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To: David C. Childs A-76comments/OMB/EOP@EOP
cc: Steve_Blancq@compuserve.com, elaine_everest@csi.com
Subject: ASC Gp, Inc. Review of Revised OMB Circular A-76 submitted 12-18-02

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NOTE: Mr. Childs (or to whom it may concern) - Attached are two files containing the ASC responses to the new OMB Circular A-76. One file has been saved as an Acrobat file, and should prove the easiest for you to use (printing and reading on-screen). In case you do not have acrobat, we have also attached the same file saved as MS Word. If neither file works for you, please contact me at the above number (TEL1) so that we can make sure you have a working copy. If you cannot access the information in the attached files, we have, per your request, copied the text from the files into the content of this email (below). As it lacks the formatting from the Acrobat and Word versions that makes reading easier, it is recommended that this information be used only in the even the files are inaccessible. Thank you, -dan everest

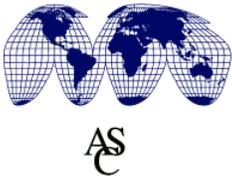
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- ASC Gp, Inc. Review of OMB Circular A-76 submitted 12-18-02 (Acrobat).PDF



ASC Gp, Inc. Review of OMB Circular A-76 submitted 12-18-02 (MS 1



18 December 2002

Mr. David C. Childs
Office of Management and Budget
725 17th Street NW
New Executive Office Building, Room 9013
Washington, DC 20503

Dear Mr. Childs,

ASC Group (ASC) has reviewed the revised Circular A-76 and appreciates the opportunity to provide our comments. While great improvements have been made, we hope that our comments will provide additional insight and practical application to your efforts.

The desire to engage in an A-76 competition has frequently been overshadowed by the reality that projects lack the tools and support to actually conduct the intention of the Commercial Activities program. This lack of tools is why many well-intended agencies simply look for ways out rather than ways to execute the A-76 program.

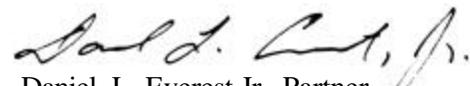
ASC has provided its tools and procurement expertise to projects in the U.S. and internationally, to such countries as Canada, the United Kingdom and Australia. For the past 10 years, ASC has held the same goals for holding successful competitions recently adopted by the OMB. Competitions using our tools allow governments to hold competitions with a time to award of less than 1 year. We have developed procedures and processes supported by our tools to assist the field users to successfully implement the principles of conducting a fair and defensible source selection. Beyond this we have developed the associated tools to manage and monitor the contract after award. As such we have implemented true life cycle contract management processes around the world.

The attached review provides our detailed comments for your consideration. We have referenced the topic and provided background comments followed by our suggestions where we have solid recommendations. We have also included a section called "Solution" for many comments. This section states how our process and software (called TF! and SeeSOR) address the problem indicated.

We are happy to provide further information should you have any questions on our comments, recommendations or solutions. Please contact either Steve Blancq at (919) 847-6686 or Dan Everest at (415) 661-1192 for further information or assistance. We would be pleased to assist your department in your efforts to design and implement this new policy.

Yours truly,


Stephen D. Blancq, Partner


Daniel L. Everest Jr., Partner

ASC Gp, Inc. Comments to OMB Circular A-76 (Revised):

Page 1 and 2 states:

Policy:

e. Designate, in writing, an assistant secretary or equivalent level official with responsibility for implementing this Circular (hereafter referred to as the 4.e.official). Except as otherwise by this circular, the 4.e.official may delegate, in writing, responsibilities to comparable officials in the agency or agency components.

f. Centralize oversight responsibility in one or more offices.

g. Require full accountability of agency officials designated to implement and comply with this Circular through annual performance evaluations.

ASC RESPONSE:

Question: Accountability will be difficult when non-standard approaches are taken to the competition. Is performance to be measured on holding the competition or on awarding good contracts that achieve quality and savings and then sustain both quality and savings over time?

Suggestion: Performance should be measured on fair awards that sustain both quality and savings over time.

Attachment B, Page B-2

LIMITATIONS AND CRITERIA.

1. Limitations When Performing a Standard Competition.

a. **Deviations.** Agencies shall not deviate from the Standard Competition procedures or timeframes required. At competition announcement (start date), the 4.e.official (without delegation) may waive the timeframes required to complete a competition, if the competitions particularly complex, and issue a revised completion date, with notification to the Deputy Director for Management, OMB. The 4.e.official (without delegation) shall receive prior written OMB approval to use an alternative Competition process or make a specific procedural deviation from this Circular.

ASC RESPONSE:

Comment: Waiving of timeframes should rarely if ever be necessary. ASC Group Inc. (ASC) provides a process with software tools to award the most difficult of projects in 12 months or less. For example, in 1997 the Canadian Chief of the Air Force had initially declared a competition for provision of the Goose Bay O&M services to be too large and complex (this was an A-76 type of competition). They looked to ASC to help them accomplish a fast, successful competition. ASC conducted training in November 1997 and the project was awarded in October of 1998 (11 months).

