

Department of Commerce Competitive Sourcing Policy and Procedures

Section 1 – Commerce Competitive Sourcing Program Overview

- 1.1 Program Introduction
- 1.2 Policy and Purpose
- 1.3 Definitions
- 1.4 Management Roles and Responsibilities
- 1.5 Operational Roles and Responsibilities

Section 2 – Operational Guidance and Procedures

- 2.1 Planning
- 2.2 Competitions
- 2.3 Implementation of Competitive Sourcing Decisions
- 2.4 Post Competition Accountability

Attachments:

- A. Definitions
- B. Operational Roles and Responsibilities
- C. Delegation of Major A-76 Responsibilities

Section 1 -- Commerce Competitive Sourcing Program Overview

1.1 Program Introduction

Competitive sourcing helps to ensure that citizens receive the maximum value from their tax dollars by subjecting commercial activities to the forces of competition. The policy and procedures for executing public-private competitions are contained in the Office of Management Budget (OMB) Circular A-76, Performance of Commercial Activities, May 29, 2003 (the "Circular").

The Circular provides a standardized, structured process for determining the most efficient and cost effective method of performance for commercial activities. This competitive process allows government managers to make sound business decisions based on cost comparison determinations – regardless of "who" performs the work.

1.2 Policies and Purpose

A. Policies

1. The objectives of the Department of Commerce (DOC) Competitive Sourcing program are to:
 - a. Support DOC's mission by using the Circular as a management tool
 - b. Be fair to DOC employees
 - c. Improve efficiency of each targeted function
 - d. Plan, manage and perform competitions efficiently and effectively
 - e. Provide the best value to tax payers
2. Wherever practical, DOC will use competition to encourage improvement in Department operations with the objective of enhancing quality, economy, and performance.
3. The Department will employ a defensible, repeatable methodology for identifying potential competitions, nominating potential competitions candidates, analyzing nominated candidates for competitions, feasibility, executing competitions, and implementing the results.
4. DOC operating units will use the provisions of the Circular, these guidelines and procedures, the FAR, and other appropriate regulations and internal directives in conducting its competitions, and will ensure that the Department's overall mission requirements and strategic objectives are met.
5. All competitions will be conducted in a fair, responsible, and equitable manner, providing all players with a level and objective playing field and ensuring no foregone conclusions will dictate the outcome of any competition.
6. The Department will work to ensure that government personnel, customers and key stakeholders are kept apprised of its competitive sourcing actions and decisions.

- B. **Purpose:** The purpose of this document is to provide guidance and procedures for implementation of the Circular and DOC Competitive Sourcing policies.

1.3 Definitions (See Attachment A)

1.4 Management Roles and Responsibilities

- A. **Competitive Sourcing Official (CSO):** The Chief Financial Officer/Assistant Secretary for Administration (CFO/ASA) is designated as the Department's CSO, and is responsible for implementing the Circular. Specific CSO responsibilities include:
1. Obtaining prior written OMB approval before deviating from the Circular.

2. Approving in writing the cancellation of a streamlined or standard competition.
3. Granting time limit waivers, before the announcement of each standard competition, allowing a specific standard competition to exceed the 12-month time limit by no more than 6 months, for a maximum of 18 months from public announcement to performance decision.
4. Obtaining prior written approval from OMB to use performance periods that exceed five years (excluding the phase-in period).
5. Approving, in writing, the use of a tradeoff source selection process (if used) and forwarding a copy of the approval to OMB.
6. Approving termination of the service provider for failure to perform.
7. If no responsive, responsible offers are received from private or public reimbursable sources, making a written determination to either revise the solicitation or implement the agency tender. Consulting with Deputy Director of OMB if solicitation revision is chosen and would result in exceeding established time limit for the standard competition.
8. Deciding appeals to FAIR Act inventory challenge decisions.

See Attachment C, Delegation of Major A-76 Responsibilities for a more complete list of CSO responsibilities (including those that have been redelegated to Heads of Operating Units).

B. CFO Council: The CFO Council performs a steering committee/advisory role with respect to CSO and other centralized competitive sourcing functions. Council responsibilities include:

1. Championing the program within its own organization.
2. Reviewing and recommending to the CSO Department-wide inventory and competitive sourcing management plans (including target opportunities).
3. Oversight of post-MEO implementations.
4. Identification and concurrence of needed program resources.

C. Department of Commerce Procurement Executive: The Procurement Executive operates a centralized Competitive Sourcing Staff (CSS) that provides staff support to the CSO and:

1. Interprets OMB Circular A-76 and other policy documents. Develops and revises Departmental policy, procedures and responsibilities for implementing the Circular.
2. Maintains liaison with the staff of OMB on matters concerning the Circular.
3. Responds to inquiries from the public, OMB, Congress, and the White House concerning Circular issues.
4. Prepares reports to OMB that involve the submission and updating of inventories, and management plans and schedules for streamlined or standard competitions.
5. Maintains records of decisions made as a result of cost competitions of commercial activities.
6. Maintains inventory and competition database.
7. Supports the CFO Council with respect to its competitive sourcing responsibilities.
8. Assists operating units in their implementation of the Circular.
9. Responds to challenges to multi-bureau or Office of the Secretary FAIR Act inventories.

D. Head of Operating Unit:

1. Appoints Agency Competition Officials for standard and streamlined competitions to

be conducted pursuant to the Circular, including:

- a. Agency Tender Official (ATO)
 - b. Contracting Officer (CO)
 - c. Performance Work Statement (PWS) Team Leader
 - d. Human Resource Advisor (HRA)
 - e. Source Selection Authority (SSA)
 - f. Most Efficient Organization (MEO) Team
2. Appoints Organization Coordinator to handle implementation of the Circular within the operating unit.
 3. Institutes processes to ensure that all responsibilities are performed consistent with the Circular and Attachment C, Delegation of Major A-76 Responsibilities.

