

GUIDANCE

FOR

**CONTRACTING OFFICERS
STRUGGLING WITH
COMPETITIVE SOURCING**

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BY

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FOREWORD

This guide is provided to help you understand and give you with ideas that can improve your contracting process with competitive sourcing, better known as A-76. One of my first recommendations is to provide clearer, more detailed Section L and Section M language, as part of the Uniform Contract Format. Sure we all know that, but how many of us take the time to develop these sections as they pertain to A-76? This is needed in every Request for Proposals (RFP) or Invitation for Bid (IFB). This is necessary for industry, Inter-service Support Agreements (ISSA) offerors, and the NEW A-76 Agency Tender (Most Efficient Organization) to ensure all parties are on the “same” wavelength when it comes to bidding or making offers. Included is guidance and some recommended language for RFP and IFB solicitations. This guide is not intended to provide a comprehensive book for the development of your A-76 RFP or IFB documents; but it is intended to provide some specific guidance to address some unique aspects of the OMB Circular A-76 process which tends to exacerbate contracting actions. In general, this guidance and recommended language included is intended to augment your understanding of the FAR for A-76 RFP and IFB solicitations. It is my belief that this process should be used in any and all A-76 procurements where the shoe fits for your particular “instant” procurement action. Any language can and should be tailored as necessary for the particular instant competition, and the function(s) involved.

GENERAL GUIDANCE

In the acquisition process for selecting industry offers or bids, along with public reimbursable sources to be cost compared against an in-house *Agency Tender* (Agency Cost Estimate and Agency Technical proposal) the process is the same as any other acquisition process under the FAR. There are unique aspects of the A-76 process that drive differences in how you as contracting official would structure an IFB or RFP document, and evaluate the industry offers against the Government’s bid or offer (*known as the Agency Tender*). Contracting personnel involved in A-76 cost comparisons, regardless of whether *Streamlined or Standard*, should become familiar with all statutory and regulatory guidance on A-76 cost comparison process in the new OMB Circular A-76, dated 29 May 2003, in addition to the Federal Acquisition Regulation changes that pertain. The considerations involved in an A-76 cost comparison between an industry and the in-house estimate (Agency Tender) necessitates you include specific instructions in Section L of the Uniform Contract Form (UCF). For example, we may need to address areas of common costs and escalation of labor and materials for cost elements, along with the potential transition from government worker to contractor, as these issues explained in the Circular. In forming an integrated process team (IPT) approach with members of the FAIR office, Contracting, Financial, Administration, Human Resources (the HRA), Legal, Labor Relations (LMR) and other functional representatives, is essential to the successful execution of any A-76 cost comparison. It is the precursor to preventing unnecessary losses and protests that are now authorized by GAO for the Agency Tender and other parties. Every agency should have a Communications Plan and use the plan to have a successful outcome, regardless of who wins. Each agency should have a formalized Communication Plan for dealing with the public and affected parties. You must do

everything to support and encourage competition with industry, and other government providers, in order to achieve true savings to the Government and for the taxpayer.

SECTION A:

All contracting personnel know what to do for Section A, of a solicitation, but the Agency Tender Official does not. Therefore, it is important that contracting personnel take the time to sit down and explain the IFB/RFP solicitation process and the use of the cover page for executing compliance during and leading up to the “actual competition” in A-76 efforts. My remarks herein are reserved only for the Agency Tender Official and contracting personnel involved. As a contracting Make sure the ATO understands that to be compliant with all aspects of the solicitation process, that they must sign and date these specific documents, just as the industry or ISSA bidders/offierors must sign and date them to properly acknowledge and confirm receipt, their bid/offer, any amendment, etc. Failure to comply with FAR and CO instruction can result in invalidation of any bid/offer submitted by the ATO that is not complaint with the bid-offer-submittal instructions. It would be disaster for an ATO to have failed to sign a document and thus have his/her bid/offer invalidated so as to be unable to compete against industry.

Note: Remember during the A-76 competition process ALL rules generally apply to both parties. If in doubt, consult legal counsel.

SECTION B:

Use of Transition Contract Line Items or (CLIN) Transition to an MEO or to a contract service provider is far more critical in A-76 than in any other routine contract service action. It is a critical part of every A-76 competition outcome whether the service provider ends up being industry or the in-house organization (the MEO). It is important to establish a separate transition Contract Line Item Number (CLIN) rather than include the costs of transition effort as part of the overall first period of performance CLIN. The OMB and COMPARE software now require it be done this way (to separate out transition). The need for a “ramp-up” to full implementation must be separated from overall performance costs to reduce potential legal problems (disputes during operation). The in-house organization will always have to include transition costs in their Agency Tender (cost estimate), RFP or IFB price, for this cost to be known. This estimated expense will also be reflected in calculations using COMPARE Software 2.1, for each study developed under your procurement, where a public-private competition takes place. The IFB/RFP should also require industry offers to also include their cost for transition, and separate it out from normal performance effort, and allow the government insight into their costs through the use of Vendor Technical and Cost Proposals, to ensure both bid/offers are performing an *apples-to-apples* basis. This will be done on the Schedule B, Pricing Schedule. At the same time, we need to remember that if both the Government and industry are both (bidding or proposing) on the same effort, same period, and everything is *apples-to-apples*, it is considered a wash. However, these costs are needed for evaluation purposes to ensure against unlikelihood that industry failed to properly account for real transition expenses in the ir bid or offer.

Cost Comparison. The Contracting Officer (CO) should prepare **Section B**, the pricing schedule, to clearly state which CLINs will be applicable to the procurement, and used in the cost comparison directly between the selected industry offers and the in-house cost proposal (Agency Tender). For example, if Section B includes Cost Reimbursable Not-to-Exceed (NTE) CLINs for purchase of supplies or repairs, then CLINs for common costs, the associated CLIN amounts *shall be excluded* from the price of the industry offer for cost comparison purposes only, because they will be reimbursed by the Government, if they win. The MEO would also be reimbursed if they win. For example, for “parts” reimbursement or for Government-directed travel, they must not only be included in the industry offer (for evaluation purposes), but also in the in-house cost estimate also to ensure an “*apples-to-apples*” comparison. Section L of the solicitation should also include instructions to this effect. This is because unless the Government does not provide coverage for such costs, they must be considered. But if the Government does provide coverage, they are considered “washes” and should not be calculated. Again, if the Government does not furnish reimbursement for travel, then it is NOT a wash and should be calculated as a part of doing business. CO’s must make sure when developing their Schedule B forms that whatever costs are expected to be born by vendors (the private service provider or simply SP for short), they shall also be born, or not born, by the Agency Tender in its proposal or bid. This is what’s called “*what’s good for the goose is good for the gander*” rule in A-76 contracting.

SECTION C:

Section C of the IFB or RFP solicitation should reference the requirements document where the performance based requirements (task outputs) can be found. The requirements document is commonly referred to as the PWS or SOW (old terminology) It should also be referred to as an attachment in Section J, or can be part of the body of the IFB or RFP, as section C, the Performance Work Statement. The problem is, that all too often Section C becomes too large in size and by being rolled into the body of the IFB/RFP to be posted on FEDBIZOPPS takes far too long or can’t be uploaded at all due to size. Likewise, it takes too long to open and to download to a PC. It is far better to break Section C out separately, along with other individual documents, and post them as attachments in FEDBIZOPPS for easy up-and-download. Each CLIN should state that performance is IAW the requirements document, the PWS, Performance Requirements Summary (PRS), associated workload exhibits, and per the Technical Workload Exhibit and other directives identified as attachments in Section J. The requirements document should be developed in accordance with standard Performance Based Service Contracting methodology and as well as, the Office of Federal Procurement Policy Pamphlet #4, which is still just a valid today as it was 20 years ago when written by the Air Force. It can be found at the following bulletin board site: www.wifcon.com/ofppp4_con.htm this is a great source of valuable performance based statement of work development. Certain parties may have thought they invented PBSA, but the Air Force and OFPP in the 1980’s beat them to the punch on that one.

Although functional managers are personally responsible for developing their own requirements documents (PWS) and should always be; it is imperative that both agency manpower and contracting personnel be involved in the development, as part of the PWS Development Team, working hand-in-hand with the Contracting Officer (CO).

Everyone on the PWS team is responsible for not only ensuring requirements documents is as performance-based as it can be, but that the Performance Requirements Summary (PRS) and Quality Assurance Surveillance Plan (QASP) all jibe with each other. In other words, each document or section must properly track with the other. This is the Contracting Officer's duty. CO are professionals (1102's) who are part of requirements development process and need to work with the PWS Team Leader to continually emphasize writing requirements documents in a performance-based manner and challenge mandatory compliance with unnecessary regulatory guidance that impose how-to constraints not driven by safety or security requirements, and are simply out of date. Both the CO and the PWS Team Lead are Government officials appointed by the Competitive Sourcing Official (CSO) as *competition officials* for a particular study, and shall follow not only guidance in the Circular but the FAR, and other supplemental guidance by agency.

