# AFCESA Web Site A-76 Questions

## NATIVE AMERICAN

**Question:** My unit has been announced for an A-76 cost comparison and we have been approached by a Native American firm showing interest in bidding the work. What is the current guidance on dealing with Native American firms?

**Answer:** In accordance with AFI 38-203, paragraph 10.6, a direct conversion, regardless of the number of civilians or military, may be performed if negotiations indicate conversion would be cost effective in accordance with Chapter 14 of AFI 38-203. However, commanders are not required to perform a direct conversion. They may elect to perform a standard cost comparison. HQ USAF approval is required for a direct conversion. The Air Staff will put a requirement in the new version of AFI 38-203, page 140, paragraph 14.3.5.2, that requires a conversion differential (understood to be 10%) on all direct conversions exceeding 10 civilians. The only exemptions are for NISH/NIB/JWOD (stands for Javitts, Wagner, O'Day). Although not specifically highlighting Native American, this applies only to them since all other areas greater than 10 civilians have to be competed vice direct conversion.

The A-76 Help Desk has been advised of some concerns with the direct conversion to Native American firms. Base and Air Force will most likely not receive its full cost savings since there is no bona fide competition between either the private sector or the Government.

## COCESS

**Question:** What is the best way to handle the inclusion of the existing COCESS contract in the Statement of Work for an A-76 cost comparison?

**Answer:** COCESS may <u>not</u> be combined with another supply function or any service function, including any base operating support function, for purposes of competition or contracting, until 1.) The Secretary of Defense submits to Congress a report that notifies Congress of the proposed combined competition or contract and explains why a combined competition or contract is the best method by which to achieve cost savings and efficiencies to the Government, and 2.) The Comptroller General reviews the report and submits to Congress a briefing regarding whether the cost savings and efficiencies identified in the report are achievable. Therefore, the A-76 Help Desk does not recommend eliminating the contract and performing these tasks within the MEO. In other words, bringing this work back in-house. The PWS should show only work currently being performed unless specifically approved by higher headquarters. COCESS should be considered a "wash item", and this contract will remain in effect whether the cost comparison decision is to contract or to remain in-house. The A-76 Help Desk believes the COCESS contract should be included in the Statement of Work as a government-provided service.

## COCESS

**Question:** Does FAR Subpart 51.1 apply if the Government intends to furnish the COCESS contract as a Government furnished service under a service contract?

**Answer:** No. The A-76 Help Desk does not believe that FAR 51.1 applies to the situation of furnishing the COCESS contract as a Government furnished service under a separate service contract. The purpose of FAR 51.1 is to establish policies and procedures for a contractor to use Government supply sources such as GSA, DLA, VA, etc. The policies and procedures of FAR 51.1 requires the contracting officer to notify and obtain approval from the concerned agency before granting permission to a contractor to use the Government supply source. The COCESS contract is typically a local contract within the local contracting officer's jurisdiction. Accordingly, if the contracting office and using activity agree to use the COCESS contract it should be shown as a Government provided service in the SOW.

## SABER

**Question:** What is the best way to handle the inclusion of the existing SABER contract in the Statement of Work for an A-76 cost comparison?

**Answer:** The A-76 Help Desk believes the SABER contract should be included in the Statement of Work as a government-provided service. We suggest this approach since the SABER contract is a construction contract written under the Davis Bacon Act and the contract for the cost comparison will be written under the Service Contract Act. We do not recommend mixing the two labor provisions in one contract.

## A-76 PROCESS

**Question:** I would like to use experience from other units that have gone through the A-76 process. Where can I find out information on which CE units have completed the A-76 process and also which units are currently under study?

**Answer:** The A-76 Help Desk maintains a report which indicates the CE units that have completed A-76 cost comparisons/direct conversions or have on-going A-76 cost comparison/direct conversions. Please contact us directly for a copy or find this report on our web site at www.afcesa.af.mil/Directorate/CEO/Contracts/Outsourcing/A76/default.html

**Question:** We have been announced for an A-76 cost comparison and would like to know if anything has been developed to assist us in identifying all of the steps in the process?

**Answer:** The OMB Circular A-76 Process is discussed in AFI 38-203. Additionally, the A-76 Help Desk has developed a CE A-76 Checklist that addresses actions that need to be considered from Planning to Post-cost comparison. This checklist may be found on the

AFCESA web site at
www.afcesa.af.mil/Directorate/CEO/Contracts/Outsourcing/A76/default.html

## A-76 TRAINING

**Question:** Are there any courses available on A-76 training?

**Answer:** Yes. The A-76 Help Desk recommends two sources for A-76 training. 1.) The Government Contracts Program at George Washington University Law School. Contact them at Watergate Conference Center, 600 New Hampshire Avenue, NW, Suite 100, Washington, DC 20037. Fax is (202) 223-2771, phone (202) 223-2770, web site is www.gwprofdev.com/gcp 2.) The Air Force Center for Quality Management and Innovation. Contact them at. www afmia.randolph.af.mil

## A-76 TEAMS

**Question:** We have a small unit and are setting up our teams to go through the A-76 process. What guidance can you provide on the rules for people serving on the SOW team, MEO team, and Technical Evaluation team?