Suggestion: The intent of the new version of the A-76 is to force the issue and establish responsibility of managers to perform and be accountable. By making the process of classifying a project as “Complex” too easy, many projects will needlessly be classified as “Complex”. It is our experience that the most complex of projects can be completed in 18 months. This paragraph should also mention that “Complex” projects might be allowed 18 months plus a one-time 4-month extension. Suggest that 18 months be set as an upper-limit for complex competitions and approval of Deputy Director of Management of OMB should be necessary for extensions.

Attachment B, Page B-2

- b. To Justify a Source. Agencies shall use Standard Competitions to justify the following:
- (1) Commercial Inter-Service Support Agreement (ISSA). A Commercial ISSA performed by a public reimbursable source.
 - (2) Most Efficient Organization (MEO). Continued agency performance after completion of an MEO 's performance period in a previous Competition.

ASC RESPONSE:

Comment: ASC experience working A-76 type competitions in the UK (MOD), Canada (DND) and Australia (ADF) is that having the MEO compete is a common practice.

However, the MEO must be monitored for sustained performance and compliance to budget with the same rigor as if a commercial firm had won the work to be performed. Systems must be in place to revise the PWS as changes occur (changes in outputs as well as changes in quantities). Failure to manage the MEO will result in another significant effort to conduct the next competition.

To protect the fairness of the original competition, it is crucial that the savings attained in the source selection (MEO or private sector) be achieved and maintained with no reduction in quality of service. Without a complete contract management effort, history shows that the savings originally forecast are lost and long-term costs often exceed the original base-line costs, while often suffering lower quality as well.

Suggestion: A standard approach to bid preparation with pre-formatted software issued to all bidders based on the PWS will reduce the advantage the private sector has in experience of bid preparation. The software should include tools to validate the completeness of the solution, and facilitate evaluation of the MEO or Bidders' ability to meet performance requirements and perform at acceptable quality levels. ASC's experience with its TF! Bid software in other countries where A-76 type competition rules apply indicates that there is a much more level playing field when the MEO uses standardized tools and training.

Additional tools to extend the bid software to post-award financial and quality management should be incorporated into the ISSA or Contract. This approach allows savings and quality maintenance with minimum effort.

Solution: ASC's TF! Bid and Financial Management software and SeeSOR Quality Assurance/Control software have proved valuable to customers in establishing a robust financial management of the MEO and objective performance measurement with minimum effort. NOTE:

ASC Software is Commercial Off-the-Shelf configurable to any project (Support service or Capital Acquisition with life cycle support).

Attachment B, Page B-4

C. STANDARD COMPETITION PROCEDURES.

1. Preliminary Planning For Public Announcement.

- a. Preliminary Planning.** Prior to public announcement (start date) of a Standard Competition, agencies shall: (1) determine the activities and positions to be competed, (2) conduct preliminary research to determine the appropriate grouping of activities as business units consistent with market and industry structures, (3) assess the availability of workload data, work units, quantifiable outputs of activities or processes, agency or industry performance standards, and other similar data, (4) establish data collection systems as necessary, (5) designate Competition Officials, (6) determine roles and responsibilities of participants in the process and their availability for the duration of the process, and (7) develop a preliminary completion schedule. (See paragraph D. for Special Considerations.)

ASC RESPONSE:

Suggestion: The planning process can be facilitated through the use of pre-formatted software to organize the information described in items (1) through (4) above. In addition, a meaningful and objective measure of quality before the competition will provide statistics of whether or not there has been a quality of service change associated with the reduced cost of service.

If the required information is entered into the pre-formatted TF! Bid software that was previously suggested by ASC, the transition from competition design to execution will be seamless, meaning that the Preliminary Planning phase before the start date will not unnecessarily delay the start of the project.

Through this integrated Preliminary Planning/Competition Execution approach, significant savings in the time and cost of conducting the competition can be achieved.

Solution: These are the results experience by ASC customers with the systematic application of TF! and SeeSOR prior to competition.

Attachment B, Page B-4

b. Competition Preparation Considerations.

(1) Designation and Responsibilities of Competition Officials. Before public announcement, the 4.e.official shall appoint, in writing, the following Competition Officials: ATO, CO, HRA, SSA, and AAA. These officials shall be appointed in accordance with paragraph D and may be appointed for each or all Standard Competitions. The 4.e.official shall hold these Competition Officials accountable for the timely and proper conduct of Standard Competitions through the use of annual performance evaluations,

ASC RESPONSE:

Comment: It is difficult to hold officials accountable if they are not provided the tools and training that will enable them to produce the required results. When officials must take actions in order to meet a timeline they may not necessarily achieve the long-term benefit of sustainable savings over current costs or assuring the same or better quality of services.

Suggestion: Ensure Competition Officials are provided with the tools and training required to meet required outputs, or adjust outputs to those under direct Competition Official control.

Solution: The ASC process and tools allow for full responsibility by the Competition Official for producing the required results.

Attachment B, Page B-5

(3) Timeframes. A Standard Competition shall not exceed 12 months from public announcement (start date) to Performance Decision (end date), unless a deviation is granted. The 4.e.official may grant a one-time six-month extension if approved by the Deputy Director of Management of OMB.

ASC RESPONSE:

Comment: "Deviation" from specified timeframes should rarely if ever be necessary. ASC provides a process with software tools to award the most difficult of projects in 12 months or less. For example, in 1997 the Canadian Chief of the Air Force had initially declared a competition for provision of the Goose Bay O&M services to be too large and complex (this was an A-76 type of competition). They looked to ASC to help them accomplish a fast, successful competition. ASC conducted training in November 1997 and the project was awarded in October of 1998 (11 months).