SECTION D:

Section D, Packaging and Marking is normally, Not Applicable (NA) in most A-76 IFB or RFP documents since an actual product or is not delivered. Instead, you will typically find a generalized location of "where" the services shall be provided, especially if there are multiple locations on a *Enterprise-wide* A-76 study. CO's should normally mark this section of the RFP or IFB as NA.

SECTION E:

Section E, Inspection and Acceptance is pretty straight forward in that, 99.99% of everything on most A-76 studies is delivered to the Government as a service and not as a product that requiring inspection. Yet, services must still be inspected and accepted by the CO's Contracting Officer Technical Representative (COTR). Note: Other agencies refer to this position as the Contracting Officer's Representative (COR). They are the same. These individuals are required to inspect and accept services under the clause at [52.246-4](#), Inspection of Services -- Fixed-Price just as he/she would for any commodity. See the next paragraph for an example. The difference is that a QASP must be used in conjunction with the PWS to properly review the deliverable task requirement outputs against the standards, and surveillance methods to be used to ensure the services meet the standard for acceptance. The MEO LOO will be subject to CO and COTR review for I & A just as any private SP would be under contract. The billing for services rendered in accordance with the IFB or RFP (Contract Award) should be specifically based on each CLIN listed in Schedule B, and billed on a monthly basis. This is NOT generally the case for an award of an MEO LOO, and it may never be as true for the MEO LOO as it is for a contract. However to get to the same level playing field that industry is always complaining about, the Government needs to ensure its funds are reserved and paid for in as closely the same manner as that of any private service provider. So again, Section E, uses the Inspection of Services Clause is used like the example that follows for all service contracts under A-76, and if you should have cost reimbursement or T&M items in your IFB or RFP you'd also have to have the clause for that too.

HERE IS AN EXAMPLE:

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSE:

FAR Ref. No.
FAR 52.246-4

Clause Title and Date
Inspection of Services – Fixed-Price (AUG 1996)

E.01 – INSPECTION AND ACCEPTANCE

The Contracting Officer's Technical Representative —TO BE DETERMINED (See Clause G.02), is designated as the point of final inspection and acceptance by the Government of all items required by the contract. The Contracting Officer reserves the right to change the COTR or to appoint alternate COTR(s) as needed. Such changes or new appointments should be made by modifications to the contract. In addition, the SP will be provided copies of the contract administration plan detailing the responsibilities and limitations of authority of the COTR to properly inspect and accept all services rendered under the resulting contract.

Additionally, since A-76 procurements require CO's to use Performance Based Statements of Work, or a PWS, the monitoring of services provided will be specified in not only the PWS, but the PRS, and the QASP.

The Performance Requirements Summary (PRS) for what is to be performed usually lists five elements:

1. **PWS applicable section** (example: C.5.1.1)
2. **Task Description** (example: Delivery Printed documents)
3. **Performance Standard** (example: Delivered documents are correct 95% of the time each month)
4. **Performance Indicator:** (Completed documents reflecting QA review stamp of approval for the output, and are properly logged into the Administrative Services database.
5. **Method of Inspection** (example: Random Sampling, Spot Checks, Customer Complaint, Check lists, Planned Sampling).
6. **Deducts % or Incentives %** may or may not be used depending on the ease of use in certain type service contracts, and whether the agency feels there is a beneficial need for either incentives or deducts. Some agencies have dispensed with the use of Deduct Percentages due to the complexity of use and inability of personnel to understand it, or for its use to improve performance in most A-76 service contracts.

The old method was always to use a Deduct % in A-76 procurements (the percentage value or worth of each task listed in the PWS). Deducts had to add up to 100% of the total contract value negotiated or bid, and were normally determined by taking what the winning industry bid or offered price on the CLIN basis, so long as all CLINs reflected and were priced out by both the Government and Industry on a Firm Fixed Price basis per CLIN. By dividing the total estimated contract price by the CLIN price in each task area you could conceivably come up with a estimated deduct value (percentage) for each task, (each CLIN). It has now has been Over Come By Events (OBE), under the new A-76 Circular since the Government Agency Tender will be on par with all industry

offerors in a head-to-head price shoot out (unless best value process is used), that requires all bidders/offerors to be on the same level playing field contractually, and to be able to fully perform at the price offered. But if Deduct percentages are used, the following methods can be applied, whichever method works best for the COTR and QA personnel to perform contract surveillance. Each IFB or RFP should list descriptive information on quality assurance methods to be used either in Section E, or in Section J, as an attachment.

In either case, here is a sample excerpt that can be used:

E.02 PAYMENT DEDUCTIONS

A. Due to the critical nature of the support required herein, the SP's performance will be compared to contract requirements on a monthly basis or as often as needed, against the Acceptable Quality Level (AQL) using the Government Quality Assurance Surveillance Plan (QASP). If the performance in any required service is unsatisfactory and poor performance is clearly the fault of the SP, payments to the SP may be reduced by the CO. Deductions may also be taken by the Government for defective individual services not satisfactorily performed and/or re-performed by the SP based on such factors to include but not limited to criticality, recurrences, and administrative costs to the Government.

B. For those required services that are performed or evaluated less frequently than monthly, the payment computation would be determined for the entire surveillance period identified in the PRS and will be based upon the total maximum payment available for the entire surveillance period.

C. The amount of money to be deducted for unsatisfactory performance will be computed as follows based on the method of surveillance used by the Government. The Government utilizes both (1) Random and (2) Non-Random sampling. Non-Random sampling includes i) Planned Sampling, ii) 100% inspection, and iii) Customer Complaints

RANDOM SAMPLING EXAMPLE 1:

-Total monthly contract price for all the services in the CLIN is	\$100,000
-Maximum Deduct Percentage for the CLIN price is:	70%
-AQL is	4%
-Lot Size or population size	100
-Random Sample Size is (using ANSI/ASQC Z1.4)	20
-Accept/Reject (based on Tables) (2 or less accept / 3 or more reject)	
-Actual Defects found	10
-Defect %	50%

CALCULATIONS

Step 1:	\$100,000	Total CLIN Price
	X .70	Deduction % (from the PRS)
	\$70,000	Maximum Deduction Possible

Step 2: 10 (Defects) divided by 20 (the Random Sample Size) **50% defective rate**

Step 3:	\$70,000	Maximum Deduction Possible
	X .50	Defective Rate of the Lot or Population
	\$35,000	Deduction \$ for Service

Although this example demonstrates that 50% of the 70% amount was taken for failed performance that was unable to be re-performed (performance exceeding the AQL for the sample size taken) and thus extrapolated into the entire population, the reality is rarely will such samples produce results like this if a vendor is performing work correctly.)

NON-RANDOM SAMPLING EXAMPLE 2:

PLANNED SAMPLING

-Total monthly contract price for all the services in the CLIN is	\$100,000
-Maximum Deduction Percentage for CLIN is:	70%
-AQL is	4%
-Lot Size or population size	100
-Planned Sample Size is (20 out of 100) for month	20
-Accept/Reject is (4% (AQL) x 100 (LOT Size) (4 or less accept/5 or more reject)	
-Actual Defects Found	10
-Defect %	10%*

When utilizing Non-Random Sampling, Agencies can only count what is actually discovered (cannot extrapolate errors into the lot or population, thus, 10 defects, 10/100= **10% defective rate).*

CALCULATIONS

Step 1: \$100,000 TOTAL CLIN PRICE
 $\begin{array}{r} \text{X } 70\% \\ \hline \text{\$70,000} \end{array}$ Deduction Percentage (from the PRS)
 Maximum Deduction possible

Step 2: 10 (Defectives) divided by 100 (LOT) = **10% lot defective**

Step 3: \$70,000 Maximum Deduction for Service
 $\begin{array}{r} \text{X } .10\% \\ \hline \text{\$7,000} \end{array}$ Lot Defective Rate
 Deduction \$ for Service

This is a significant difference between the Random Sampling Example and Planned Sampling Examples.

100% INSPECTION EXAMPLE 3:

When utilizing 100% inspection, everything in the lot or population is checked for defects out of the entire lot or population.

