Army Regulation 5–20

Management

Commercial Activities Program

Headquarters
Department of the Army
Washington, DC
1 October 1997

UNCLASSIFIED

SUMMARY of CHANGE

AR 5-20
Commercial Activities Program

This regulation--

- Implements Office of Management and Budget Circular A-76, DOD Directive 4100.15, and DOD Instruction 4100.33, as amended in 1996. It provides guidance for managing and carrying out the Commercial Activities (CA) program. It provides standards for determining if an activity is included in the program, establishes procedures for review of activities to determine if they must be operated by government personnel, and provides instructions for studies to compare costs of contract vs in-house performance.

- Prescribes forms: DA Forms 5473-R, 5475-R, 5476-R, 5477-R, 5478-R, 5479-R, 5481-R, 7196-R, 7197-R, 7375-R, 7376-R, 7377-R, 7378-R, 7379-R, 7384-R and 7385-R. All references, uses, and instructions, for these prescribed forms can be located in DA Pam 5-20. All of the above forms may be electronically generated. The electronically generated forms must contain all data elements and follow the exact format of the existing printed forms. All required signatures must appear on the electronically generated forms. The form numbers of the electronically generated forms will be shown with an "-E" after the form number and the date will be the same as the date of the current edition of the printed forms.

Headquarters
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Effective 1 November 1997

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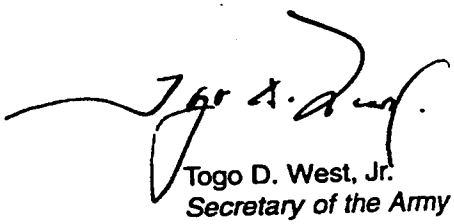
Commercial Activities Program



Togo D. West, Jr.
Secretary of the Army

History. This printing publishes a revision of this publication. Because this publication has been extensively revised, the changed portions have not been highlighted.

Summary. This regulation implements Office of Management and Budget Circular A-76, DOD Directive 4100.15, and DOD Instruction 4100.33. It provides guidance for managing and carrying out the Commercial Activities (CA) program. It provides standards for determining if an activity is included in the program, establishes procedures for review of activities to determine if they must be operated by government personnel, and provides instructions for studies to compare costs of contract vs in-house performance. Decisions to perform work under contract are made under the authority of the Armed Services Procurement Act and the Federal Acquisition Regulation and their supplements.

Applicability. This regulation applies to the U. S. Active Army and the Active Army Reserve. It applies to all organizations that include commercial activities.

Proponent and exception authority. The proponent of this regulation is the Assistant Chief of Staff for Installation Management. The proponent has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation. Proponents may delegate the approval authority, in writing, to a division chief, within the proponent agency in the grade of colonel or the civilian equivalent.

Army management control process. This regulation contains management control provisions, but does not identify key management controls that must be evaluated.

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from HQDA (ACSIM), Washington, DC 20310-0600.

Suggested Improvements. Users are invited to send comments and suggested improvements on DA 2028 (Recommended Changes Publications and Blank Forms) through appropriate command channels to HQDA (ACSIM), ATTN: DAIM-OP, 600 Army Pentagon, Washington, DC 20310-0600.

Distribution. Distribution of this regulation is made in accordance with initial distribution number (IDN) 092010, intended for command levels C, D, and E for Active Army, Army National Guard, and the U.S. Army Reserve.

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*This regulation supersedes AR 5-20 dated 21 October 1986.

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Chapter 1
Introduction

1–1. Purpose
This regulation provides policy and procedures for determining whether recurring commercial activities should be operated (a) in-house using Army facilities and personnel or (b) under contracts or agreements with commercial sources, state and local governments, and federal agencies outside the Department of Defense. This regulation implements Office of Management and Budget (OMB) Circular A-76, OMB Circular A-76 Revised Supplemental Handbook, DOD Directive 4100.15, and DOD Instruction 4100.33. Deviations from this regulation require prior written approval from HQDA (DAIM-OP).

1–2. References
Required and related publications are listed in Appendix A.

1–3. Explanation of Abbreviations and Terms
Abbreviations and terms used in this regulation are explained in the glossary.