Suggestion: This paragraph should include comment about the designation of "Complex" projects. Approval of the Deputy Director of Management of OMB should be required for designation as a "Complex" project. This paragraph would then be consistent with Attachment B, paragraph 1.a Deviations.

It is ASC's experience that the most complex of projects can be completed in 18 months. This paragraph should also mention that "Complex" projects might be allowed 18 months plus a one-time 4-month extension. Suggest that 18 months be set as an upper-limit for complex competitions and approval of Deputy Director of Management of OMB should be necessary for extensions.

Attachment B, Page B-5

(5) Centralized Oversight. Agencies shall centralize oversight responsibility in one or more offices to facilitate fairness in competitions and promote trust in the process. Agencies shall allocate resources to effectively apply a clear, transparent, and consistent competition process based on lessons learned and best practices.

ASC RESPONSE:

Comment: The use of a proven structure common to most projects will be necessary for a centralized oversight to function efficiently, effectively and fairly. The past practice of vastly different ways for projects to be conducted will make it nearly impossible for over-site since the reviewer must spend considerable time in understanding the technical and financial details of the project.

Suggestion: Lessons learned are habitually documented in the field but are seldom used by those who would benefit from the experience of others. The solution is to establish common software driven process and systematic application of a defined process routinely supported by the software. The software should be modified as generally applicable lessons are learned. Coordination of software upgrades should be coordinated through Centralized Oversight.

Solution: TF! is a proven bid tool that in-house teams, contract authorities and Commercial bidders (winners and losers) have lauded as fair and trustworthy. The common structure and approach (although modified to meet the unique requirements of each project) makes for an efficient review and audit of details. Training in TF!/SeeSOR is commercially available and open to all players (Government staff, MEO staff, consultants and commercial bidders), minimizing the impact of turnover. For those employees that participate in centralized over-site, the training makes it easy to maintain effectiveness and fairness.

ASC Group, Inc.'s TF! and SeeSOR products have evolved over the past 10 years in this very manner. Through application in over 70 major service-contracting actions around the world, true global "Best Practice" and lessons learned have been embodied in the software and processes.

Attachment B, Page B-5

(6) Relationship to the Budget. In accordance with OMB Circular Number A-11, *Preparation and Submission of Budget Estimate*, the 4.e.official shall identify savings resulting from completing Standard Competitions.

ASC RESPONSE:

Comment: The OMB Circular A-11 focus is primarily on Capital Assets and does not address service contracts. "Baseline Assessment and Identifying the Performance Gap" (from OMB Circular 11) when used in the context of service contracts is usually poorly performed in practice. Establishing performance baselines for services is nearly non-existent. Post award performance management (when it is performed) often does not make objective measurements of the service being provided and cannot track performance changes over time. Much less, compare current performance to a baseline.

Suggestion: A specialized process for budget preparation and cost savings should be established specifically for service contracting.

Solution: TF! is a proven tool for budget preparation, tracking and analysis (an employee of Qantas Airlines stated that the TF! financial model would work better for preparation of the annual budget than their current process and would be considerably more useful...Qantas has

purchased several TF! licenses). SeeSOR is a product that can establish baselines and track performance over time.

Attachment B, Page B-5

(7) Cost Estimates. An agency or public reimbursable source shall comply with Attachment E to develop cost estimates used in Standard Competitions. Agency budgetary costs shall not be used in cost estimates unless prior OMB written approval is received indicating these costs reflect the full cost of government performance to the taxpayer.

ASC RESPONSE:

Comment: While Attachment E provides a good high-level summary, the basis for the detail in establishing the MEO is not provided. For example how best to calculate Personnel costs and to minimize the irreducible spare capacity inherent to the organization. No tool is provided to assist the MEO is analyzing and optimizing organizational restructuring to make (and prove) the minimization of irreducible spare capacity of the workforce while still guaranteeing the performance standards are met. The MEO should at least perform the detailed analysis performed by the commercial sector when preparing bids. The lack of consistency between commercial bidders and the MEO makes audit and over-site difficult.

Suggestion: Make specialized tools and processes available to agencies that provide consistency between projects. Consistency of approach for service contracting will benefit the agencies as well as the bidding community. Historically, the use of providing a common tool will improve quality and reduce costs (consultants to agencies will require less time...thus lower cost, to produce a consistent quality estimate).

Solution: TF! is a proven tool that has been successfully used across many different contracting environments. Internationally large firms have already vetted the structure and approach of the TF! process and software.

Attachment B, Page B-5

2.The Solicitation and Quality Assurance Surveillance Plan (QASP).

- a. Solicitation.** In addition to FAR requirements, the CO shall consider the following when developing and issuing a solicitation.

(1) General. The solicitation defines the activity, the performance standards and performance periods required. Development and issuance of the solicitation requires determining an agency 's requirements, gathering workload data for the PWS, and includes releasing the QASP. A PWS that is developed in a Standard Competition shall be performance based with measurable performance thresholds and may encourage innovation. Agencies shall not issue a solicitation that increases, or places additional risk on one offeror over another; violates industry service or service grouping norms; or omits statutory obligations or necessary regulatory requirements.