-Total monthly contract price for CLIN is	\$100,000
-Maximum Deduction Percentage for CLIN is:	70%
-AQL is	4%
Lot Size or population	100
-100% Inspection Size is (100 out of 100) for month	100
-Accept/Reject is (4% (AQL) x 100 (Lot Size) 4 / 5 (4 or less accept/5 or more reject)	
-Actual Defects Found	5
-Defect %	5%

Step 1: \$100,000 Total CLIN Price
 $\begin{array}{r} \text{X } .70 \\ \hline \text{\$70,000} \end{array}$ Deduction Percentage (per PRS)
 Maximum Deduction possible

Step 2: 5 (Defects) divided by 100 (Lot) = 5% lot defective

Step 3: **\$70,000** Maximum Deduction for Service
 $\begin{array}{r} \text{X } .5\% \\ \hline \text{\$3,500} \end{array}$ Lot Defective Rate
 Deduction \$ for Service

Since the error rate is 5% and the AQL is 4%, (the AQL was exceeded), therefore apply the actual defect rate discovered against the entire Lot or population as indicated below:

CUSTOMER COMPLAINTS

Upon the validation of Customer Complaints, follow the mathematical application as provided in Example 3. The Agency has estimated the deduction percentages included in Technical Exhibit C.1-1 as the approximate % allocation of each PWS task to all PWS tasks which sums to 100%. The percentages assigned to each individual component task when added together comprise 100% of the tasks listed in this PWS. The examples illustrated above show deduction percentages in each methodology, the percentages listed in C.1-1 will be substituted and utilized accordingly.

RIGHTS AND REMEDIES: The rights of the Government and remedies described in Section E are in addition to all other rights and remedies set forth. Specifically, the Government reserves its rights under the Inspection of Services clause and the Termination for Default clause.

The above described methods of inspection can be used by Government surveillance personnel to ensure services are properly performed. This means that agencies must send prospective COTR personnel to school to achieve their COTR certification before can be allowed to performance oversight of either a government contract or MEO Memorandum of Understanding.

SECTION F:

Section F generally covers information about service delivery or performance unique to the MEO LOO or contract. The following section provides some general information on what you could expect to find in this section.

HERE IS AN EXAMPLE:

SECTION F - DELIVERIES OR PERFORMANCE

F.1 CLAUSES INCORPORATED BY REFERENCE (FAR 52.252-2) (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(s): www.arnet.gov/far/

Notice – The following contract clause(s) pertinent to this section are hereby incorporated by reference:

<u>CLAUSE NUMBER</u>	<u>TITLE</u>	<u>DATE</u>
Source: Federal Acquisition Regulation (48 CFR Chapter 1)		
52.247-35	F.O.B. DESTINATION, WITHIN CONSIGNEE'S PREMISES	APR 1984

F.2 PLACE OF PERFORMANCE

(a) The services(s) specified in Section B shall be provided to the following address:

(INSERT NAME AND ADDRESS OF AGENCY)

F.3 PERIOD OF PERFORMANCE

The contract period for furnishing services described in the Performance Based Work Statement (PBWS), Attachment A, shall be from the date of award through September 30, 2004, plus 4 sequential one-year options, which may be exercised in accordance with the terms and conditions hereof.

F.4 DELIVERABLES

All deliverables shall be in accordance with the attached Performance Work Statement. The Contractor shall provide the deliverables listed in Section C.4.1 through C.4.3 of the PBWS. These items shall be submitted to the attention of the Contracting Officer's Technical Representative

F.5 GOVERNMENT HOLIDAYS

a. For holidays falling on Saturdays are observed the Friday preceding the holiday, while those falling on Sundays are observed on the Monday following the holiday. The Contractor shall not perform any services during Government observed holidays. The following legal holidays are observed by this Government agency:

New Years Days	January 01
Martin Luther King's Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Etc...	

SECTION G:

Section G, Contract Administration data provides for details on what the SP must to get paid on time, in the amount requested (by an invoices in the case of a private SP). This section will never apply to the MEO LOO unless the FAR is changed along with the OMB Circular to treat the MEO LOO more like a contract. This was never the intent of the recent A-76 Circular change. There, until something changes, this section should contain information on billing and invoice requirements that are unique to the agency.

HERE IS AN EXAMPLE:

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR) -- DESIGNATION AND AUTHORITY (DTAR 1052.201-70) (MAR 2002)

(a) The Contracting Officer's Technical Representation is **(to be designated by the Contracting Officer after contract award)**.

(b) Performance of work under this contract must be subject to the technical direction of the COTR identified above, or a representative designated in writing. The term "technical direction" includes, without limitation, direction to the Contractor that directs or redirects the labor effort, shifts the work between work areas or locations, fills in details and otherwise serves to ensure that tasks outlined in the work statement are accomplished satisfactorily.

(c) Technical direction must be within the scope of the specification(s)/work statement. The COTR does not have authority to issue technical direction that:

(1) constitutes a change of assignment or additional work outside the specification(s)/work statement;

(2) constitutes a change as defined in the clause entitled "Changes";

(3) in any manner causes an increase or decrease in the contract price, or the time required for contract performance;

(4) changes any of the terms, conditions, or specification(s)/performance work statement of the contract;

(5) interferes with the Contractor's right to perform under the terms and conditions of the contract; or

(6) directs, supervises or otherwise controls the actions of the Contractor's employees.

(d) Technical direction may be oral or in writing. The COTR shall confirm oral direction in writing within five workdays, with a copy to the Contracting Officer.

(e) The Contractor shall proceed promptly with performance resulting from the technical direction issued by the COTR. If, in the opinion of the Contractor, any direction of the COTR, or his/her designee, falls within the limitations in (c), above, the Contractor shall immediately notify the Contracting Officer no later than the beginning of the next Government work day.

(f) Failure of the Contractor and the Contracting Officer to agree that technical direction is within the scope of the contract shall be subject to the terms of the clause entitled "Disputes".

G.2 INVOICING AND PAYMENT INSTRUCTIONS

Invoices shall be submitted in accordance with paragraph (g) of FAR 52.212-4 (See Section I) as follows:

Original & 1 Copy	Paying Office identified in SF1449 Block 18a
1 Copy	Administrative Contracting Officer in
	SF 1449 Block 16
1 Copy	COTR identified in G.1

G.3 PAYMENT METHOD

Payment may be made by electronic funds transfer (EFT) or by Government-wide commercial purchase card.

A. Pursuant to FAR 32.1101, payment made by electronic funds transfer shall be made in accordance with paragraph (i) of FAR 52.212-4 (See Section I). The information required by FAR 52.232-33, "Payment by Electronic Funds Transfer--Central Contractor Registration" as provided in the Contractor's proposal, has been forwarded to the paying office identified in SF 1449 Block 18a.

1. If during the performance of the contract there is any change in the information previously provided for EFT, the Contractor shall revise the information contained in the Central Contractor Registration database at www.ccr.gov. In addition, the Contractor shall submit a revised Electronic Funds Transfer form (Attachment F) to the paying office identified in Block 18a of the SF 1449 and to the Administrative Contracting Officer, etc...

G.4 CONTRACT ADMINISTRATION OFFICE

(a) This contract will be administered by:

(INSERT NAME OF AGENCY & ADDRESS)

(b) Written communication to the Contracting Officer shall make reference to the contract number and shall be mailed to the address above.....

SECTION H:

Section H requirements generally pertains only to industry, but some agencies have been placing special notices in Section H just for the MEO LOO. I do not think this is proper since the title clearly says, "Section H, Special Contract Requirements", and to me that means only private SP not the MEO LOO. However, should there be requirements that pertain to all service providers including industry and Agency Tender, then they should be incorporated in the requirements document (PWS) rather than in a Section H. This is self-explanatory.

SECTION L:

Section L is very important not only for industry, but for the Agency Tender Official, in that it covers the mandatory submittal requirements expected of each bidder or offeror. It is important that you understand that A-76 competitions up to the point of the actual cost comparison and final decision are no different than any other FAR based (private-private competition, in that, the same rules generally apply, submittal requirements are generally the same for all parties, and finally, the Government, industry and public reimbursable sources will be evaluated on the same basis with the following exceptions:

In A-76 actions, there are certain submittals that are not required because to do so would violate Title 5 of the Code of Federal Regulations, they are:

- Resumes of Key Personnel are not required of government employees.
- Bid Bonds are not required of the Government Agency Tender (MEO).
- Licensing or certifications
- Small Business Plans
- Past Performance Information (for the MEO)

There are other aspects described (below) that typically should be addressed in Section L of the IFB or RFP for any A-76 competitions. Addressing these issues will enable bidders or offerors to meet the requirements of the solicitation and help to ensure that the Government can perform a successful MEO LOO should it win the cost competition, just as private industry or a public reimbursable source should be able to perform the work in the PWS, as listed in the Performance Requirements Summary (PRS).