1–4. Responsibilities
a. Assistant Secretary of the Army (Installations, Logistics and Environment) (ASA(IL&E)). The ASA(IL&E) represents the Army on CA Program issues with the Office of the Secretary of Defense (OSD), other services, other federal agencies, the Office of Management and Budget, and the Congress, except as designated. The ASA(IL&E) provides broad oversight for CA Program policies and exceptions to policy.

b. Assistant Secretary of the Army (Research, Development, and Acquisition) (ASA(RD&A)). The ASA(RD&A) provides acquisition management expertise and develops, coordinates, and publishes guidance on all aspects of procurement, such as but not limited to: acquisition planning, source selection, service contracting, contract administration, and quality assurance to support Army CA Program implementation.

c. Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA(M&RA)). The ASA (M&RA) provides civilian personnel and manpower management expertise and reviews the uses of anticipated and actual civilian space savings resulting from CA program implementation.

d. Department of the Army (DA), Director, Small and Disadvantaged Business Utilization (SADBU). The DA, Director, SADBU provides Small Business Program and Small Disadvantaged Business (SDB) expertise and develops, coordinates, and publishes guidance on SADBU policies and procedures to support Army CA Program implementation.

e. General Counsel of the Army (GC). The GC advises the Army Secretariat on all legal matters related to the CA Program.

f. Assistant Secretary of the Army (Financial Management & Comptroller (ASA(FM&C)). The ASA(FM&C) provides financial management and cost estimating expertise and, through its Budget Liaison, SAFM-BUL, represents the Army on program issues before the congressional appropriations committees.

g. Chief of Legislative Liaison (CLL). The CLL:

(1) Represents the Army on program issues before the congressional authorization committees.

(2) Monitors the development and passage of legislation affecting the CA Program and provides ACSIM with timely reports on pertinent legislation.

(3) Notifies Congress of the Army's intent to conduct cost competition studies, informs Congress of cost competition studies progress as required by statute, notifies Congress of cost competition study results, and responds to specific congressional inquiries regarding cost competition studies.

h. Chief of Public Affairs (CPA). The CPA represents the Army on CA Program issues before the news media and the public.

i. The Auditor General:

(1) Develops, coordinates, and publishes guidance for performing independent reviews of CA cost competitions.

(2) Performs the independent review of CA cost competitions involving more than 65 civilian FTEs. For cost competition studies involving 65 or fewer civilian FTEs, the Auditor General will conduct the review when requested, based on the availability of resources.

(3) Publishes audit guides for performing independent review of CA cost competitions.

(4) Reviews and approves contracts for CA independent reviews.

(5) In the independent review, the Auditor General will:

(a) Verify the reasonableness of cost estimates used in cost competition studies.

(b) Verify that the Most Efficient Organization (MEO) is based on the same performance requirements as included in the solicitation.

j. The Inspector General (TIG). TIG conducts special assessments/inspections of the CA process upon request.

k. The Judge Advocate General (TJAG). TJAG provides legal guidance, advice on legislation affecting the CA Program, and guidance to MACOM and installation Staff Judge Advocates (SJA) to support CA Program implementation.

l. The Assistant Chief of Staff for Installation Management (ACSIM). The ACSIM serves as the single point of contact for HQDA on issues affecting the CA Program. The ACSIM:

(1) Develops, coordinates, and publishes policies and procedures to implement the CA Program.

(2) Maintains an inventory of all Army commercial activities and cost competition studies.

(3) Reviews and approves all Army training criteria involving the CA Program.

(4) Monitors and supports the execution of the program through the MACOMs.

(5) Provides periodic reports to the senior leadership on cost competition study progress and milestone management.

(6) Responds to requests for deviation from this regulation.

m. Deputy Chief of Staff for Operations and Plans (DCSOPS). The DCSOPS:

(1) Provides force structure and skill sustainment expertise and, in coordination with DCSPER and ASA (M&RA), reviews the uses of anticipated and actual military space savings resulting from CA program implementation.

(2) Reviews requests for functions to revert to in-house operations when contracted work is recommended for transfer to MTOE units.

n. Deputy Chief of Staff for Personnel (DCSPER). The DCSPER:

(1) Provides military personnel management expertise.

(2) In coordination with DCSPER and ASA (M&RA), reviews the uses of anticipated and actual military space savings resulting from CA Program implementation.

(3) Develops, coordinates, and publishes rotation base policy.

o. Functional proponents. HQDA elements that are functional proponents for commercial activities will:

(1) Designate an official as the point of contact for resolving CA program-related issues.

(2) Participate in review of proposed exceptions to CA policies and procedures.

(3) Review guidance on improvements in staffing, organization structure, and work methods to increase the operating efficiency and competitiveness of the commercial activities for which they are proponent.