E. The Organization Coordinator:

1. Assists the Head of the Operating Unit in implementing Circular requirements.
2. Prepares the Operating Unit's FAIR Act inventory.
3. Provides advice and assistance to Agency Competition Officials concerning Circular requirements.
4. Provides data to the CSO concerning the Operating Unit's progress in achieving Competitive Sourcing objectives.

1.5 Operational Roles and Responsibilities (See Attachment B)

Section 2 -- Operational Guidance and Procedures

2.1 Planning: Planning is the first step in competitive sourcing and it is conducted in three phases: inventory, nomination and approval of competitive sourcing candidates, and pre-announcement preparation

A. Inventory

1. Each DOC operating unit will develop commercial and inherently governmental Federal Activities Inventory Reform (FAIR) Act inventories in accordance with the requirements contained in Attachment A of the Circular. CSS will provide instructions to operating units to facilitate the timely and accurate submission of their inventories for their review and submission to OMB by June 30th of each year.
2. The CSS is responsible for:
 - a. Overseeing the development of the inventories
 - b. Obtaining their review by the Department's CFO Council
 - c. Providing final recommendations concerning each operating unit's inventories to the CSO
 - d. Submission of the approved inventories and consultation with OMB
3. Upon publication of the inventories in the Federal Register, DOC will handle challenges and appeals in accordance with Attachment A, Paragraph D. of the Circular and the Delegations of Major A-76 Responsibilities (Attachment C of this Chapter).
4. The FAIR Act inventory will form the primary basis for identifying potential competitive sourcing candidates to undergo streamlined and standard competitions in accordance with the Circular.

B. Nomination and Approval of Competitive Sourcing Candidates

1. Upon approval of its inventory submission, each operating unit shall immediately conduct a review of all functional areas assigned Reason Code B ("suitable for a streamlined or standard competition") on its commercial inventory. The review results should be approved by the Head of the Operating Unit, transmitted to the CSS and contain:
 - a. a prioritized list of competitive sourcing competitions,
 - b. the estimated FTE associated with each
 - c. preliminary estimates of contractor and other additional resources needed to complete each competition
 - d. estimated dates for making public announcements and performance decisions.
2. The CSS will collect and analyze submissions from the operating units and provide the nominations to the CFO Council for its review and recommendations. To the extent possible, the nominations will be structured into groupings that focus on activities as business units (e.g., consistent with market and industry structures),

3. The CFO Council will:
 - a. review the nominations
 - b. meet with and/or obtain additional information from operating unit staff (as necessary)
 - c. provide recommendations to the CSO concerning :
 1. each operating unit's submission
 2. staffing and funding resources for conducting recommended standard competitions
 3. possibilities for multi-bureau competitions of common commercial functions
4. In preparing their respective recommendations for grouping functions and scheduling competitions, the Head of the Operating Unit and the CFO Council should consider the following factors:
 - a. The competition's potential for achieving significant improvement in efficiency and/or effectiveness
 - b. Severability of the work / activities under consideration
 - c. How closely the function is directly associated with the operating unit's core competency
 - d. Validation or review of the nominated group or activity to ensure it is a proper Full-Time Equivalents (FTE) and application of function and reason codes
 - e. Compatibility with DOC's modernization, budget, workforce planning initiatives
 - f. Risks and benefits associated with moving to a "like to be organization"
 - g. Availability of private sector offerors-(if there is any doubt, use market research to confirm the existence of private sector market)
 - h. Potential for achieving efficiencies and cost savings by grouping functions within or across operating units
 - i. Availability of workload data, work units, quantifiable outputs of activities or processes and high-level work breakdown structure
 - j. Industry performance standards that would apply to the function
5. After considering the CFO Council's recommendations, the CSO shall work with each operating unit to develop a final approved competitive sourcing plan.

C. Pre-Announcement Preparation

1. Upon approval of the competitive sourcing plan, each Head of the Operating Unit shall:
 - a. Appoint all Competition Officials required for the scheduled standard and streamlined competitions. The Agency Tender Official, Contracting Officer (CO), Performance Work Statement (PWS) Team Leader, Human Resources Advisor (HRA), and the Source Selection Authority (SSA) are required appointments under the Circular for standard competitions and optional for streamlined competitions. These officials must be in positions identified as inherently governmental positions. Their performance in these key positions will be evaluated in their annual performance appraisals.
 - b. For each competition, determine the activity's baseline costs as performed by the incumbent service provider.
 - c. Notify each incumbent service provider of the date that the public announcement of the competition.
2. Public Announcements of Start Dates and End Dates (Performance Decision Dates)

shall be made in accordance with Attachment B, Paragraph B. of the Circular.

2.2 Competitions

- A. Streamlined and standard competitions will be conducted in accordance with Attachment B. of the Circular.
 - 1. Streamlined competitions (65 or fewer FTE)
 - a. Streamlined Competitions shall not exceed 90 calendar days from public announcement (start date) to performance decision (end date) unless the CSO grants a time limit waiver. Before the public announcement of each streamlined competition, the CSO may grant a time limit waiver, in writing, allowing a specific streamlined competition to exceed the 90 day time limit by no more than 45 calendar days, for a maximum of 135 calendar days from public announcement (start date) to performance decision (end date).
 - b. The Head of the Operating Unit will appoint teams to develop a requirements document, the cost of agency performance, and cost of private sector/public reimbursable performance. Individuals preparing the cost of agency performance and the individuals preparing the cost of private sector/public reimbursable performance will be different, and will not share information concerning their respective estimates.
 - 2. Standard Competitions (more than 65 FTE)
 - a. A standard competition will not exceed 12 months from public announcement (start date) to performance decision (end date) unless the CSO grants a time limit waiver prior to the announcement. The CSO may grant the time limit waiver, in writing, extending the time limit by 6 months, for a maximum of 18 months. OMB must be provided a copy of the extension.
 - b. The Head of the Operating Unit will provide overall management level decisions on the business unit under study, but will in no case, specifically direct what is in the PWS or the Most Efficient Organization (MEO).
- B. Source selection for DOC competitive sourcing competitions shall be conducted in accordance with the FAR and the Commerce Acquisition Regulation.
- C. The Head of the Operating Unit will coordinate with the CSS and will submit requests through the CSO to modify (change the type of competition authorized), expedite, cancel, suspend, or delay a competition. All requests shall include sufficient justification detailing the reasons such proposed action should be taken.
- D. During the course of a competition, potentially affected government personnel will be kept apprised of the status of the competition at least quarterly by the Head of the Operating Unit and the HR Advisor. Heads of the Operating Units / HR Advisors will make every effort to consider government personnel, management, union, and customer views when preparing the PWS and Agency Tender. A communications plan will be developed for each competition.
- E. The CSS will provide guidance and assistance to the Head of the Operating Unit throughout the streamlined or standard competition.
- F. The CSS will maintain DOC's A-76 Competition Management Information System