Budgeting and Funding. You should include budget information by fiscal year or calendar year in Section L in order to make it clear on what you expect to have available and what needs to be done for the x dollars. This will help to ensure offerors provide realistic proposals that are within the projected available funding (fiscal or calendar) for the workload to be performed. In DOD, A-76 savings (as a percentage of manpower costs) are typically deducted from the current operating costs, which results in the projected available funding—usually, but this may not be the case in the non-DOD agencies.

Do something like this:

For consideration in developing your proposal, the projected program/budget funding for this effort has been in the past, and is expected to be:

FY	Funding
FY01	\$2,000,000
FY02	\$2,100,000
FY03	\$2,200,000
FY04	\$2,300,000
TOTAL	\$8,600,000

Contracting Methods and Source Selection. For A-76 acquisitions there are a variety of contracting methods prescribed in the Circular that may be employed by the CO, but there are also a variety of contracting methods in the FAR. One should note however, that the Circular does not supersede the FAR, and further, as COs, we may use any and all contracting methods when “in the best interest of the government.” To me, this means that just because the Circular fails to prescribe a particular method, does not preclude you from using it. For example, the Circular prescribes the use of FAR Part 14 procedures at B-7, but as you read the Circular further it does not state that Two-Step Sealed Bidding (FAR Part 14.5) cannot be used, it simply does not say “and FAR Subpart 14.5.” Yet, 14.5 is a subset of Part 14. Therefore use it. There are cases

when executing streamlined competitions, that you might want to obtain Rough Order of Magnitude (ROM) estimates, or issues your PWS draft on GSA's *E-buy* website at: www.ebuy.gsa.gov/advgsa/ebuy/ctrler/EbuyHome for the purpose of obtaining quotes for the PWS or SOW based on your electronic RFQ issued. This REALLY helps expedite your market survey and pricing quickly to get to a decision much faster. Request for Quotations for a small streamlined competition, in which you decided it would simply be easier to get market quotes and go straight to a decision on the basis of Government "As-is" or "MEO" costs compared to the quotes received is a quick and easy thing to do. I must be the only CO that has done this, and can't understand why more 1102's don't since it is a market tool available for all to use.

Today, most Contracting Officers have been using the Low Priced Technical Acceptable (LPTA) method or as a last resort, routine Best Value (BV), to cover A76 requirements, and a few have applied the BV-CTTO process. **(Note: recent OFPP guidance and Congressional action as resulted in a temporary suspension in the use of CTTO under A76)**, CTTO is a very unique case, which the Circular prescribes and OMB must authorize the use of Cost Technical Trade-Off (CTTO) procedures because of the ease to which the Government SSEB/SSEC could end up favoring the MEO Agency Tender over commercial offers or visa versa. There have been many papers written on the BV-CTTO process and should be reviewed before ANY government contracting officer or agency undertakes using CTTO as better methods for a large scale and complex A76 competition. All kinds of pitfalls abound. (*Reference: "A Decision Support Procedure for Best Value Source Selections" by Michael F. O'Connor, Janine L. Faris and Joan S. Lovelace, from the Acquisition Review Quarterly, 1977*). should be used in particular A-76 competitions (for IT or very complex acquisitions per the Circular).

In BV-CTTO, the source selection organization (SSAC-not SSEB) will not only evaluate the Agency Tender's technical approach, but the Agency Tender's *proposal risk, past performance, or cost/price risk* to achieve best value based on selected discriminators, and will do the same for industry. This can cause problems due to achieving clarity in benefits received to the Government, via quantifiable and non-quantifiable processes used. In many cases CTTO evaluations result in judgmental assessments that cannot be clearly supported, where total cost estimates that are adjusted for "cost realism" are not clear in the "dollar trade off as it relates to benefits in dollars. There are 4 basic approaches used in BV-CTTO, they are: **1)** Dollar Cost to Obtain Increased Benefit (a formula), **2)** Direct Discriminator Impacts Benefits Quantification (an index or ratio), **3)** Discriminator Benefit Trade-off (a rank ordering), and **4)** Point Scoring (what was used in the example below). Each process is seemingly complex and very time consuming, and it is not clear that the lengthy evaluation and source selection process provides any better value added to the Government than does LPTA or LCTA. It is probably why Congress general does not support the use of BV-CTTO, and there are as many PROS and there are CONS to this end. We could go on and on discussing this issue, but to provide clarity, I have provided an example on the next few pages of a Best Value CTTO process that may help. The names, dates and issues have been changed to protect the innocent, but it will give you an idea of the degree of the detail you must go through to support your final decision. One more thing-in the example provided, Oral Presentation of Technical Proposals was accomplished for those offerors in the "competitive range" and this really helped speed up the A76 process to meet timelines

that could not have otherwise been completed in 12 months. And, the very complex RFP that could have taken 18 months from start to finish only took 7 months total—all because we speeded up the contracting process and source selection by making use of oral presentations. That saved about 2 months worth of normal effort. We also had less paperwork for files since it was all on a DVD, the entire set of presentations. Remember, just because the Circular says you can't do something doesn't mean you can't do it.

It is very important in Section L, that you consider not only the type method you are going to use as stated above and listed in the Circular at Attachment B, but what kind of submittals you want to receive from the Agency Tender and others offerors, hard copy, oral or video-taped, etc.

The following Sections provide you with the kinds of submittals you might want to receive from the Agency Tender and Industry. They are only for examples, so do not use it for your own IFB or RFP.

1. Sealed Bid Acquisitions (the IFB process). The OMB Circular A-76 says at Attachment B, page B-11, “agencies shall conduct sealed bid acquisitions in accordance with FAR Subparts 14.1 through 14.4 (note that 14.5 Two-Step Sealed Bidding is not included).” The wording in the Circular is in error stipulating that “on the solicitation closing date, that the CO shall open the Agency Tender, etc...” Contracting personnel know this meant the bid opening date (not closing date), as closing only refers to the RFP process. Nevertheless, all the remainder of the A76 cost comparison process remains the same. All bids (*Agency, industry and ISSA*) are opened in a public forum, read aloud, and transcribed to an “Abstract of Bids” and then the COMPARE process is completed for Lines 7, while 8-18 have been already completed or will be dealt with by the program.

On the face of the Bid Abstract itself, personnel attending the *Public Bid Opening* might see that an industry vendor “appears” to have a winning bid, only to be displaced, by the Agency Tender’s bid, once the CO does the input into COMPARE of the low apparent commercial bidder against the Government’s tender (bid), but when the calculations are completed they will reflect that the *adjusted costs* added and subtracted from the Industry and ISSA bidders on *Lines 8, 9, 10, 11, 12, and 14* cause the Industry or ISSA bids to be higher than the Agency Tender’s Bid (as adjusted). Anyone interested in exactly how an IFB Public Bid Opening process is handled (in my case using the 2nd Step of a Two-Step Sealed Bid process), just contact me directly at bobknauer@verizon.net

2. Low Priced Technically Acceptable (LPTA) Source Selection. Low Priced Technically Acceptable solicitations shall be conducted in accordance with FAR 15.101-2, and enables proposals from all sides (Agency Tender, Industry, and ISSA) to be opened, rated and ranked in accordance with go/no-go, pass/fail, or some other numerical, or colored rating scheme stated in Section M of the solicitation to enable decisions to be made in line with those that should be placed in the competitive range for possible negotiations, if required, and to determine technical acceptability. It is your responsibility to conduct exchanges as stipulated at FAR Subpart 15.306, and to conduct both price analysis and cost realism of all offers. In most cases negotiations will not be generally required if on the face of the proposals and from the cost/price data supplied the intent and understanding of the parties is clear. Contracting Officers shall follow the same procedures indicated above with COMPARE and enter the Industry or ISSA price on Line 7 for the apparent low offeror, realizing that COMPARE calculations will reflect the *adjusted costs* added or subtracted from the Industry and ISSA bidders on *Lines 8, 9, 10, 11, 12, and 14* to arrive at a final decision as to who is cheaper given the adjustment factors.

3. Two-Step Sealed Bid Source Selection as indicated earlier in my opening paragraph on *Contracting Methods and Source Selection*, this method is a combination of both a Request for Technical Proposal submittals for evaluation in **Step 1**, and then in **Step 2**, a *Call for Bids*. Although nowhere in the Circular is the use of Two-Step sealed bidding prescribed, it is NOT precluded, as the Circular at B-7 prescribes the use of Parts 6, 14, 15 and 36. Sadly, the Circular also left off the use of FAR Part 12, Commercial Items, (another subject of discussion). I believe it should have been included as a method for quickly issuing “combined synopsis/solicitations for “commercial services” as is now authorized by the FAR. Use of FAR Part 12 procedures would speed up the timeframe for submittal of offers or bids.