ASC RESPONSE:

Comment: QASPs vary widely between projects even for the same service or outcome to be provided. Clear performance standards are not often contained in the PWS. QASP and the PWS must be prepared in an integrated manner to ensure that the performance standards specified in the PWS are what are objectively monitored. Furthermore, post award changes to the PWS must also be reflected in new or revised QASPs. As performance standards may change the QASPs must be updated along with the PWS. In practice this does not happen due to the lack of a tool that integrates the PWS and the QASP.

Suggestion: A database of performance based requirements for recurring services and the associated objectively measurable QASPs should be established and made available. Considerable efficiency can be attained with the use of a database pre-populated with recurring services and the associated QASP. Time and effort to conduct competitions can be even further reduced.

Solution: ASC has such a database and is available with SeeSOR. This database can be made accessible over the Internet.

ASC has always advocated the release of QASPs with the PWS. Properly prepared QASP will ensure the development of robust performance standards in the PWS if the PWS requirements and QASPs are linked. Synchronized PWS with QASPs will provide the service providers much clearer understanding of the customer's performance expectations. Where this system is in place before competition a baseline can be established and realistic performance measures can be established based on current accepted performance.

Attachment B, Page B-8

(15) Quality Assurance Surveillance Plan (QASP). The QASP identifies methods used to measure performance of the service provider against the requirements in the PWS. A quality control program (QCP) is also included in prospective offers and tenders to guarantee satisfactory performance. The agency may rely on the service provider to monitor daily performance. The agency retains the right to inspect all services. The 4.e. official shall assign individuals responsible for the QASP that are external to the selected service provider (i.e., agency, private sector or public reimbursable source) to perform quality assurance.

ASC RESPONSE:

Comment: The prime objective of government monitoring should be to validate that the contractor's Quality Control Program is producing valid analysis of performance.

Suggestion: The Contractor's Quality Control Program should be open for the government to review. Ideally, the Government's QA systems and Contractor's QC systems should be shared, reducing administrative overhead as well as redundant inspections and finally, miscommunication generated through application of different systems and vocabulary.

Solution: SeeSOR is designed to be a shared program with Government and Contractor populating the same database. Comparison of Government observations can be made to Contractor observations to produce a clear validation (or not) of the contractor's QCP.

SeeSOR provides graphical analysis of performance trends and other valuable reporting data. SeeSOR allows the establishment of Lower Control Limits on performance. The database is shared across a local/wide network or on an Internet server. This functionality allows the Centralized Oversight to be able to examine all projects' performance by logging on to the databases associated with different projects using SeeSOR.

SeeSOR allows for the identification of significant non-compliances through the use of an integrated Corrective Action Reporting (CAR) system. This system tracks the identification of issues, proposed solutions, approved solutions, implementation and follow-up. Time to resolve CARs is tracked and reported.

Attachment B, Page B-8

(2) Developing the Agency Tender. The ATO shall develop an Agency Tender that responds to the requirements and bid structure stated in the solicitation. The ATO shall prepare the Agency Tender in accordance with the requirements of Section L (Instructions, Conditions, and Notices to Offerors or Respondents) and Section M (Evaluation Factors for Award). The Agency Tender shall also include the following: (1) an MEO, (2) Agency Cost Estimate developed in accordance with Attachment E, (3) the MEO's Quality Control Plan (QCP), and (4) the MEO's Phase-in Plan. The Agency Tender shall exclude the exceptions noted in paragraph C.2.a. (13). The ATO shall provide the certified Agency Tender in a sealed package to the CO by the due date stated in the solicitation. Failure to submit the Agency tender on or before the due date established in the solicitation may result in the Agency tender not being considered.

ASC RESPONSE:

Comment: Agreed.

Suggestion: Use a standardized approach designed to seamlessly integrate all of the above stated objectives.

Solution: The TF! process provides commercially tested, tried and true software that allows the ATO the basis upon which to develop a competitive commercial-quality detailed bid. The software is compared to the commercial or other offers at the time of competition making direct comparisons possible and meaningful. The TF! process includes the appropriate input into Section L and M of the RFP.

The use of SeeSOR means that there is no need for a QCP to be developed from scratch since the framework is already in place. The ATO need only prepare the QCP to address how SeeSOR is implement and managed at the project level.

The tender is then auditable with adequate detail to perform meaningful and useful analysis. Historically, MEOs have benefited from the use of TF! in a way that levels the playing field and

has proven fair from the commercial sector perspective (this increases private sector participation when the process is considered fair and objective).

Attachment B, Page B-11

(b) Cost/Price Realism.

- 1. Agency and Public Reimbursable Tender.** The SSA shall subject Agency Tenders and Public Reimbursable Tenders to a Cost Realism analysis to determine if the cost estimate reflects the requirements of the solicitation. The SSA shall validate the Agency Cost Estimates and Public Reimbursable Cost Estimates to determine if the estimates have been calculated in accordance with Attachment E and the solicitation. The SSA shall not assess monetary values for non-quantifiable elements of an Agency Tender or Public Reimbursable Tender. The SSA shall be responsible for the accuracy of cost data on Lines 7-18 of the SCF (see Attachment E) during source selection. The ATO shall respond to SSA requests for adjustments to the Agency Cost Estimate and make changes in accordance with paragraph C.3.a.(3).
- 2. Private Sector Bids and Cost Proposals.** The SSA shall conduct price or cost realism on private sector offers during source selection as provided by the FAR. The SSA shall not assess monetary values for non-quantifiable elements of the private sector offers.