(CMIS). The PWS Team Leader and ATO shall ensure the timely submission of competition milestone data to the Head of the Operating Unit, who is then responsible for submitting that data to the CSS for inclusion in CMIS.

G. Contests

1. The pursuit of a contest by a directly interested party and the resolution of such contest by the Department shall be governed by the procedures of FAR Subpart 33.103.
2. No party may contest any aspect of a streamlined competition.
3. A directly interested party (see definition in Attachment A) may contest any of the following actions taken in connection with a standard competition: (a) a solicitation; (b) the cancellation of a solicitation; (c) a determination to exclude a tender or offer from a standard competition; (d) a performance decision, including, but not limited to, compliance with the costing provisions of the Circular and other operating units in the Department's evaluation of offers and tenders; or (e) a termination or cancellation of a contract or letter of obligation if the challenge contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the performance decision.

2.3 Implementation of Competitive Sourcing Decisions

- A. In implementing competitive sourcing decisions, the Department will adhere to all applicable personnel statutes, regulations, and DOC-specific human resources requirements. The Department will also make every effort to minimize adverse actions associated with competitive sourcing.
- B. In implementing a Streamlined Performance Decision, DOC will comply with Attachment B., Paragraph C.3.d. of the Circular.
- C. In implementing a Standard Performance Decision, DOC will comply with Attachment B., Paragraph D. 6.f. of the Circular.

2.4 Post Competition Accountability

- A. Best practices and Lessons Learned. DOC Operating Units shall coordinate with the CSS and post best practices and lessons learned resulting from a streamlined or standard competition process on SHARE A-76! At <http://emissary.acq.osd.mil/inst/share.nsf/>. DOC shall maintain the accuracy and currency of their agency's information, including links, on SHARE A-76!
- B. Execution Tracking of Streamlined and Standard Competitions. The CSS shall maintain a database to track the execution of agency streamlined and standard competitions that (1) assigns a unique tracking number to each streamlined and standard competition, (2) includes data fields as defined on the OMB web site at www.omb.gov, (3) tracks each streamlined and standard competition as events occur (real-time) from the date of public announcement through either completion of the last performance period or cancellation of the competition, and (4) retains historical records of streamlined and standard competitions after the last performance period has been completed. The Head of the Operating Unit will ensure that procedures are in place to ensure that information contained in the database is accurate, complete and current.
- C. Competitive Sourcing Quarterly Report. DOC Operating Units shall submit a Competitive Sourcing Quarterly Report to the CSS one month before the end of each fiscal quarter, that includes:
 1. in-progress streamlined and standard competitions (i.e., competitions with start dates and pending performance decisions)
 2. completed streamlined and standard competitions (i.e., competitions with performance decisions).The required format for these reports can found on the OMB web site at www.omb.gov.

DRAFT 3/27/04

OEBAM shall submit a consolidated report to OMB, by the end of each fiscal quarter (December, March, June, September).

D. Monitoring Performance.

1. Regardless of the selected service provider, DOC shall monitor performance in accordance with Attachment B, Paragraph E.4 of the Circular.
 2. Upon request of the CFO Council, the Head of the Operating Unit will provide briefings and/or information concerning the performance of designated service providers.
- E. DOC will determine option years of performance and follow-on competition in accordance with Attachment B., Paragraph E.5 of the Circular.
- F. DOC will comply with Attachment B., Paragraph E.6. with respect to any termination of a service provider.

ATTACHMENT A. ACRONYMS AND DEFINITIONS

Acronyms

Acronym	Clear Text
ATO	Agency Tender Official
C.F.R.	Code of Federal Regulations
CO	Contracting Officer
CSO	Competitive Sourcing Official
CSS	Competitive Sourcing Staff
FAIR	Federal Activities Inventory Reform
FAR	Federal Acquisition Regulation
FTE	Full-time Equivalent
GFP	Government-Furnished Property
HRA	Human Resource Advisor
MEO	Most Efficient Organization
OMB	Office of Management and Budget
PWS	Performance Work Statement
SCF	Standard Competition Form
SLCF	Streamlined Competition Form
SSA	Source Selection Authority
SSEB	Source Selection Evaluation Board
U.S.C.	United States Code
VERA	Voluntary Early Retirement Authority
VSIP	Voluntary Separation Incentive Pay

Definitions

DOC management and operating units shall use these definitions to implement and comply with the Circular.

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

Adversely Affected Government Personnel. Federal civilian employees serving competitive or excepted service appointments in Tenure Groups I, II, or III, who are identified for release from their competitive level by the Department, in accordance with 5 C.F.R. Part 351 and 5 U.S.C. Chapter 35, as a direct result of a performance decision resulting from a streamlined or standard competition.

Agency Cost Estimate. The part of the Agency Tender in a standard competition that includes the Department’s cost proposal and represents the full cost of Department performance of the commercial activity, based on the requirements in the solicitation and the costing policy in Attachment C of OMB Circular A-76.