Further, nothing precludes submittal of proposals from being done orally as I stated before verses hard copy that has to be evaluated on a page-by-page basis by the Technical Evaluation Team (TET) or an SSEB. As a creative method to “expedite” progress and get to decision quicker such as what I personally did at the Department of Labor (DOL) for their Reprographics and Printing study, there I had the Agency Tender and Industry submit Oral Technical Proposals (that were video taped) and used the “Oral Technical Evaluation” process by the Technical Evaluation Team (TET) lieu of the normal SSEB evaluation of technical proposals. In a Two-Step IFB, all that was being done was a down select of qualified technical proposals only. In Step 1, you evaluate the technical capability of each offeror. Once the technical evaluations are completed and the sources selected that will be called on to submit bids in Step 2., all you have to do is go straight to [FEDBIZZOPS](#) and post your “*Call for Bids*.” It is that easy! Of course, you should debrief any vendors who proposals were found insufficient or not technically capable, and thus, not selected to submit bids. According to the FAR, that process can wait until after the submittal of bids and determination of a winner, if time if of the essence. In A76, time is always important, so unless there is clear and convincing reason why I shouldn’t as a CO, I usually post a notice that debriefings for Step 1 will take place shortly after the cost comparison is completed. There is always a potential you could receive a protest in Step 1, but....

If you take the time to do your Section L and M very well, through proper planning and analysis, you should have few protests, if any. I can assure you there will be no protests in Step 2, because at this point, **any decision is purely made on lowest bid price**. In another study I recently held a public bid opening at Treasury, a number of vendors sat in the audience, and as I read the bids aloud and had the bids recorded on the “bid abstract: sheet (MS Excel Spreadsheet) projected onto an overhead screen for all to see, I saw the jaws of vendors drop, when the bids were read and posted.

Further, when one vendor thought they had won the competition, their jaw really dropped low, when I informed them as CO, that due to the OMB Circular A-76 prescribed cost adjustments that the “initial low apparent bidder” that appeared to have a winning bid on the surface in fact had lost by \$100,000 overall due to the adjustments, they were shocked to say the least. Why? Because that vendor had failed to read and heed the Circular’s costing rules.

Also, should a price be bid in Step 2 that is just *too-too-low* on the face of it, you must review it, the facts surrounding the bid price, and ask the bidder to “*confirm its bid in writing again.*” This is very important for a CO to do, and let that bidder understand the real consequences of confirming the bid amount, and saying that they can perform. Bidders need to understand that any default or major failure to perform will result in terrible consequences for them regardless of their bidding too low. Doing so will generally get a bidder to raise its price up, so long as it doesn’t displace the next lowest bidder. Or they can withdraw the bid. In any case, consideration must be given as to the ramifications of bid displacement. I have actually seen this happen in my 28 years of contracting experience, thought it is rare.

4. Best Value and CTTO Source Selection. It is my belief that in using Best Value-Cost Technical Trade Off (CTTO) as a method, the Agency Tender could actually be placed at a severe disadvantage against industry. Please refer to the article “*A Decision Support Procedure for Best Value Source Selections*” by Michael F. O’Connor, Janine L. Faris and Joan S. Lovelace, from the *Acquisition Review Quarterly*, 1977, which can be found at www.dau.mil/pubs/arg/97arg/oconno.pdf. For the sake of clarity, here is where I will provide you with a real life example of BV-CTTO used. I believe the documentation from my Memo for Record provided below is fairly accurate. You can draw you on conclusions on this “Point Value” #4 process.

MEMORANDUM TO CONTRACT FILE

FROM: Robert Knauer (A-76 Contracting Officer)

SUBJECT: SSA Documentation- Solicitation No. XXXXX for the Operation of the Western Facility Visitor Center and Tour Service

I. Background

The purpose of Phase 1 was to determine the acceptability of each firm's proposal on a PASS or FAIL basis including the AGENCY TENDER. The merits of each offer were determined on the basis of required submittals called for in the RFP. The Technical Evaluation Team (TET) team evaluated 5 proposals in Phase 1 and the SSA eliminated one proposal for failure to comply with the RFP submittal requirements. XYZ Inc. was the one with a "late proposal" received and not considered. A competitive range determination was made in **Phase 1**.

The TET selected 4 firms to participate in the **Phase 2**-Oral Presentations of their technical proposals. Each firm's Oral Presentation was evaluated in accordance with Section M of the RFP as issued. A 2nd competitive range determination was made eliminating two more firms, OMNI Page Services and La-De-DA-De-DA Inc., leaving the AGENCY TENDER and RAI Inc., to hold discussions with on key areas of concern, and finally select the vendor that offered the best value to the Government in the Two Phased RFP.

This document explains the acquisition history, provides details on the selection process and provides the rationale for determining the AGENCY TENDER offer as representing the best value to the government not considering COMPARE analysis.

II. Milestones.

The solicitation was issued as a total small business set-aside. The solicitation was electronically posted on the FedBizOpps Electronic Posting System (EPS) Internet web site.

The following are the chronological events of this procurement:

22 May 2003 - A synopsis of this requirement was published on EPS.

18 June 2003- a follow-on synopsis was again published on EPS to solicit more interest.

9 July 2003-a Pre-solicitation conference and Site visit was held at Western Facility.

8 August 2003 - The subject solicitation was issued.

11 August 2003 - [Amendment No. 001](#) was issued to make an administrative change to the times for the site visits.

15 August 2003 - [Amendment No. 002](#) was issued to provide answers to inquiries received in response to the solicitation and clarify parts of Section L.

18 August 2003 - [Amendment No. 003](#) was issued to provide *clarification of pricing submittals*, provide for revisions to Past Performance Attachment K, and make changes to Section L and M that further clarified questions.

21 August 2003- Amendment No. 004 was issued to provide for is to add an additional section to L.14 and change section L.15 from **Equifax “3 in 1” report to Business Credit Report**. Amendment No. 004 clarified that certain cost information had to be submitted for the Agency Tender in accordance with the OMB A76 Circular, Attachment C, and therefore added L.14.e. and requested that the price proposals in follow the following format for a cost realism and cost/price analysis required in Best Value decisions:

Task Paragraph (Per C-5)	Offeror’s Labor Category	SCA Labor Category	SCA Hourly Rate (1)	Labor Rate Escalation (2)	Overhead (3)	G&A (4)	Profit (5)	Hourly Rate Sum (1-5) (6)	# of Hours (7)	Extended Total (6) X (7)
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In addition, Amendment 004 corrected solicitation by correcting the wage determination from Attachment H to Attachment I.

22 August 2003- Amendment No. 005 was issued to require each offeror to submit, in **VOLUME II**, a certification in writing, with its proposal, that certifies that the contractor will acquire and maintain the insurances specified in H.6 (1) through H.6 (5). In addition, Amendment No. 005 provided the following guidance to “Offerors determined to be within the competitive range will be given notice, and will be required to provide *an oral presentation*. Prior to the start of the oral presentation, seven (7) copies of the slides or transparencies shall be submitted by the offeror to the CO, and if not present, to the Chairperson for the Evaluation Board.”

26 August 2003- Amendment No. 006 was issued to post and add Attachment N to the solicitation.

28 August 2003 Amendment No. 007 - Posted on Aug 28, 2003. Summary. This amendment clarified section L.15, Volume III and clarified the evaluation ratings in Section M for Phase I.

28 August 2003 Amendment 008- Posted to delete the requirement for a “audited and certified” financial statement as previously indicated in L.15, Amendment 0007.

2 September 2003 Responses to Questions (Q&A) – Reviewed, Drafted, and Posted questions

4 September 2003 Responses to Questions (Q&A) Reviewed, Drafted, and Posted questions on September 4th

5 September 2003 Responses to Questions (Q&A) Reviewed, Drafted, and Posted

4 September 2003 Responses to Questions (Q&A) Reviewed, Drafted, and Posted

5 September 2003 Responses to Questions (Q&A) Reviewed, Drafted, and Posted

5 September 2003 Attachment I Reviewed the DOL Wage Determination revision dated 8.26.2003 for significant changes. Amendment 0009 was posted.

5 September 2003 Amendment 0009 Due to the magnitude of changes in the wage determination dated 8/26/2003, this amendment extended the RFP due date to September 16, 2003.

16 September 2003 – RFP closed and 6 proposals including the Agency Tender were received from the following sources:

AGENCY TENDER

4200 Mound Rd
Dallas, TX 76109

RAI Inc.