ASC RESPONSE:

Comment: Agreed.

Suggestion: Use a standardized approach for integrating the preparation of the PWS with the preparation of Cost Estimates. Then use the Cost Estimate approach to structure the Bid templates so that all bids can be readily compared, in the same structure, to the Cost Estimate. This will ensure true “apples-to-apples” comparison and eliminate uncertainty as to which bid has most accurately responded to the RFP. This approach is critical when making Best Value decisions that are defensible.

Solution: The TF! process is designed around making comprehensive analysis to determine Cost Realism. The first step in making a meaningful Cost Realism is the preparation of an Independent Government Estimate (IGE) by the PWS team. The TF! process uses the IGE as a concurrent exercise to the development of the PWS. In this way the PWS is validated by financial confirmation of the cost of services (this is a baseline cost adjusted for known variations to the PWS). Significant differences may represent an indication that the quantification is incorrect or that work requirements have been omitted. The PWS is refined until the IGE can be reconciled to some known (or expected) baseline.

Throughout the evaluation process the IGE is compared to the MEO and other bids taking into consideration the technical solution proposed and making allowance for efficiencies or innovation of the proposed solution. This process produces a meaningful evaluation of Cost Realism.

Any selection of an unrealistic cost is surely a false economy and results in unsustainable savings.

Attachment B, Page B-11 and 12

(3) Negotiated Acquisition.

- (a) Exchanges with Offerors or Tenders During Negotiated Acquisitions.** On the due date for receipt of offers and tenders stated in the solicitation, the CO shall open the Agency Tender, private sector bids, and public reimbursable tenders. Exchanges between the SSA and the ATO, officials responsible for public reimbursable tenders or other offerors after receipt of proposals may include: (1) clarifications, where offerors clarify certain aspects of proposals or resolve minor or clerical errors where the CO intends to make award without discussion, (2) communications to address issues that must be explored to determine whether a proposal should be placed in the competitive range, and (3) discussions, which are undertaken after establishment of the competitive range with the intent of allowing the offeror to revise its proposal and are intended to maximize the government's ability to obtain the greatest overall benefit based on the requirement and the evaluation factors set forth in the solicitation. Exchanges that occur during a Standard Competition shall be governed by the procedures set forth in FAR 15.306, except that the following special procedures shall also apply with respect to exchanges involving the ATO.

ASC RESPONSE:

Comment: Proper and complete documentation is the basis for the defense of any decision made by the SSA. In the event of protest clear and easy to use documentation simplifies the defense, increasing the likelihood that the decision will be upheld.

Suggestion: There is a need for structure to the evaluation to facilitate the identification and then clarification of issues regarding the tender, whether it is the ATO's bid, commercial bids or other bids. When issues are clearly identified by both technical and financial evaluators the exchanges between the SSA and offerors is fair, detailed and focused on the issue at hand.

Solution: TF! has established a software support and documentation system used during the evaluation process that facilitates evaluation, scoring, exchanges between the SSA and offerors and protest support. TF! was designed for and has been used in Low Price Technically Acceptable (LPTA) and Cost/Technical Tradeoff (CTTO) source selections in the UK, Canada, Australia and the US. All clients have found the detail and auditability of the process to be essential to the successful completion of their projects given the compressed timeframes and limited resources available.

Attachment B, Page B-14

- 2. Phased Evaluation Process.** Agencies may use the following Phased Evaluation Process for any Standard Competition. In the Phased Evaluation Process, an agency shall determine technical capability in Phase One and evaluate cost in Phase Two. The Performance Decision shall be based on lowest cost of all technically acceptable offers and tenders, and the decision document is the SCF. The SSA shall not end Phase One and commence Phase Two until the SSA agrees that the Agency Tender is technically acceptable. The Agency Tender shall be among the group of private sector offers and public reimbursable tenders considered in Phase Two.

ASC RESPONSE:

Comment: ASC Group, Inc. has advocated this process and has designed a process for the use of our software products that will facilitate this process. We believe that this process should be frequently used to achieve efficiency of tendering and to reduce cost of the bidding process to industry, the ATO and others. This process not only produces excellent results, but it can still meet the “time to award” requirements mandated in the new Circular.

Our experience to date is that the Phased Evaluation Process is seldom used. This process, properly executed, will provide increased efficiency for the Government and will reduce the cost and complexity of tendering for all offerors. This process is particularly suited and will greatly benefit large complex projects where the PWS may be difficult to accurately and completely define during its initial preparation.

Suggestion: As a part of Phase One it is imperative that the A-76 process allow the PWS to be revised or clarified not only when Performance Standards revisions are proposed by offerors, but also whenever evaluation or discussions with offerors indicates a general misunderstanding of the intent of the PWS. This process will allow the PWS to evolve throughout the process to a point where all offerors are bidding on a common and complete understanding of the expectations of the Government.

It is our experience that the largest obstacle to the successful operation of a service contract is the lack of a common understanding of the expectations of the Government as a result of a vague or misunderstood PWS.