Agency Performance. Performance of a commercial or inherently governmental activity with government personnel. Often referred to as “in-house performance.”

Agency Source. A service provider staffed by government personnel.

Agency Tender. The Department management plan submitted in response to a solicitation for a standard competition. The Agency Tender includes an MEO, Agency Cost Estimate, MEO quality control plan, MEO phase-in plan, and copies of any MEO subcontracts (with the private sector providers' proprietary information redacted). The Agency Tender is prepared in accordance with Attachment B of OMB Circular A-76 and the solicitation requirements.

Agency Tender Official (ATO). An inherently governmental Departmental official with decision-making authority who is responsible for the Agency Tender and represents the Agency Tender during source selection.

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

COMPARE. The Microsoft Windows-based A-76 costing software that incorporates the costing procedures of the OMB Circular A-76. Agencies must use COMPARE to calculate and document the costs on the SLCF for a streamlined competition or the SCF for a standard competition. The software is available through the SHARE A-76! Website at <http://emissary.acq.osd.mil/inst/share.nsf/>.

Competition. A formal evaluation of sources to provide a commercial activity that uses pre-established rules (e.g., the FAR, OMB Circular A-76). Competitions between private sector sources are performed in accordance with the FAR. Competitions between agency, private sector, and public reimbursable sources are performed in accordance with the FAR and OMB Circular A-76. The term "competition," as used in this circular includes streamlined and standard competitions performed in accordance with OMB Circular A-76, and FAR-based competitions for agency-performed activities, contracted services, new requirements, expansions of existing work, and activities performed under fee-for-service agreement.

The term also includes cost comparisons, streamlined cost comparisons, and direct conversions performed under previous versions of OMB Circular A-76.

Competition Officials. The Department officials appointed before a standard competition is announced. These individuals perform key roles (see Appendix B) and have essential responsibilities for the successful completion of the standard competition. Competition officials are the Agency Tender Official, Contracting Officer, Source Selection Authority, Human Resource Advisor, and PWS Team Leader.

Competitive Sourcing Official (CSO). An inherently governmental Department official responsible for the implementation of OMB Circular A-76 within DOC.

Contracting Officer (CO). An inherently governmental Departmental official who participates on the PWS team, and is responsible for the issuance of the solicitation and the source selection evaluation methodology. The CO awards the contract and issues the MEO letter of obligation or fee-for-service agreement resulting from a streamlined or standard competition. The CO and the SSA may be the same individual.

Conversion From Contract. A change in the performance of a commercial activity from a private sector provider to Department performance.

Conversion To Contract. A change in the performance of a commercial activity from Department performance to a private sector provider.

Directly Affected Employees. Civilian employees whose work is being competed in a streamlined or standard competition.

Directly Interested Party. The Agency Tender Official who submitted the Agency Tender; a single individual appointed by a majority of directly affected employees as their agent; a private sector offeror; or the official who certifies the public reimbursable tender.

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

End date. The end date for a streamlined or standard competition is the date that all SCF certifications are completed, signifying DOC's performance decision.

Expansion. An increase in the operating cost of an existing commercial activity based on modernization, replacement, upgrade, or increased workload. An expansion of an existing commercial activity is an increase of 30 percent or more in the activity's operating costs (including the cost of FTEs) or total capital investment.

FedBizOpps.gov. The website where the government electronically advertises solicitations or requirements.

Fee-for-Service Agreement. A formal agreement between agencies, in which one agency provides a service (a commercial activity) for a fee paid by another agency. The agency providing the service is referred to as a public reimbursable source.

Full-Time Equivalent (FTE). The staffing of Federal civilian employee positions, expressed in terms of annual productive work hours (1,776) rather than annual available hours that includes non-productive hours (2,080 hours). FTEs may reflect civilian positions that are not necessarily staffed at the time of public announcement and staffing of FTE positions may fluctuate during a streamlined or standard competition. The staffing and threshold FTE requirements stated in OMB Circular A-76 reflect the *DOC Competitive Sourcing Program* workload performed by these FTE positions, not the workload performed by actual government personnel. FTEs do not include military personnel, uniformed services, or contract support.

Function Code. The numerical code used to categorize an agency's commercial and inherently governmental

activities for inventory reporting purposes.

Government Furnished Property (GFP). Facilities, equipment, material, supplies, or other services provided by the government for use by all prospective providers in the solicitation. Costs for GFP included in a solicitation are considered common costs. Replacement costs, insurance, maintenance and repair costs for GFP may or may not be government-furnished, depending on the provisions in the solicitation.

Government Personnel. Civilian employees, foreign national employees, temporary employees, term employees, non-appropriated fund employees, and uniformed services personnel employed by an agency to perform activities.

Human Resource Advisor (HRA). An inherently governmental agency official who is a human resource expert and is responsible for performing human resource-related actions to assist the ATO in developing the Agency Tender.

Incumbent Service Provider. The source (i.e., agency, private sector, or public reimbursable source) providing the service when a public announcement is made of the streamlined or standard competition.

Inherently Governmental Activities. An activity that is so intimately related to the public interest as to mandate performance by government personnel.

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

Inventory. A list of government personnel, by location, function, and position, performing either commercial activities or inherently governmental activities.

MEO Letter of Obligation. A formal agreement that an agency implements when a standard or streamlined competition results in agency performance (e.g., MEO).

MEO Team. A group of individuals, comprised of technical and functional experts, formed to assist the ATO in developing the Agency Tender.

Most Efficient Organization (MEO). The staffing plan of the Agency Tender, developed to represent the agency's most efficient and cost-effective organization. An MEO is required for a standard competition and may include a mix of government personnel and MEO subcontracts.

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

Offer. A private sector source's formal response to a request for proposals or invitation for bid. The term "offeror" refers to the specific source rather than the response.

Operating Unit. An organizational grouping within DOC, such as a bureau, center, military service, or field office.