8221 Prescott Court
Central, MD 20794

OMNI PAGE Services

3000 US HWY 231 S. Suites1122
Mobile, AL 36360

LA DE DA DE DA INC.

2300 Freeway St.
Dallas, TX 76100

XCORD

5100 Windsor Court, suite 102
Baltimore, MD 21207

GIDDY TRAVEL

500 West Seventh St St.1400
Washington, DC 20590

17 September 2003 – XYZ Inc. proposal was received and consider late. In light of the inability to meet the RFP due date, their technical proposal was not evaluated. Below is the firm's contact information;

XYZ Inc.

P.O. Box 8558
Juno, Alaska 99901
(907) 225-5100 x301

23 September 2003 – Technical Evaluation was completed and the Competitive Range was established for Phase 1.

23 September 2003- The Competitive Range letters to acceptable firms were sent via e-mail and US Mail. Each firm was provided additional instruction and the date and time for their scheduled Oral Presentation. Below is a list of firm selected for Phase 2;

AGENCY TENDER

4200 Mound Road
Dallas, TX 76109

RAI Inc.

8221 Prescott Court
Central, MD 20794

OMNI PAGE Services

3000 US HWY 231 S. Suites1122
Mobile, AL 36360

LA DE DA DE DA INC.

2300 Freeway St.
Dallas, TX 76100

24 September 2003- Firms that were eliminated from the 1st competitive range were notified via e-mail and US Mail. Below is a list of firm's eliminated from the competitive range;

XCORD

5100 Windsor Court, suite 102
Baltimore, MD 21207

GIDDY TRAVEL

500 West Seventh St St.1400
Washington, DC 20590

1 October 2003- Oral Presentations took place at the Western Facility.

7 October 2003- The TET Evaluation data was received and the contract file was assembled.

13 October- A first level procurement review occurred and changes to contract file and documents were made.

III. SSA (Contracting Officer) Summary-

In establishing the winning offeror, the Government ranked the offerors in the oral presentations from best to worst by making a series of paired comparisons among them, trading off the differences in capability and then price between the members of each pair. The source selection authority considered the better capability to be worth the higher price and better value to the government.

IV. Price Analysis and Point Value trade-off between AGENCY TENDER& RAI INC

OFFERORS	TECHNICAL SCORE (Max. 100 Points)	TOTAL PRICE
AGENCY TENDER	91.80 %	\$ 6,235,517.00
RAI INCORPORATED	79.40 %	\$ 5,560,412.97
LA-DE-DA-DE-DA Inc.	69.00 %	\$ 6,918,916.00
OMNI PAGE INC.	69.00 %	\$ 4,058,925.48

Based on a significant difference in points between the AGENCY TENDER and RAI Incorporated (12.4 points) or (91.80 VS.79.40), **the higher price for AGENCY TENDER is hereby Justified** on the basis of both *quantitative* and *qualitative* analysis. The following analysis of the scoring and TET evaluator comments provide additional data to support the rational that the AGENCY TENDER Oral Presentation rated better in **7 out of 9** areas considered for evaluation. RAI Incorporated., scored the highest in the Risk Analysis evaluation and OMNI Page scored the highest in Uniform Process Plan evaluation. The Offeror represents the Best Overall Value to the government. Is the AGENCY TENDER which outsourced other offers, on the next page:

	AGENCY TENDER	RAI INC.	OMNI PAGE	LA-DE-DA- DE-DA
AREA 1 (10 POINTS)				
Introduction	2.00	1.80	1.90	1.80
Quality Control Plan.	4.80	3.60	3.80	3.20
Conclusion	2.00	1.80	1.70	1.80
AREA 2 (20 POINTS)				
Work Break Down	8.80	8.80	7.20	6.00
Responsibility-Staffing Assignment.	9.20	8.80	7.20	7.60
AREA 3 (55 POINTS)				
Risk Analysis	9.00	10.80	2.40	2.40
Sample Problem	13.80	10.40	8.20	10.00
Uniform Plan	9.20	8.80	9.60	9.20
Vehicle Plan	14.40	9.60	12.00	12.00
	91.80%	79.40%	69.00%	69.00%

AREA 1

Sub Area 1-1. **Introduction.** The AGENCY TENDER introduced presenters and gave a nice historical overview of their firm. The management, knowledge, skill, resourcefulness, uniqueness, acumen and ability to successfully operate a tour facility were explained. RIO previewed all areas requested, presented a good mission statement, presented the overview and addressed all the.

Sub Area 1-2. **Quality Control Plan.** They look at quality as a "Mind" function and that all employees are responsible. The QA plan also addressed the SOP section. They have forms and reports addressed for each area. Flow charts showed how all the processes will work together to continue to make improvements in the QA plan and that everyone was responsible for QA. Very thorough closed loop plan involving QA / QC to ensure continuous improvement. Excellent, detailed quality control plan.

Sub Area 1-3. **Conclusion-** Summarized the firm's qualifications very well. Conclusion covered all key areas. Lots of local civic contacts to help with special promotional, which is an added bonus.

AREA 2

Sub Area 2-1. **Work Break Down-** The AGENCY TENDER and RAI Incorporated tied in this category. The Agency Tender's utilization of Work Break Down was well thought out, reflected excellent ramp-up schedule. Charts showed where employees would be stationed and how the flow would work. Excellent plan and concept of how we want the process to flow. All employees will be cross-trained. Topics under this section included the PWS; C1.1.1 and the Phase-in, Ramp-up and Grand-opening. Provided detailed schedule of phases

Sub Area 2-2. **Responsibility-Staffing Assignment.** Liked their cross-training techniques. Good job showing management of each functional area. They gave information on each Mgr background and how it would tie into what they would be responsible for. Excellent flow and each could fill in for other mgrs... Outstanding staff with experience and qualifications in the related areas. Seem to have a wide-variety of background

experience; strong emphasis on cross-training. Staffing, however, may not be efficient. Provided staffing at key entry points in addition to floating employees who could serve as back up. Key personnel all well qualified for their functional areas. Will track how many visitors are in the facility. Liked their cross-training techniques. Provided staffing at key entry points in addition to floating employees who could serve as back up. the approach to cross training all employees, project leads walking and working. Great SOP's that addresses everything. Background with VIP's etc.

AREA 3

Sub Area 3-1. **Risk Analysis-** Utilization of walkie-talkies is a good idea so they know how many people are on the tour. Nuclear power experience is good for security purposes. Didn't address initially as well as they should have but did a good job during questions. Employee background checks, radio communications, professional tour guides with experience in dealing with public. Background check, experience with tours dealing with public. Slide showed several risks i.e. inclement weather, shutdown, no shows. Great job at touching all elements needed.

Sub Area 3-2. **Sample Problem-** Very good insight when developing solution. Demonstrated extensive knowledge in retail sales, guided tours and transportation services. Excellent job hitting key elements in the answer. All areas were addressed promptly using their experience with in the related field. Gave accurate accounts and how they would handle each situation. 4 drivers plus 2 mgr can drive, radio for other bus to pick up. Repair shop comes on site for repairs, plus can call for additional. Tour guide clean up spill, radio for help. For overage they have back ups to address shortage.

Sub Area 3-3. **Uniform Plan-** Showed examples of both women's and men's uniforms for both formal events and everyday tours situations. Uniforms looked good, very professional. Casual attire with the option to formal when the situation requires. Neat and clean appearance and may convert to a more formal look easily. Standard uniforms for all seasons and special jackets for VIP's.

Sub Area 3-4. **Vehicle Plan-** Good contingency plan if anything goes wrong. Excellent Bus look with \$20.00 bill wrapped. Neat Clean AC/Heat etc. Comfortable look. Safety included and compliance with laws. Had check lists for everything. Excellent overview. Outstanding plan covering vehicles calls for maintenance and back up. Seems to have all the bases covered; lots of experience; covers capacity & comfort issues.

Price Analysis of Best Value between the AGENCY TENDER and RAI INC. Based on the substantial difference in points between the Agency Tender and RAI Inc., (12.4 points (91.8 vs. 79.4)), and the fact that the AGENCY TENDER price is lower at \$6,235,517 *than the adjusted* RAI price, award to the AGENCY TENDER is warranted as *fair and reasonable*.