By allowing the offerors to focus on the technical requirements of the PWS before committing the resources to cost the technical solution, and by not requiring the financial expertise to continually revise cost projects as a result of PWS clarification the Government and offerors work much more efficiently and effectively.

For the Phased Evaluation Process to work it is crucial that there be a structure in place to make sure that all technical promises are fully and accurately costed by the offerors. The structure in place must survive the evaluation and be used on a continual basis in post award contract management. The structure should evolve over time as the project requirements evolve. The data collected over the life of the contract should be structured to be the starting

point of the new competition for the follow-on contract (too often the Government starts over due to failure to effectively manage the project with an eye to the re-competition...causing unwarranted sole source extensions to existing contracts).

Solution: The TF! and SeeSOR software and processes have been designed to support the observations and recommendations presented above. The TF! evaluation is effective in evaluation of offers and the identification of flaws in the PWS which can lead to the erroneous selection of an offer or create significant post award contract management problems (including loss of anticipated savings).

Attachment B, Page B-15

5. Post Competition Accountability.

- a. Implementing the Performance Decision.** The head of the requiring organization shall: (1) implement the Performance Decision and QASP; (2) maintain the currency of the PWS; (3) monitor actual cost of performance; and (4) retain the Standard Competition documentation. To maintain currency to the PWS, an agency shall (1) retain the original PWS and (2) update a revised PWS no later than the end of each performance period to reflect requirements and scope changes made during that performance period. To monitor actual cost of performance for each performance period, the agency shall adjust actual costs as necessary to compare to estimated costs submitted in the Agency Tender, allowing for scope, inflation, and wage rate adjustments made during that performance period.

ASC RESPONSE:

Comment: Often initial savings erode over time as the contract management cell is held hostage by sole source modifications to the contract. Contract management must have access to the full financial and technical approach of the successful offeror as evaluated during the competition. Armed with useful tools the Contract manager will be able to negotiate from an informed position achieving much better prices in these sole source negotiations.

Point (1) above only calls for the implementation of QASPs. It should be made clear that the QASPs should be correlated to the PWS requirements and updated as and when modifications occur to any aspect of the PWS. Updating of the PWS at the end of each performance period is not best practice.

Suggestion: The PWS, QASPs and financial documentation should be updated with any amendment to the contract at the time of the amendment. Delaying until the end of the contract period usually creates a significant amount of effort to bring the PWS and other contract documentation up-to-date. Since Government staff will likely already be overburdened with work this update will either not be done or will be hurriedly done. Furthermore, it is necessary for the PWS and all other documentation to be up-to-date to support a re-competition that will need to be done 4 - 6 months prior to the end of the contract period.

The process needs to be structured for consistency and to assure that the requirements indicated are performed. Integration of the cost documentation with PWS and linkage of the

financial information provided in the tendering process should flow into the contract administrator's office after contract award and be continuously updated as a part of contract management. The Government would benefit by application of a single uniform system for the life cycle management of contracts.

Solution: The TF! and SeeSOR applications are designed to facilitate the life cycle maintenance of the contract and quality system in nearly real time. Use of the software and process is easy (so long as there is a member of the contract management staff available with at least average software skills using common commercial software). The contract amendment and modification process can be quickly and accurately performed. The Contract manager is able to use the basis of the contractor's winning offer as the starting point for negotiating changes.

Attachment B, Page B-17

6. The Administrative Appeal Process .

a. The Administrative Appeal Process .

- (1) General.** The Administrative Appeal Process provides directly interested parties an opportunity to have an independent agency official review the Performance Decision. Following a Performance Decision, agencies shall allow directly interested parties to review the decision documentation (completed SCF and Agency or Public Reimbursable Tenders) to determine whether to submit an appeal. While private sector proposals shall not be subject to appeal, questions regarding a private a sector offeror 's compliance with the scope and technical performance requirements of the solicitation may be appealed.

ASC RESPONSE:

Comment: With proper documentation of the adherence to the RFP the Government will prevail in the Appeal Process.

Suggestion: Provide a flexible structure that is replicated for most projects. Use practices that will document the soundness and compliance of the selection with the RFP.

Solution: The TF! process has proven highly effective in the appeal process. The documentation and structure has stood the scrutiny of the legal system in the US and in Canada (there have been no challenge of a project that used TF! in the UK or Australia).

Attachment B, Page B-19

2. Team Designations, Responsibilities, and Restrictions.

- a. PWS Team.** The PWS Team shall be comprised of technical and functional experts and shall be responsible for (1) developing the PWS, QASP, supporting workload data, and any information relating to the activity being competed; (2) determining

government furnished property, equipment and facilities; (3) assisting the CO in developing the solicitation; and (4) compliance with this Circular.

ASC RESPONSE:

Comment: The quality and experience of these teams is critical.

Suggestion: Ensure that teams contain qualified personnel with experience in QASP development and costing of an Independent Government Estimate.

Solution: Software and training in TFI provides the necessary tools to raise the quality of the team to a consistent and functional level in all aspects of the team responsibilities.