Past Performance. An indicator that may be used in the source selection process to evaluate a prospective provider's previous performance on work comparable to that being competed, for the purpose of predicting the quality of future performance relative to other offers or public reimbursable tenders. FAR 42.1501 describes the information used to evaluate past performance, and FAR 15.305(a)(2) provides guidance for the consideration of past performance in the source selection process.

Performance Decision. The outcome of a streamlined or standard competition based on SLCF or SCF certifications.

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

Performance Work Statement (PWS). A statement in the solicitation that identifies the technical, functional, and performance characteristics of the agency's requirements. The PWS is performance-based and describes the agency's needs (the "what"), not specific methods for meeting those needs (the "how"). The PWS identifies essential outcomes to be achieved, specifies the agency's required performance standards, and specifies the location, units, quality and timeliness of the work.

Phase-in Plan. A prospective provider's plan to replace the incumbent provider(s) that is submitted in response to the solicitation. The phase-in plan is implemented in the first performance period and includes details on minimizing disruption, adverse personnel impacts, and start-up requirements. The phase-in plan is different from the employee transition plan developed by the HRA.

Privatization. A federal agency decision to change a government-owned and government-operated commercial activity or enterprise to private sector control and ownership. When privatizing, the agency eliminates associated assets and resources (manpower for and funding of the requirement). Since there is no government ownership and control, no service contract or fee-for-service agreement exists between the agency and the private sector after an agency privatizes a

commercial activity or enterprise. Moving work from agency performance with government personnel to private sector performance where the agency still funds the activity is not privatization.

Prospective Providers. Private sector, public reimbursable, and agency sources that may submit responses (offers or tenders) in response to an agency's solicitation.

Service Provider. An agency, private sector, or public reimbursable source that is performing, or will perform a commercial activity.

Public Announcement. An agency's formal declaration that the agency has made a (1) decision to perform a streamlined or standard competition, or (2) performance decision in a streamlined or standard competition. The CO makes these announcements via FedBizOpps.gov.

Public Reimbursable Source. A service provider from a federal agency that could perform a commercial activity for another federal agency on a fee-for-service or reimbursable basis by using either civilian employees or federal contracts with the private sector.

Public Reimbursable Tender. A federal agency's formal response to another federal agency's solicitation for offers or tenders. The public reimbursable tender is developed in accordance with OMB Circular A-76 and includes a cost estimate, prepared in accordance with Attachment C of OMB Circular A-76.

PWS Team Leader. The PWS team leader shall: (1) be an inherently governmental agency official; (2) be independent of the ATO, HRA and MEO team; (3) develop the PWS and quality assurance surveillance plan; (4) determine government-furnished property (GFP); (5) assist the CO in developing the solicitation; and (8) assist in implementing the performance decision.

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

Quality Assurance Surveillance. The government's monitoring of a service provider's performance in accordance with the quality assurance surveillance plan and the performance requirements identified in the solicitation.

Quality Assurance Surveillance Plan. The government's inspection plan. The quality assurance surveillance plan documents methods used to measure performance of the service provider against the requirements in the PWS. The agency relies on the service provider to monitor daily performance using their own quality control plan, but retains the right to inspect all services. When the agency makes a performance decision, the agency re-evaluates and modifies the existing quality assurance surveillance plan, based upon the selected provider and the selected provider's accepted quality control plan.

Quality Control Plan. A self-inspection plan that is included in all offers and tenders. The quality control plan describes the internal staffing and procedures that the prospective provider will use to meet the quality, quantity, timeliness, responsiveness, customer satisfaction, and other service delivery requirements in the PWS.

Representatives of Directly Affected Employees. In the case of directly affected employees represented by a labor

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

Resources. Funding allocated for contracts, manpower, facilities, material, or equipment to perform agency requirements.

Segregable Expansion. An increase to an existing commercial activity that can be separately competed.

SHARE A-76! The Department of Defense A-76 knowledge management system used to share knowledge, information, and experience about public-private competitions. This public site contains A76-related guidance, sample documents, best practices, tools, and links to other A-76 websites and sources for A-76-related information. Users may post best practices used in public-private competitions, research A-76 through the use of search engines, and submit Internet links to add to the available links in SHARE A-76! The web site address is <http://emissary.acq.osd.mil/inst/share.nsf/>.

Solicitation Closing Date. The due date for delivery of private sector offers, public reimbursable tenders, and the Agency Tender, as stated in the solicitation.

Source. One of three specific categories of service providers (i.e., agency, private sector, or public reimbursable) that can perform a commercial activity for an agency.

Source Selection Authority (SSA). A Functional Team Official with decision-making authority who is responsible for source selection as required by the FAR and this circular. The SSA and CO may be the same individual.

Source Selection Evaluation Board (SSEB). The team or board appointed by the SSA to assist in a negotiated acquisition.

Standard Competition Form (SCF). The agency form that documents and certifies all costs calculated in the standard competition.

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

Streamlined Competition Form (SLCF). The agency form that documents and certifies all costs calculated in the streamlined competition, in accordance with Attachment C.