RAI Inc price as offered at \$5,560,412, is actually \$6,428,788 when adjusted for point spread. This resulted in an adjusted difference of only \$193,271 over RIO offered price. The Department **is paying less for the same** level due to this quantitative analysis with the AGENCY TENDER having received an exceptionally better numerical rating at **91.8** over that of RAI Incorporated at **79.40** ($5,560,412/79.4 = \$70,030.38$ per point). Quantitative and qualitative evaluation was performed by the Contracting Officer to numerically discriminate not only the overall numerical value for the effort between the AGENCY TENDER and RAI Inc., but also, to assess from a qualitative standpoint which offer was superior between the two offers. From a numerical standpoint, with a point value tradeoff of \$70,030.38 per point as reflected by RAI Inc. score of 79.4, when extrapolated, works out to a **\$868,376** (add-on) additional adjustment to RAI incorporated offered price for a NEW adjusted total of **\$6,428,788**, which ends up being \$193,271

higher in adjusted price than the AGENCY TENDER price. The adjusted difference between the AGENCY TENDER and RAI ended up having a difference in adjusted price (\$6,235,514 - 6,428,788). Therefore, it is my opinion that since the price of the AGENCY TENDER \$6,235,514 is lower by \$193,271 over that of RAI Incorporated due to the 12.4 point spread. The fact that the AGENCY TENDER points are substantially higher than by 12.4 points over that of RAI Incorporated fully justifies award not only due to the significant difference in numerical values when adjusted, but on the qualitative basis due to an overriding need for Excellence in Quality of Operations, Heightened Customer Service, Superb Transport Service and Tour Guide operations in a very sensitive and secure environment while reaching out to the public at large. This is the image the Department wants to present to the public at the Department's Western Visitor Center.

Since the Western Visitor Center will be the "crown jewel" of the Department, it demands a higher quality, and better value, that can only be attained through selection of a firm with what is perceived to have the highest possible caliber support personnel, the very best industry provider with proven experience of the breadth, depth, and overall background to ensure compliance with all aspects of the Western Visitor Center quality. This was demonstrated quite clearly in the summary evaluator comments regarding the differences between the AGENCY TENDER and RAI Incorporated with the *AGENCY TENDER having demonstrated overwhelmingly the ability to mitigate risk to itself and the Department*, through its ability to provide high quality staff and transport services, along with a firm understanding of not only why a Standard Operating Procedures guide is necessary, but how training, ramp up staffing, and the Work Breakdown Structure (WBS) are all integrated to fulfill the Department's mission requirements.

<p>Award should be made to the AGENCY TENDER as it is considered by this Contracting Officer to be fair and reasonable under the competitive circumstances.</p>
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V. Findings

The Agency Tender:

1. As described above the AGENCY TENDER' provided the offer with the best overall value to the government in this A76 competition;
2. Has the necessary organization structure (MEO staffing), experience, accounting, operation controls, technical skills, quality control, and facilities necessary to fulfill all contract requirements;
3. Is a financially stable, respectable, and demonstrated capability as an MEO entity;
4. Is able to comply with the required delivery of the PWS and performance schedule taking into account all existing business commitments and future growth expectations;
5. Is qualified and eligible to receive an MEO LOO agreement under all laws and regulations applicable to this procurement in accordance with the OMB Circular A-76 and the FAR.
6. FAR 9.404(c)(5), the database for the List of Parties Excluded from Federal Procurement or Non-Procurement Programs (<http://epls.arnet.gov/>) is not applicable as the AGENCY TENDER, a government organizations would receive the award.

7. Since the Agency Tender and MEO LOO are government entities, they are not subject to the requirements of FAR 9.104-3(b), thus it is non-applicable.
8. A subcontracting plan is not required for the subject procurement in view of the fact that the requirement is awarded to a government entity (the MEO LOO).

Based on the foregoing findings, it is hereby determined that the **AGENCY TENDER** is deemed responsible to whom a agreement called the MEO LOO resulting from the subject solicitation shall be awarded.

Submitted by:

Approved by:

Robert Knauer, Contracting Officer

Date

-----END-----

As you can see, it is essential when using BV-CTTO you can demonstrate factually what your reasoning was for paying a higher price, or not, getting the better value. You need to know factually what is that value added. This is why I do not understand why when most of the A-76 competitions we perform are truly commercial functions, that more contracting officers either aren't using IFB or at least the Two-Step IFB or the simple LPTA process as their approaches. Most of the competitions performed in the non-DOD arena since 1996 have purely for commercial services mentioned earlier, nothing fancy, but plain old commercial services. So you have your choice of IFB, IFB.RFP hybrids, RFP Two Phased, and Best Value and CTTO. Ok, enough said.

Remember, it is important in Section L, to ensure that you do everything possible to put the Agency Tender and Industry both on a level playing field when it comes to the actual competition. You should develop page count limitations for all, and ensure that page count limitations are the same for both the industry offerors and the Agency Tender. Yet, they need to be large enough to allow both to adequately address the PWS requirements of the RFP and technical issues that must be dealt with if "best value," but not so large as to inundate you with pages you do not need. This is particularly important in large, technical and multi-function A-76 acquisitions dealing with IT. Recently, a GSA contracting officer got proposals in that were over 6,000 pages long because that CO left the Section L submittal requirements too loose. So, if you fail to consider this, consider that you will personally be doing a great deal of work along with the SSEB that is totally unnecessary. Just think you needs through a little more, and also—remember Oral Presentations of Technical Proposals. Who needs all that paper anyway. Put it on video for all to see. Arbitrary page limitation may result in the need to issue a large number of amendments and hold multiple rounds of discussions to obtain the necessary detail that would otherwise not be required. Separate proposal volumes should be requested for each mission capability sub-factor, you desire. You must

clearly identify the specific proposal volumes that you want industry offerors and the Agency Tender Official to submit to the contracting office, including the number of copies that should be submitted (both paper and electronic form), and the page count limitations for each volume.

As stated earlier, the most common functions put up for A-76 competition since 1996 to date are very common commercial services such as *accounting, finance, reprographics, distribution, mailroom services, general IT, housing management, IT seat management, motor pool maintenance, facilities maintenance, etc.* Because these services and many others too numerous to mention are performed everyday by many commercial vendors across the nation, there is more than adequate commercial pricing and competition available in the market place. There should be little technical difference between the services offered by one vendor over another, with the exception of uniqueness of process method proposed. As a contracting officer you have the choice to issue an IFB and just go for the lowest bid price without great difficulty and probably get a pretty good price, but most contracting officers don't. Why not? They are simply afraid to use this easy but extreme method of contracting or are too easily persuaded against it by their Program Office officials. Certainly, the risk to the government is very low for generally everything listed above, except when you combine IT requirements or IT coupled with finance (another function(s)) or don't plan your A76 study out well and have an ill-designed PWS and poor workload. But--program personnel want to have some say-so in source selection, and doing an IFB takes that out of their hands which are why in A76 it is rarely done. From my experience, and I say this rather bluntly, *"you must have the guts to do what you know is right, quicker and better overall, for you are the CO."*

Information Technology by itself is fairly generic, the same IT techs that work on one contract for one vendor, work for another the next day. Doing an FAR Part 14.5 Two-Step Sealed Bid process or an LPTA would make an A-76 competition simple for most CO's.

On the other hand, if you feel there is still too much risk, for the ordinary common commercial service, then your next best choice would be to perform a standard LPTA RFP.

Remember, it is only in those functions where OMB provides a waiver to conduct Best Value Cost-Technical Tradeoff, that offerors may receive credit for offering enhancements that exceed minimum requirements. Your RFP language should very clearly notify all offerors that if they choose to exceed requirements, they should be in the context of exceeding the level of performance or performance quality as established in the requirements document and that doing so must be supported by price analysis and cost realism, otherwise you'll run into problems. The RFP should also include language that requires not only the industry offeror, but Agency Tender to identify every instance of higher performance output or performance quality included in its proposal and to identify the associated cost. This enables the Source Selection panel to analyze proposals on a *point-by-point* basis against a baseline (the minimums) and determine the value of the added excellence, performance, or what have you. Offerors should only be required to identify the areas where their proposal *exceed* requirements for those sub-factors where they can earn a better rating; the requirement to identify areas where an offeror exceeds requirements does not apply to those factors which are rated

on a simply a pass/fail basis. The Source Selection Teams should carefully consider whether proposed enhancements offer a desired benefit to the government. Enhancements should be higher levels of performance or performance quality than required by the requirements document (PWS) and where the value added can be truly quantified and calculated by “dollarizing” the difference between performance/quality and cost. Before identifying an instance of exceeding requirements as a desired enhancement or strength, the source selection organization should consider carefully the impact the proposed enhancement would have on the Government. The Source Selection Team should consult with the Head of the Contracting Activity (HCA) to ensure the requiring activity desires and can actually pay for proposed enhancements, if the higher priced best value vendor is selected. This is one of the reasons by Best Value and CTTO procurements are not always a good idea for A-76 functions and the LPTA process is usually more appropriate. Best value can significantly slow the overall process and time to come to a decision (due to protests), making life more difficult on the incumbent workforce. The CSO and Source Selection Authority (SSA) should have the concurrence of the head of the activity/agency before accepting the higher level of performance or performance quality. See below for sample text that might be used.