Attachment C, Page C-3 to 4

2. Business Case Analysis Documentation.

- a. To perform a Direct Conversion based on a business case analysis, the ATO shall (1) provide the CO a description of the workload and (2) develop an Agency Tender in accordance with Attachment B. The ATO shall not develop an MEO when considering conversion from agency performance to a private sector source or public reimbursable source (the business case analysis shall be based upon agency 's current organization, costs, performance and structure). The ATO shall calculate the Agency Cost Estimate by (1) completing Standard Competition Form (SCF) Lines 1, 2, 3, 4, 6, 7, 8, 12, 13, 14, 15, 16, 17, and 18 in accordance with Attachment E; (2) including contract support costs to the Agency Tender on SCF Line 3, and (3) not calculating any other costs. The ATO shall sign and submit the Agency Tender to the CO in a sealed package.
- b. The CO shall not (1) begin establishing comparable contract or ISSA costs until the ATO submits the Agency Tender and (2) have knowledge of the Agency Cost Estimate while establishing comparable contract or ISSA costs. Upon submission of the sealed Agency Tender, the CO shall: (1) identify four comparable, existing, fixed price, Federal contracts of similar size, workload and scope but shall not issue a solicitation at this point in the process. Existing public reimbursable agreements may be used but all costs shall be adjusted to reflect the total cost to the taxpayer in accordance with the costing requirements of this Circular; (2) determine that selected contracts are reasonably grouped; (3) select the low contract price; and (4) open the agency tender, complete, and sign the SCF. If the CO determines that the selected contracts (or ISSAs) cannot not be reasonably grouped or if four comparable contracts (or ISSAs) are not available to perform a Direct Conversion, the agency shall perform a Standard Competition in accordance with this Circular.

ASC RESPONSE:

Comment: A Direct Conversion should not be an escape to an easier form of contract. There appears to be considerably less emphasis on the post award management of this process

including the need for the Government to perform Quality Assurance. It is imperative that the quality of service in direct conversions not deteriorate initially or over time.

Suggestion: A direct conversion should include sufficient financial detail to make the administration of post conversion modifications easily managed, tracked and audited. The level of detail should be similar to the detail used in fully competitive source selection process. Quality Assurance Plans should be developed to systematically track the quality of service over time. If the quality of service decline or cost raise above expected or justifiable amounts, the Direct Conversion should be competed.

Solution: The TF! and SeeSOR software makes managing large and small contracts easy and consistent between other projects. It is easy to track the change in service levels and associated cost. If competition is necessary the data collected in contract management is easily converted to a format for bidding purposes, with actual cost figures representing the basis of the Independent Government Estimate. Time to re-compete projects is considerably reduced. SeeSOR provides a basis for establishing quality performance standards and objectively measuring how quality performance changes over time.

Attachment C, Page C- 4

2. Conversion Phase.

- a.** For conversions from agency performance to a public reimbursable or a private sector source, the CO shall (1) determine the acquisition strategy which may include using competitive or noncompetitive procedures as justified by FAR Part 6 to select the private sector source or may include converting agency performance to an existing contract; (2) prepare or modify a PWS; (3) issue a solicitation, if required by the acquisition strategy; and (4) determine fair and reasonable prices. When the CO determines a private sector or ISSA source is appropriate, the agency shall make an announcement of the selection at the local level and shall inform incumbent service providers of the start date. Agencies shall not develop an Agency Tender, including an MEO, when a direct conversion is performed to convert from agency performance to a private sector source.
- b.** For conversions from private sector or ISSA performance to an agency source, the 4.e. official shall determine that the cost of converting the activity is fair and reasonable. Agencies shall develop an Agency Tender, including an MEO, when a direct conversion is performed to convert from (1) private sector performance to agency performance, or (2) public reimbursable performance to agency performance. For conversions to agency or public reimbursable source, the agency shall (1) develop a PWS (2) issue a Letter of Obligation in accordance with paragraph C.6 of Attachment B, (3) notify the incumbent contractor in accordance with the FAR, and (4) make an announcement of the decision at the local level and in *FedBizOpps*.

ASC RESPONSE:

Comment: A further detailing of financial analysis and detailed costing data should be established at the time of conversion. While the decision to perform a Direct Conversion can be based on less detail, the final price and performance standards should be established when the

final contract is negotiated. At this time (before the Government finds itself in a sole source environment) a fully detailed cost proposal should be established and form the baseline for all future modifications to the contract.

Suggestion: Establish a jointly developed fully costed proposal to establish the basis of the cost of the contract. The costed proposal to be used for post award management of the modification process. A fully developed Quality Control and Quality Assurance program is to be established that assures the tracking of performance of all services in the final PWS and objectively measures the performance of the service provider. The process established must facilitate a re-competition in the event of failure of the service provider.

Solution: The TF! and SeeSOR software provides a fully integrated package for the management of small and large contracts.

Attachment D - COMMERCIAL INTERSERVICE SUPPORT AGREEMENTS (ISSA)

ASC RESPONSE:

Comment: No additional specific input is provided for Attachment D. This attachment requires the execution of Attachment B. All comments provided for Attachment B are therefore valid for Commercial Intraservice Support Agreements.