ATTACHMENT B. OPERATIONAL ROLES AND RESPONSIBILITIES

Title of Official	Qualifications of Individual	Responsibilities	References
Performance Work Statement (PWS) Team Leader	Inherently governmental Department official Independent of the ATO, human resource adviser (HRA), and MEO team	<ul style="list-style-type: none"> • Comply with both the FAR and the OMB Circular A-76 • Develop the PWS and quality assurance surveillance plan • Determine government-furnished property • Assist the CO in developing the solicitation • Assist in implementing the performance decision • Appoint a PWS team comprised of technical and functional experts • Make all final management decisions regarding the PWS, GFP, and the quality assurance surveillance plan 	Attachment A: D1; D1a; D2; D3
Performance Work Statement (PWS) Team	Technical and functional experts Independent of the ATO, human resource advisor (HRA), and MEO team	<ul style="list-style-type: none"> • Comply with the FAR and the OMB Circular A-76 • Develop the PWS including supporting workload data, performance standards, and any information relating to the activity being competed • Determine government furnished property • Assist in the CO's development of the solicitation • Develop a quality assurance surveillance plan and, and as required, updating this plan based on the performance decision • Implement the performance decision 	Attachment A: D1; D1b; D4; D5
Contracting Officer (CO)	Inherently governmental Department official Independent of the ATO, human resource advisor (HRA), and MEO team	<ul style="list-style-type: none"> • Comply with both the FAR and the OMB Circular A-76 • Serve as a member of the PWS team • Publish a cancellation notice that includes rationale for the cancellation at FedBizOpps.gov for any cancelled competition or solicitation, and perform solicitation cancellations in accordance with the FAR • Issue solicitations to determine a private sector or public reimbursable service providers • Award private sector performance decision contracts in accordance with the FAR and implement FAR 7.305(c), the right of first refusal • Execute public reimbursable performance decision fee-for-service agreements • Execute a letter of obligation with the Functional Team Official responsible for performing the commercial activity in agency performance decisions 	Contracting Officer (CO)

Title of Official	Qualifications of Individual	Responsibilities	References
		<ul style="list-style-type: none"> • Perform all releases of PWS documents and solicitations, including drafts • Determine the acquisition strategy in accordance with FAR part 7 • Comply with FAR Subpart 22.10 to obtain the applicable wage determinations from the Department of Labor • Identify in the solicitation whether acquisition procedures will be sealed bid or negotiated procedures, including the type of source selection process for negotiated procedures • Include, if desired, a cross-reference compliance matrix in section L of the solicitation to decrease the complexity of performing source selections • Identify common costs in the solicitation • Obtain written approval from the CSO if the agency requires a private sector source to include a performance bond, and include a separate CLIN for this cost • Require the private sector offeror to propose a target cost and target profit or fee for a solicitation for an incentive fee contract • Designate a phase-in period as the first performance period, and include a separate CLIN in the solicitation for this purpose • Include in the solicitation a requirement for prospective providers to include a quality control plan in offers and tenders • Determine if amending the solicitation close date is in the best interest of the government • Document changes to the Agency Tender occurring after the solicitation close date • In the event of no satisfactory private sector or public reimbursable source, consult with private sector sources to identify: restrictive, vague, confusing, or misleading portions of the solicitation; the reasons provided by sources for not submitting responses; and possible revisions to the solicitation to enhance competition. Submit the results of these consultations and a course of action to the CSO • Return the Agency Tender to the ATO before revising the solicitation, and revise the solicitation if necessary • Evaluate, in the case of no satisfactory private sector or public reimbursable source, the Agency Tender; sign the standard competition form, make the standard competition form available to the public, and notify the ATO of the decision 	

Title of Official	Qualifications of Individual	Responsibilities	References
		<ul style="list-style-type: none"> • Perform sealed bid acquisitions by opening all public and private submissions, entering the lowest priced bid or tender on the standard competition form, and certifying the form • Perform lowest price technically acceptable source selections by opening and evaluating all offers and tenders to determine technical acceptability, conduct price analysis and cost realism, enter the lowest contract price or public reimbursable cost in the standard competition form, and certify the standard competition form • Perform the phased evaluation source selection process by opening and evaluating all public and private technical proposals for technical acceptability, perform price analysis and cost realism on all cost proposals determined to be technically acceptable, enter the lowest cost provider on the standard competition form, and sign the form • Perform the tradeoff source selection process by conducting price analysis and cost realism, conducting exchanges and tradeoffs, documenting tradeoffs, and entering the price for each technically acceptable offer and tender on the standard competition form • Evaluate all offers together, not excepting the Agency Tender • Conduct exchanges in accordance with FAR 15.306 • Ensure that an offer or tender receives a deficiency notice in the event of a deficiency which specifies the time limit to address the deficiency • Perform price analysis and cost realism on all proposals and cost estimates • Ensure that agency and public reimbursable cost estimates are calculated in accordance with Attachment C of the OMB Circular A-76, are based on the standard cost factors in effect on the performance decision date, and use the version of the COMPARE costing software that is in effect on the performance decision date • Include the conversion differential in all standard competitions • Ensure that the standard competition form has been prepared in accordance with Attachment C of the OMB Circular A-76 and that the required signatures and certifications are on the standard competition form • Sign the standard competition form to certify the decision in a standard competition • Offer a debriefing to all private sector offerors, public reimbursable sources, the ATO, and directly affected government personnel (and their representatives), in accordance with FAR 15.503 • Award a private sector source contract in accordance with the FAR • Develop a fee-for-service agreement with the public reimbursable source • Make option year exercise determinations in accordance with FAR 17.207 • Notify a service provider of poor performance • Issue notices of termination, when necessary, in accordance with FAR part 49 	

Title of Official	Qualifications of Individual	Responsibilities	References
		<ul style="list-style-type: none"> • Determine cost adjustments to be included on the standard competition form, line 8 and line 12, and ensure no information is entered on lines 9, 10, 11, and 14 • Include instructions for the material and supply costs in the solicitation • Perform various costing entries and decisions as indicated throughout Attachment C of the OMB Circular A-76 	
Source Selection Authority (SSA)	<p>Inherently governmental Department official appointed in accordance with FAR Part 15.303 Independent of the ATO, HRA and MEO team</p>	<ul style="list-style-type: none"> • Comply with both the FAR and the OMB Circular A-76 when performing a streamlined and standard competition • Appoint an SSEB after public announcement • In the event of no satisfactory private sector or public reimbursable source and the decision to implement the Agency Tender, sign the standard competition form and indicate the reason for the CSO's decision to implement the Agency Tender • Certify the standard competition form in a phased evaluation source selection process • Certify the standard competition form in a tradeoff source selection process and documenting, in the case of award to other than the lowest cost provider, the tradeoffs used and justification for the tradeoffs • Remove offers or tenders that are unable to resolve deficiencies • Sign the standard competition form to certify the decision in a standard competition • Ensure that the CO offers a debriefing to all private sector offerors, public reimbursable sources, the ATO, and directly affected government personnel (and their representatives), in accordance with FAR 15.503 	Source Selection Authority (SSA)