Organization of Proposals. How you have offerors and the Agency Tender submit data is important. If in hardcopy, both shall submit the following kinds of volumes of material as indicated below, unless exempted:

CONTRACT/ISSA PROPOSAL ORGANIZATION			
Volume Title	Number of Printed Copies	Number of Electronic Copies	Maximum Number of Pages
Volume I Technical Capability	5 copies	1	xxx *
Volume II Technical Proposal-Oral Presentation	5 copies	1	x or no limit
Volume III Past/Present Performance Data	5 copies	1	XXX
Volume IV Cost Proposal	1 original + 5 copies	1	no limit
Volume V Contract Documentation	1 original + 5 copies	1	no limit
NOTE: Any excess pages <u>will not be evaluated</u> and printed copies will be returned to the offeror. *Page count does not include the transmittal letter, cover pages, blank pages, title pages, table of contents, lists of tables and drawings, tab dividers, glossary of acronyms, cross reference matrix, Transition, Subcontracting Plan, position qualifications/descriptions, and alternate data offers.			

Cost Proposal Instructions to all parties. It is very important that you as the CO provide very detailed cost instructions for industry and the Agency Tender Team on how to structure costs/prices, not only in accordance with the Schedule B, but to correlate a labor/staffing matrix against the MEO staffing plan (the Agency offer) in order to enable an *apples-to-apples* comparison for cost realism. Most CO’s don’t do this, but I recommend it. Since the Government must use COMPARE, (mandatory software), and because the CO needs to ensure that costs/price are realistic (perform a

cost realism test), it is essential that what is good for the goose is good for the gander. We are not necessarily asking for certified Cost and Pricing data, rather we are asking for cost data that will enable us to properly draw conclusions on the basis of fact to achieve the apples-to-apples leveling required of A76 competitions and to ensure that the data provided support the cost realism test that must be accomplished as stated in the OMB Circular A-76. Since the selected industry offerors CLIN prices from the Schedule B Pricing will be entered into the line format of the COMPARE, it is essential that your cost instructions should always address the CLIN structure required to ensure that costs can be segregated into the costs categories used in the COMPARE.

Additionally, cost instructions should address how labor, material, and escalation on both labor rates and material costs should be supported not only in the Agency Tender proposal but for competitors, in accordance with the same procedures indicated in the A-76 costing criteria. Are they inflated only to the first year, or throughout all periods of performance? No matter what, you must end up with an apples-to-apples comparison, otherwise you are in trouble. In essence, using the same rules as indicated in Attachment B of the OMB Circular A-76 for costing will enable instructions in Section L to be clear and concise for all parties. A frequent problem area is that the Agency Tender Team does not correctly escalate labor or materials to the same period as vendor proposals resulting in appeals, protests and conflict. Furthermore, cost instructions should fully define what will be included and considered as common costs along with the assumptions associated with common costs. This will help all offerors have a thorough understanding of what costs are included and to not duplicate those costs in other areas of the proposal. For example, if Government Furnished Property (GFP), Government Furnished Material, Services, Facilities, etc...is to be provided to both industry offerors and the Agency Tender Team, then the RFP should clearly state whether offerors are required to maintain an equal inventory of the items furnished as GFP to be turned back to the Government when the performance period ends or whether the initial GFP is to be consumed in performance. This makes all parties accountable for what was provided upfront at contract start. Should the RFP states that refreshment of Information Technology is a common cost, then the RFP should fully define what Information Technology will be “refreshed” and specifically define what types of activities will be performed, as part of the refreshment of that technology. In other words...you must make Section L clear.

Requirement for Cross Reference Matrix. Always develop and include a Cross Reference Matrix that enables the source selection organization (SSA, SSAC, SSEB SSET, offerors and the Agency Tender Team to ensure that all requirements of the RFP are properly addressed. This is now a recommended requirement of the new A-76 Circular at figure B-3 of Attachment B. See example below:

Cross-Reference Matrix

The offeror and the Agency Tender Development Team shall fill out the cross-reference compliance matrix at Attachment [insert number] of Section L indicating the proposal reference information as it relates to the PWS/PRS CLINs, Sections L and M, Proposal Volume and Section, and Contract Data Requirements List (CDRLs) references found therein. A copy of the completed matrix shall be included in every proposal volume submitted.

Here is a sample:

Example Compliance Matrix						
<i>This matrix is included in the solicitation with the following sections completed.</i>						Prospective Providers complete the section below.
DESCRIPTION	CLIN	CDRL	PWS	SECTION L	SECTION M	PROPOSAL VOLUME AND PARAGRAPH #
Administrative Support		(optional)	1.1	4.3	F1, 1.5.1	
Records Management			1.1.1	4.3.1	F1, SF1	
Forms and Publications			1.1.2	4.3.2	F1, 1.5.1.2	
Operations & Maintenance			1.2	4.4	F2 1.5.2	
Equipment Records			1.2.1.1	4.4.2	F2, SF2	
Maintenance Analysis			1.2.2	4.4.3	SF3 1.5.2.3	
Data Base Management			1.2.2.1	4.4.4	SF4, 1.5.2.4	
Price				5.0	1.5.3	
Performance Risk Assessment				7.0	1.5.4	

Figure B3.

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SECTION M:

Basis for Award (Cost Comparison Procedure) For A-76 cost comparisons using any source selection method, including all forms of *Best Value*, *Two Phased RFP*, *Sealed Bid* and *Two-Step Sealed Bid*, the introductory language in Section M should address the basis for award and the procedure for conducting the cost comparison (per the language of the New A-76 Circular). Addressing these aspects will ensure that the industry offerors and the Agency Tender (MEO team) understand how the evaluation and cost comparison will be conducted and will ensure that the evaluation is conducted in accordance with Government policy. See sample text below:

For acquisitions conducted using Lowest Price Technically Acceptable (LPTA) Source Selection Process:

Basis for Award: This acquisition will be conducted in accordance with Federal Acquisition Regulation (FAR) Subpart 15.101-2, and as supplemented by agency procedures using the Lowest Price Technically Acceptable source selection process. This is a source selection where best value is expected to result from selection of the technically acceptable proposal with the *lowest evaluated price*. Award will be made to the lowest evaluated price offer that meets all the minimum mandatory criteria in the solicitation after application of cost differentials and other cost factors indicated in COMPARE.

For acquisitions conducted using Two-Step Sealed Bid procedure Source Selection Process:

Basis for Award: This acquisition will be conducted in accordance with Federal Acquisition Regulation (FAR) Subpart 14.503-1 & 2, and as supplemented by agency procedures using Two-Step Sealed Bid procedures. This process requires the submittal of technical proposals that determined that are technically acceptable to the Source Selection Evaluation Team in Step 1 of the Two-Step process. All proposals deemed technically acceptable in Step 1 shall be requested to submit Priced Bids that are firm fixed priced in Step 2, *Call for Bids*. Award will be made to the lowest priced bidder (offeror) determined to be technically acceptable in Step 1 (met all the minimum mandatory criteria in the solicitation) given the application of required cost differentials and other factors. This section outlines the evaluation criteria against which the Government will evaluate the offerors proposal submitted in response to the solicitation. While the Government source selection evaluation team and the SSA or CO will strive for maximum objectivity, the source selection process, by its nature, is subjective and, therefore, professional judgment is implicit throughout the entire process in Step 1.

For Acquisition using Best Value Source Selection process:

EXAMPLE:

Basis for Award Federal Acquisition Regulation (FAR) 15.3 and Agency Acquisition Regulations. This is a Best Value source selection where best value is expected to result from selection of *other than* the lowest priced technically acceptable offeror. One offeror, who is deemed responsible in accordance with the FAR, as supplemented, whose proposal conforms to the solicitation's requirements and is judged to represent the best value to the Government, based on the evaluation factors and sub factors, may be selected for cost comparison against the Agency Tender. The Government seeks to select an offeror who gives the Government the greatest confidence that they will best meet our requirements affordably. This may result in the selection of a higher rated, higher priced offeror, where the decision is consistent with the evaluation factors and the SSA reasonably determines that superior past performance, and/or technical superiority, and/or overall business approach of the higher price offeror outweighs the price difference. The SSA, using sound business judgment, will base the source selection decision on an integrated assessment of evaluation factors and sub factors. While the Government source selection evaluation team and the SSA will strive for maximum objectivity, the source selection process, by its nature, is subjective and, therefore, professional judgment is implicit throughout the entire process.

THE END