**Answer:** Ideally, you would like to have separate team members for each of the three teams mentioned. However, this is not practical for a small unit or even a large unit due to limited resources. SOW team members may serve on the Technical Evaluation or the MEO teams. MEO team members should not serve on Technical Evaluation team.

## FUNCTIONAL AREA STAFF

**Question:** We have heard that AFMC has developed a term FAS, which stands for Functional Area Staff. What is the FAS, how is it organized and what function does it serve?

**Answer:** Functional Area Staff (FAS) was established to provide Installation Commanders with a core of government employees who are functional experts and provide government stewardship, overall contract oversight and management of contracted functions. Size and suggested discipline distribution of FAS was established by AFMC and assigned to each base. FAS is a line function within a staff Civil Engineer function reporting to the Support Group Commander. The Functional Area Chief (FAC) is normally the staff Civil Engineer. Duties of the FAS are not to be included in Statement of Work (SOW).

## SAMPLE DOCUMENTS

**Question:** Are there any examples of Statements of Work, Quality Assurance Surveillance Plans, Technical Evaluation Criteria, Technical Performance Plans, and Transition Plans available?

**Answer:** The A-76 Help Desk has developed numerous generic documents to assist bases in conducting A-76 cost comparisons. Please visit our web site or contact us directly. We have the following generic documents to assist you: market research reports on numerous CE functions, statements of work, quality assurance surveillance plans, transition plans, technical performance plans, and award fee plans.

## A-76 AND SERVICE CONTRACTS

**Question:** Our Wing Commander would like to roll all of our CE service contracts (custodial, grounds, refuse, etc.) into the SOW for both the contractor and MEO to bid. What are the rules governing the handling of the service contracts.

**Answer:** Generally, you cannot bring a service that has been contracted out back in-house without conducting a cost comparison study. However, we understand that conducting the cost comparison for the overall contract effort (i.e. BOS, Squadron, and Flight) is considered a cost comparison for the individual CE service contracts. Therefore, your SOW should state your entire requirement. The bid strategy for the MEO may vary depending on what is considered in the best interest of the Government. MEO may bid the individual CE services by using civil service personnel or they may use the established CE service contract amount in their bid or any combination thereof.

## MARKET RESEARCH

**Question:** Am I required to conduct a market research when performing an A-76 cost comparison? If I am required to conduct a market research where can I go for guidance?

**Answer:** Yes. FAR Part 10 requires a market research
a) before any new requirement is developed.
b) before soliciting offers for acquisitions in excess of the simplified acquisition threshold.
c) before soliciting offers for acquisitions less than the simplified acquisition threshold when adequate information about the requirement is not available and circumstances would justify the cost of the market research.

In addition to the FAR, you may contact the A-76 Help Desk for guidance and assistance on conducting market research as well as for developing the market research analysis report.

## OVERSEAS COST COMPARISONS

**Question:** Does A-76 apply to overseas locations?

**Answer:** A-76 applies to overseas commercial activities that employ civilian employees. Civilian employees are defined as US direct-hire civilian personnel of the Department of Defense paid from appropriated funds and serving on permanent appointments. Non-appropriated fund employees, direct-hire non-US citizen employees, indirect-hire non-US citizen employees, temporary employees or term employees are not included in the term "civilian employee" unless otherwise stated.

## PRISON LABOR

**Question:** What are rules in OMB Circular A-76 about using prison labor in the MEO?

**Answer:** Commercial activities performed by prison labor should not be included in a Statement of Work. This work should be separated from the competition, and the prison labor retained to accomplish the work. If the work must be included in the SOW, then the MEO must cost an in-house DoD civilian employee workforce to accomplish this work. In this scenario, the prison labor force would be discontinued. Potential bidders will not negotiate for prison labor and can not supervise prisoners.

## MANPOWER PROGRAMMING ADJUSTMENTS

**Question:** What adjustments or programming changes are made to the manpower when an A-76 cost comparison is announced or a direct conversion is approved?

**Answer:** According to AF/XPMR, 25% manpower savings are programmed for all A-76 cost comparisons. 10% is programmed for savings for the direct conversions. If a cost comparison is announced and then changed to a direct conversion, no adjustment will be made in the program.