Suggestion: Nothing Additional

Attachment E, Page E-1

- 5. Inflation.** Agencies shall apply the annual inflation rates developed for the President's Budget and issued by OMB on the OMB web-site for Standard Competitions. Agencies may use agency unique inflation factors (e.g., military inflation) with prior written OMB approval. In preparing agency cost estimates, agencies shall include all known or anticipated increases incurred before the end of the first performance period for each cost element, prorated as appropriate. For subsequent performance periods, the cost of anticipated changes in the scope of work, as described in the Solicitation, is calculated. Agencies shall then apply the inflation factors for pay and non-pay categories through the end of the first performance period.

ASC RESPONSE:

Comment: Costing future revisions to the scope of work requires that there is knowledge of the irreducible spare capacity inherent to the organization. A detailed costing is required to document this spare capacity. Additional benefit from this analysis is the ability to conduct more favorable negotiations with the service provider. A level of detailed much greater than is currently contained in this Attachment is required.

Suggestion: A detailed costing analysis is required. The linking of effort to each service required in the PWS is necessary. Costing documentation must include a linkage of the effort required by each requirement in the PWS to the labor organization and the costing of labor.

Solution: The TF! and SeeSOR software provides a fully integrated package for the financial management of small and large contracts. Since inception the TF! financial model has included a linkage between the PWS requirements and the establishment of the labor organization and labor costing. The total effort required for each service is shown and the contribution of the labor content is correlated to the staffing organization.

Attachment E, Page 4 through 16

Paragraphs that detail the cost breakdown.

ASC RESPONSE:

Comment: While the cost breakdown presented in this Attachment is good, the details supporting these cost are often presented in many different ways. Linkage of the effort of performance is not directly related to the PWS. Analysis is difficult if the detail is not clearly presented. Furthermore, since this detail may be analyzed against private sector or other bids, different presentations of the next level of detail can make evaluation more difficult than necessary.

Suggestion: Propose a generally acceptable format for the presentation of the supporting detail associated with each of the cost elements. This level of detail should be required of all parties bidding on the work.

Solution: The TF! and SeeSOR software provides a fully detailed breakdown of the cost elements contained in Attachment E. This costing structure has been validated through use by MEOs and Commercial bidders in over 70 projects around the world. Major US private sector suppliers of support services have validated that the TF! cost structure is consistent with customary costing detail and cost can be presented in the TF! structure without problem. This structure creates a common “front end” to all bids for evaluation purposes. The structure makes post award financial management significantly more effective and efficient.

Attachment E, Page 13

Paragraph C

3.Contract Administration Costs (Line 8 of the SCF)

ASC RESPONSE:

Comment: The Contract Administration cost is a function of the process used to administer the contract. Where structured documentation is used in the solicitation process contract administration cost can be significantly reduced.

Suggestion: The “Contract Administration Factors and Grades” should be considered a maximum. Allow agencies that can support lower cost for contract administration to provide documentation supporting the reduced estimate and use those cost for comparison purposes.

Solution: When the TF! structure is used Contract Administration cost (comparable to those in paragraph 3 of Attachment E) is about half that indicated in this paragraph.

Attachment E, Page 16

Paragraph G.THE COMPETITION DECISION (LINES 17 AND 18 OF THE SCF)

ASC RESPONSE:

Comment: There is no discussion about how the decision is to be made when “Cost/Technical Tradeoff” types of Source Selection Procedures are to be used (as discussed in Attachment B pages B-6). Furthermore, there are occasions when the MEO is technically evaluated (in a full competitive evaluation the Agency Tender should be subjected to the full Technical Evaluation) as Technically unacceptable. In this case the MEO cost is not relevant.

Suggestion: Text should be added that technical merit of bids shall be considered and decisions counter to the numerical outcome can be made if done so in accordance with the approved Source Selection Process. When the MEO is determined to be technically unacceptable the cost comparison in Attachment E is not required since the MEO is excluded from further consideration.

Solution: The TF! software provides a fully integrated package to support decisions based on technical and cost tradeoff decisions. The software and process provides a level playing field for fair, reasonable and supportable decisions.

Attachment F, Page F-7

Performance Standards.

ASC RESPONSE:

Comment: Performance Standards should be stated in such a way as both parties to the contract can objectively measure success. When the Performance Standards are not clearly measurable what is instead measured is the difference in the opinion of the monitors. This is particularly critical where the Government has significant turnover in the QAE staff.

Suggestion: Add text to the definition to state that the Performance Standards are to be objectively measurable.

Solution: The TF! and SeeSOR software provides objectively measurable metrics that create consistency of the measures taken regardless of who is performing the evaluation.

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Attachment F, Page F-8

Quality Assurance Surveillance Plan (QASP) Quality Assurance Surveillance Plan (QASP).

ASC RESPONSE:

Comment: The last sentence of this definition states “When a Performance Decision is rendered, the agency is required to re-evaluate and modify the QASP based upon the selected provider.” It is assumed that this refers to those instances where the offeror has specified some alternative desirable Performance Standard. If this is the case it seems that there should be a revision to the PWS as well as the QASP. The PWS, QASP, and financial and resource documentation should all be synchronized and maintained in sync throughout the life of the contract.

Suggestion: Add text that the PWS should be modified with the QASP when Performance Standards are revised.

Solution: The TF! and SeeSOR software provides a fully integrated package for the management of small and large contracts. The system keeps all aspects of the project in sync throughout the life of the contract. Re-solicitation effort at the end of the contract is greatly reduced when all aspects of contract management and monitoring are maintained.