Title of Official	Qualifications of Individual	Responsibilities	References
Source Selection Evaluation Board (SSEB)	<p>May be PWS team members who are not directly affected employees</p> <p>May not be directly affected government personnel or individuals with knowledge of Agency Tender</p>	<ul style="list-style-type: none"> Comply with the source selection requirements of the FAR and the OMB Circular A-76 Serve as evaluation team 	Source Selection Evaluation Board (SSEB)
Agency Tender Official (ATO)	<p>Inherently governmental Department official with decision making authority</p> <p>Independent of the contracting officer (CO), source selection authority (SSA), source selection evaluation board (SSEB), and performance work statement (PWS) team.</p> <p>A directly interested party</p>	<ul style="list-style-type: none"> Comply with the OMB Circular A-76 Develop, certify, and represent the Agency Tender Designate the most efficient organization (MEO) team after public announcement of the standard competition Identify the necessary resources and training to prepare a competitive Agency Tender Appoint an MEO team comprised of technical and functional experts Make all final management decisions regarding the Agency Tender Develop an Agency Tender that includes: an MEO, an agency cost estimate developed in accordance with Attachment C of the OMB Circular A-76 and approved by the ATO, the MEO's quality control plan, the MEO's phase-in plan, and copies of any existing, awarded MEO subcontracts Submit the Agency Tender in a sealed package to the CO by the solicitation closing date, or notify the CO as early as possible if the Agency Tender is not expected to be delivered by that date Propose alternate performance standards, if allowed in the solicitation Make changes, when allowed, to the Agency Tender following the solicitation closing date Develop and certify the agency cost estimate (the agency's cost proposal) in accordance with Attachment C of the OMB Circular A-76, using the COMPARE costing software. The ATO shall not make changes to the agency cost estimate except as provided in OMB Circular A-76 	<p>Attachment B:</p> <p>A8a; D2b; D4a(1); D4a(2); D4a(3)</p> <p>Attachment C</p>

Title of Official	Qualifications of Individual	Responsibilities	References
		<ul style="list-style-type: none"> • Include a quality control plan in the Agency Tender, as required by the solicitation. • Include a phase-in plan in the Agency Tender, as required by the solicitation, to replace the incumbent service provider with the MEO, even if the agency is the incumbent service provider. • Include phase-in costs for the Agency Tender on SCF Lines 1-6 • Deliver the Agency Tender to the CO in a sealed package by the solicitation closing date. • If the ATO does not anticipate submitting the Agency Tender to the CO by the solicitation closing date, the ATO shall notify the CO as soon as possible before the solicitation closing date. 	
<p>Most Efficient Organization (MEO) Team</p>	<p>Technical and functional experts</p> <p>Independent of the contracting officer (CO), source selection authority (SSA), source selection evaluation board (SSEB), and performance work statement (PWS) team</p>	<ul style="list-style-type: none"> • Comply with the OMB Circular A-76 and assist the ATO in developing the Agency Tender • Develop the Agency Tender 	<p>Attachment B:</p> <p>A8b; B3a; B3b; C3d(1); C3d(2); D3a(1); D3a(2); D3a(3); D3a(6); D3a(9); D3a(10); D3a(11); D3a(13); D3a(14); D4a(2); D4a(3); D4a(4); D4a(5); D4d(2)(b); D5a; D5b(1); D5b(2)(a); D5b(2)(b); D5b(3); D5c(1); D5c(3); D5c(4)(a); D5c(4)(b); D5c(4)(c); D5c(4)(d); D6a; D6d; D6f(1)(a); D6f(1)(b);</p>

Title of Official	Qualifications of Individual	Responsibilities	References
			D6f(2); D6f(3); E5a; E6a(1); E6a(2) Attachment C: A3; B3a; C1
Inventory Challenge Authorities	Designated by the head of the Department At the same level as, or a higher level than, the individual who prepared the inventory	<ul style="list-style-type: none"> • Review and respond to challenges of DOC inventory decisions • Receive written inventory challenges • Validate the commercial or inherently governmental categorization or reason code designation of the activity, in a written inventory challenge decision; and transmit the inventory challenge decision, including the rationale for the decision, to the interested party within 28 working days of the receipt of the inventory challenge 	Attachment B: A8c; D2a
Inventory Appeal Authorities	Designated by the head of the Department Independent and at a higher level than the individual who prepared the inventory	<ul style="list-style-type: none"> • Review and respond to appeals of inventory challenge decisions made by inventory challenge authorities • Receive appeals of inventory challenge decisions • Issue and transmit a written inventory appeal decision to the interested party within 10 working days of the receipt of the appeal 	Attachment B: A8d; A8d(1); A8d(2); B3a; B3b; D4d(2)(b)

Title of Official	Qualifications of Individual	Responsibilities	References
Human Resource Advisor	<p>Inherently governmental DOC official and a human resource expert</p> <p>Independent of the CO, SSA, PWS team and the SSEB</p>	<ul style="list-style-type: none"> • Participate on the MEO team • Be responsible for: <ul style="list-style-type: none"> ○ Employee and Labor-Relations Requirements, including as a minimum: <ul style="list-style-type: none"> ▪ Interfacing with directly affected employees (and their representatives). ▪ Identifying adversely affected employees. ▪ Accomplishing employee placement entitlements in accordance with 5 C.F.R. Part 351 (reduction in force procedures). ▪ Providing post-employment restrictions to employees. ▪ Determining priority considerations for vacant positions and establishing a reemployment priority list(s) in accordance with 5 C.F.R. Part 330. ▪ Providing the CO with a list of adversely affected employees regarding the right of first refusal for a private sector decision. ○ Assisting the ATO and MEO Team in developing the agency tender by: <ul style="list-style-type: none"> ▪ Scheduling sufficient time in competition milestones to accomplish potential human resource actions in accordance with 5 C.F.R. Part 351. ▪ Advising on position classification restrictions. ▪ Classifying position descriptions, including exemptions based on the Fair Labor Standards Act. ▪ Performing labor market analysis to determine the sufficient labor necessary to staff the MEO and implement the phase-in plan. ▪ Assisting in the development of the agency cost estimate by providing annual salaries, wages, night differentials and premium pay. ▪ Assisting in the development of the timing for phase-in plan based on MEO requirements. ▪ Developing an employee transition plan for the incumbent organization early in the standard competition process. 	Attachment B: A.8.d