## COST STUDY TO DIRECT CONVERSION

**Question:** Can a base currently under going an a-76 study decide to stop the study and out source?

**Answer:** If the function under study has less than 11 civilians, then the function can be directly converted to contract. However, this process is still under the auspices of A-76.

## SOURCE SELECTION TEAM

**Question:** Is it permissible for the Source Selection Team (SST) to use the organizational structure that the MEO came up as a start in identifying the manpower required to analyze technical proposals submitted by competing contractor?

**Answer:** The SST cannot use the MEO manpower to analyze proposals. In fact the SST members should not even "see" the MEO until after a contractor has been selected for competition with the MEO. If the MEO is compromised by an MEO team member that member should be removed from the team.

The SST should establish its own range of manning levels. The SST should review the MEO as it does a private sector contractor. Using the MEO manpower results in the process losing all credibility with the private sector in providing a fair and equal evaluation.

## MINIMUM MANPOWER METHODOLOGY

**Question:** What methodology is used by the Source Selection Team to arrive at what minimum manpower level, along with costs, is sufficient to successfully evaluate both the MEO and contractor
proposals?

**Answer:** There are really no absolute methods or procedures to follow. Typically, the source selection team should breakdown the work to the smallest unit, i.e. plumbing shop, housing management, etc., and determine the manpower and experience level (GS or WG) needed based on experience, past history, "gut feel". Once this is completed for all units then total the unit manpower. When pricing the private sector use wage rates from the RFP for wage rate employees and check in local market for salaries of professional employees. For full time positions use 2080 hours per year and multiply that by the hourly wage/salary rate. If you're pricing the government's proposal, use GS and WG rates from civilian personnel times 2080 hours. The SST should not be overly concerned with price, the SST is a technical team analyzing technical proposals. Contracting should have a pricing person to analyze price proposals and competition should keep prices down. Also, do not have absolute numbers of personnel but a range in mind. Subject to acceptable explanations, it is possible to accept lower or higher numbers than originally determined. The evaluation procedures and "rating" criteria will be established and explained to the team by the contracting office.

## INHERENTLY GOVERNMENTAL

**Question:** What are the inherently governmental functions in the Civil Engineer Group/Squadron?

**Answer:** As a matter of Office of Federal Procurement Policy, an "inherently governmental function" is a function that is so intimately related to the public interest as to mandate performance by Government employees. These functions include those activities that require either the exercise of discretion in applying Government authority or the making of value judgments in making decisions for the Government. Governmental functions normally fall into two categories: (1) the act of governing, i.e., the discretionary exercise of

Government authority, and (2) monetary transactions and entitlement. Inherently governmental functions do not normally include gathering information for or providing advice, opinions, recommendations, or ideas to Government officials. They also do not include functions that are primarily ministerial and internal in nature, such as building security; mail operations; operation of cafeterias; housekeeping; facilities operations and maintenance, warehouse operations, motor vehicle fleet management and operations, or other routine electrical or mechanical services.

Based on this policy, HQ USAF/ILE has determined that that function of environmental advisor is an inherently governmental function in Civil Engineering.

## QUALITY ASSURANCE

**Question:** AFI 63-124 describes the requirements of Quality Assurance personnel (paragraph 1.2.8.), a quality management system (paragraph 4.) and quality assurance training (paragraph 4.2.). How does this new instruction change the duties of the currently authorized quality assurance evaluator positions?

**Answer:** AFI 63-124 implements the Federal Acquisition Regulation requirements for implementing performance-based service contracting and quality assurance. Performance-based service contracts describe all work in terms of what the required service output is rather than how the work is to be performed. The job of a Quality Assurance person will be to
a) Evaluate and document contractor performance in accordance with the Quality Asssurance Surveillance Plan (QASP),
b) Notify the Contracting Officer of any significant performance deficiencies,
Maintain surveillance documentation,
c) Recommend improvements to the QASP and Statement of Work.

## REFERENCING PUBLICATIONS/INSTRUCTIONS IN SOWs

**Question:** How should I include instructions in the Statements of Work written in accordance with AFI 63-134?

**Answer:** Cite reference instructions, publications etc. by specific paragraph or chapter rather than the entire publication. However, describing Government contract requirements by referencing government publications is discouraged for a number of reasons. A contractor can be more cost effective and efficient than the Government because contractors are not expected nor required to create a mirror image of the government organization. Contract requirements should be performance-based to provide maximum flexibility for contractors to find better, faster, and cheaper ways of performing the requirements providing the benefits of the commercial market place. The preferred method of including requirements called for in the Government publications in a SOW is to write the requirement in the narrative portion of the SOW so it is clear the contractor is required to perform the requirement. If that is not practical, you may incorporate the required portion by referencing the paragraph in the SOW. Do not include a publication that duplicates federal, state or local laws and do not include a

publication just because it would be mandatory if a governmental organization were performing the requirement.