the use of volunteer labor etc. if the solicitation states that the volunteer labor is "available to all prospective offerors … as a common cost." The Department of Labor, who has sole authority to enforce the Service Contract Act, has ruled that while the Government may use volunteer labor if it has specific statutory authority to do so, a private contractor must pay the prevailing wage to anyone performing work under the PWS in a service contract to avoid being in violation of the Service Contract Act..

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment E

Document Reference	Comments
B.3.g.	Typo in fifth sentence, "o" should be "on".
C.1.	This paragraph requires clarification. Is only one private sector or public reimbursable price being entered under line 7 or should a different SCF be completed for each private sector and public reimbursable agency offer. If is the former and it's negotiated procurement with cost/price technical trade-offs, is the private sector or public reimbursable "best value" price entered and them compared against the agency performance cost?
C.1.c.	More guidance needs to be provided as to how to make the tax adjustment. How are agencies to know what the tax adjustment should be; they have no way of estimating that amount. If the provisions of C.7. are applicable, it should be cross-referenced.
C.3.	The paragraph numbering is wrong in the Draft and it should be Paragraph C.2.
C.4.b.	The paragraph numbering is wrong in the Draft and it should be Paragraph C.3.b.
C.4.b.	The paragraph numbering is wrong in the Draft and it should be Paragraph C.3.b.
C.4.c.	The paragraph numbering is wrong in the Draft and it should be Paragraph C.3.c.
C.5.a.	The paragraph numbering is wrong in the Draft and it should be Paragraph C.4.a.
C.5.b.	The paragraph numbering is wrong in the Draft and it should be Paragraphs C.4.b.
C.5.c.	The paragraph numbering is wrong in the Draft and it should be Paragraphs C.4.c.
E.14. Para. 5	The rationale for the "one time costs" is not clear. In light of the requirement for periodic recompetition the basis for the costs shown being characterized as "one time" eludes basis.
g.(2) New MEO Subcontracts	This paragraph does not permit the flexibility to propose new subcontracts in the development of the MEO. The prohibition unduly restricts the design of the MEO, which could involve very feasible new public/private partnerships.
Para. B.1.j.	No basis could be located for the assertion that the Service Contract Act and Davis-Bacon Act do "mandate" EPA in FAR Part 22 or anywhere else. There are provisions for equitable adjustments but EPAs are not done to accommodate Service Contract Act or Davis-Bacon Act. If this is so, will FAR be revised to include Service Contract Act or Davis-Bacon Act under Part 22.
	Implies that all processes require SCF—not required for integrated.
	We disagree with the alignment of responsibility or participation regarding "cost realism" and the conflict of interest that seem evident.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment F

Document Reference	Comments
	The definition of the "4.e. Official" should clearly spell out the amount of delegation authority that person possesses.
	Agency Federal Civilian Employee. Definition appears to be too broad in light of personnel action rights that attach to some position that have some time limitation.
	Contracting Officer. Reference the FAR definition.
	Directly interested party. The terms used, and as defined, may lead to confusion in light of the specific term used in the GAO Rules.
	Commercial ISSA. The addition of the term "commercial" to already used nomenclature implies that there are some ISSAs that are other than commercial. Those are not addressed and thus clarification is required.
	LPTA use the FAR references only.
	Negotiated Acquisition The limited definition of "Negotiations" at FAR 15.306(d) makes the definition proffered different than the description provided at FAR 15.000. The general description at FAR 15.000 may be more suitable.
	Provide definition of "New Requirement." Most new requirements do not have FTE established and have not appeared on Inventory. We have been lead to believe that only FTE shown on CY2000 and after Inventories will count towards competition goals.
	Allow Agency flexibility to identify competition officials as inherently governmental or not.
	Does not define all terms in Circular and should be definitions in lieu of directional. Be consistent with FAR terms and definitions. Not defined—Head of Requiring Activity, Head of Organization, Source Selection Authority, and technical proposal.
	Do not need IT definition, as it is the same as FAR. Only definitions required or suggested in the Circular A-76 should be in the Circular to prevent having to keep up with changes to existing terms and their definitions in other overriding laws or regulations such as in the FAR or personnel regulations
	If different from FAR, define procurement sensitive information.
	At various points (such as paragraph B.3.a of Attachment B and E.1 of Attachment C), the revised Circular requires "public announcements at the local level" but does not define this term. We would appreciate an expansion of the definition of "public announcement" in Attachment F.
B.	Definition for "Agency Tender" **Change:** The in-house offer is now referred to as the Agency Tender (AT). **Remark:** The purpose for this change is so that under contract law and provisions, the Government employees and/or agency may have equal rights to appeal and protest a decision.

DOT COMMENTS OF REVISION TO A-76 CIRCULAR

Attachment F

Document Reference	Comments
B.	Definition for "Standard Competition Form" **Change:** The previously used Cost Comparison Form (CCF) with changes is now referred to as the Standard Competition Form (SCF). **Remark:** The SCF illustrated in the Draft OMB Circular A-76 to be completed in the competition process is not the same as the CCF form produced by winCOMPARE2. This is important because the Circular states in Paragraph C.3. (which is a typo and should read Paragraph C.2.) deals with Contract Administration Costs for Line 8 of the SCF, provides a matrix to determine the number of FTE's for contract administration support and the pay grades that will be used for costing purposes. This matrix also states that the Win.COMPARE2 software tool will perform this calculation for an FTE count of 451 or higher. Thus, it is assumed that winCOMPARE2 must be used in this cost process, and if this assumption is correct, the SCF as illustrated, will be impossible due to the fact that Win.COMPARE2 and the SCF are not in agreement with each other, and when you add the additional new requirement to produce a bid by CLIN structure, things really become confusing. See Changes 3 and 8 for related information.
	Add a fifth entry in the Other Interested Party category as follows: "e. Any of the Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSI), and Tribal Colleges and Universities (TCU) that: (1) is an actual or prospective offeror for a contract or other form of agreement to perform the activity; and (2) has a direct economic interest in performing the activity that would be adversely affected by a determination not to pro cure the performance of the activity from a source." There do exist Executive Orders requiring Federal Agencies to establish plans and to report accomplishments on the inclusion of HBCUs, and now HSIs and TCUs, in their agency programs, such as research and development, program evaluations, and training. Specifically the Executive Orders, mandate Federal agencies to increase opportunities for Minority Institutions of Higher Educations (MIHE) to participate in and benefit from Federally funded programs. Instruction for how to comply should be contained in Attachment A, B, C, and D where "interested parties" are discuss.
	State or local government We believe that DC Government has some kind of special status with regard to obtaining services from the Federal Government as well as PR, Territories, and U.S. Possessions. The writers may want to check into this?

THE STANDARD COMPETITION PROCESS