Office of Budget		<ul style="list-style-type: none"> • Provide inflation guidance for use in developing MEOs. • Provide information on the Department’s operating costs for developing MEOs. 	
Office of Public Affairs		Provides advice to the CSESG, the OCS, procurement personnel, the Functional Team Official and competition team participants, and other appointed competitive sourcing officials on issues concerning public announcements related to the Competitive Sourcing Program	
Office of Legislative and Intergovernmental Affairs		Provides the CSESG, the OCS, procurement personnel, the Functional Team Official and competition team participants, and other appointed competitive sourcing officials advice on Congressional issues and intergovernmental issues related to the Competitive Sourcing Program	

ATTACHMENT C: DELEGATION OF MAJOR A-76 RESPONSIBILITIES

RESPONSIBILITIES UNDER THE CIRCULAR	TO BE PERFORMED BY:
Obtain prior written OMB approval before deviating from the Circular.	Required by the new Circular to be obtained from OMB by the Competitive Sourcing Official (CSO). [The DOC CFO/ASA has been appointed as the CSO]
Determine that Government personnel are performing an “inherently governmental” function. Make determination and justify it in writing. Justification “shall be made available to OMB and the public upon request.”	Head of the Operating Unit and approval by the CSO.
Exempt a commercial activity performed by government personnel from performance by the private sector (i.e. assign Reason Code A). Written exemption and justification that “shall be made available to OMB and the public upon request.”	Head of the Operating Unit (or designee). Approved by the DOC CSO and provided to OMB by the DOC CSO upon request.
Challenges to bureau-specific FAIR Act inventories.	Head of the Operating Unit.
Challenges to multi-bureau or Office of the Secretary FAIR Act inventories.	Procurement Executive, Office of Acquisition Management.
Appeals to FAIR Act inventory challenge decisions.	Competitive Sourcing Official.
Appoint competition officials (e.g. the Agency Tender Official (ATO), Contracting Officer (CO), Performance Work Statement (PWS) Team Leader, Human Resource Advisor (HRA) and Source Selection Authority (SSA)) for each standard competition and as appropriate for streamlined competitions. Hold them accountable for the timely and proper conduct of streamlined or standard competitions through the use of annual performance evaluations.	Head of the Operating Unit who may redelegate authority to a subordinate manager.
Approve in writing the cancellation of a streamlined or standard competition.	Required by the new Circular to be performed by the Competitive Sourcing Official (without delegation).
Grant time limit waivers, in writing, allowing a specific streamlined competition to exceed the 90-day time limit by no more than 45 calendar days, for a maximum of 135 calendar days from public announcement to performance decision.	Required by the new Circular to be performed by the Competitive Sourcing Official (without delegation).
Grant time limit waivers, before the announcement of each standard competition, allowing a specific standard competition to exceed the 12-month time limit by no more than 6 months, for a maximum of 18 months from public announcement to performance decision.	Required by the new Circular to be performed by the Competitive Sourcing Official (without delegation).
Obtain prior written approval from OMB to use performance periods that exceed five years (excluding the phase-in period).	Competitive Sourcing Official based upon recommendation from the Head of the Operating Unit.
Approve, in writing, the use of a tradeoff source selection process (if used) and forward a copy of the approval to OMB.	Required by the new Circular to be performed by the Competitive Sourcing Official (without delegation).
Determine if the ATO is able to resolve deficiencies in the agency tender, and advise the SSA whether to exclude the agency tender from the standard competition.	Head of the Operating Unit.
Approve termination of the service provider for failure to perform.	Required by the new Circular to be performed by the Competitive Sourcing Official (without delegation).
Identify savings resulting from completed streamlined and standard competitions in accordance with OMB Circular No. A-11, <i>Preparation, Submission and Execution of the Budget</i> .	CFO or Administrative Officer of the Operating Unit.
Approve the requirement of a private sector source to include a performance bond.	Head of the Operating Unit who may redelegate authority to a subordinate manager.
Determine if procedures are in place permitting an agency tender to receive an award fee.	Head of the Operating Unit who may redelegate authority to a subordinate manager.
Determine (in consultation with the CO) if the solicitation closing date should be amended if the agency tender will not be submitted by the original closing date.	Head of the Operating Unit who may redelegate authority to a subordinate manager.

RESPONSIBILITIES UNDER THE CIRCULAR	TO BE PERFORMED BY:
If no responsive, responsible offers are received from private or public reimbursable sources, make a written determination to either revise the solicitation or implement the agency tender. Consult with Deputy Director of OMB if solicitation revision is chosen and would result in exceeding established time limit for the standard competition.	Head of the Operating Unit with approval by the Competitive Sourcing Official if solicitation revision is chosen and would result in exceeding established time limit for the standard competition.
Justify and approve in writing the determination to provide government furnished property.	Head of the Operating Unit who may redelegate authority to a subordinate manager.
Ensure against inappropriate "grouping" of functions or services where the requirement would then be unlikely suitable for award to small business.	The CO or the Head of the Operating Unit.
Must consider small business set-aside or establish worthwhile subcontracting goals for any type of competition.	Contracting Officer.