(4) Provide lessons learned on competitions.

p. Field operating agency (FOA) and staff support agency (SSA) proponents. HQDA elements that are proponents for FOAs and SSAs have CA Program management responsibility for the FOA or SSA equivalent to the MACOM for management of installation CA Programs.

q. MACOM commanders. Commanders of Major Army Commands will:

(1) Ensure that cost competition studies are conducted until all identified potential CAs have been studied.

(2) Direct, manage, and implement the Army CA program by:

(a) Providing written guidance and on-site assistance to installation cost competition study efforts.

(b) Maintaining an inventory record of all commercial activities in the command.

(c) Conducting post-MEO performance reviews of not less than 20 percent of the functions performed in-house or by IGS as a result of cost competition studies.

(3) Maintain and document actual resource savings (funds and military and civilian authorizations) resulting from CA program implementation.

(4) Provide training on the policies and procedures of the CA program to ensure the skills necessary to meet the requirements of this regulation.

r. Installation Commanders. Commanders of installations, FOAs, SSAs, and of other organizations that report directly to a MACOM will:

(1) Ensure that personnel are trained in policies and procedures of the CA program to obtain the skills necessary to meet the requirements of this regulation.

(2) Maintain an inventory of all commercial activities.

(3) Review the cost of commercial activities (in-house, contract, and IGS), identify ways to improve efficiency, and implement identified improvements (para 2-5).

(4) Select the commercial activities for direct conversion (para 4-2) and cost competition studies.

(5) Conduct direct conversion and cost competition studies following the procedures outlined in this regulation and in DA Pam 5-20.

(6) For CAs with 11 or more civilian employees, certify before cost comparison bid opening (also known as initial decision or tentative decision) that the in-house organization reflected in the cost comparison is the MEO.

(7) Ensure that the in-house, contract, or IGS activities operate in the most cost effective and efficient manner after the cost comparison decision.

(8) Maintain and document actual resource savings (funds, and military and civilian authorizations) resulting from CA program implementation.

(9) Make every effort to avoid the involuntary separation of permanent employees and assist all employees adversely affected by direct conversions and CA cost competitions in finding suitable employment. These efforts will include retraining, job placement assistance, and first-refusal rights to jobs with the contractor (Federal Acquisition Regulation (FAR) 52.207-3). (DA Pam 5-20, Chapter 10.)

(10) Provide contracting and other support that tenants need to implement their CA program.

(11) Complete cost competition studies in the shortest time possible. (DA Pam 5-20, paragraph 2-4). Report through the MACOM to HQDA on all cost competition studies that exceed 18 months for a single-function study and 36 months for a multi-function study (paragraph 4-5c below).

(12) Appoint a CA program manager to manage the implementation of the CA Program. (DA Pam 5-20, paragraph 2-3)

(13) Provide information on the CA competition process to managers, employees, labor unions, and other employee representatives to promote understanding of the program's objectives, to provide the opportunity to contribute to the competition process, and to gain support for program implementation.

1–5. General Policy

a. Operate with the minimum required resources.

b. Obtain commercial activities services at the required quality and quantity of work at the lowest possible cost.

c. Perform a Full or Streamlined Cost Competition study IAW DA Pam 5-20, CA Study Guide—

(1) Before converting a CA from in-house to contract performance or from contract to in-house performance, except as provided in paragraph 4-2.

(2) Before starting or expanding any CA, as provided in paragraph 2-4.

(3) Before converting a CA to or from performance by a non-DOD Intragovernmental Support (IGS) provider, except as provided in paragraph 4-4.

(4) Before converting a CA to or from performance by State or local government agency except for emergency circumstances such as disaster relief requirements.

d. Obtain MACOM approval before converting any activity to or from contract, in-house or IGS performance, as provided in paragraph 4-5*d*.

e. Use procedures in DA Pam 5-20, paragraph 5-1 for Cost Competition studies for Federal Aircraft or Aviation Services and Motor Vehicle Fleet Management Services.

f. Complete cost competition studies in the shortest time possible, but not to exceed 18 months for a single-function activity or 36 months for a multi-function activity (from public announcement to cost comparison bid opening).

g. Obtain HQDA approval before providing commercial activities to the private sector.

h. Manpower requirements determination processes will not be conducted on functional areas announced for cost competition study or on which cost competition study has been completed in the last year.

i. Commercial activities shall not be modified, reorganized, divided, or in any way changed for the purpose of circumventing the requirements of this regulation.

j. This regulation does not apply in times of war or military mobilization.

1–6. Legislative/Administrative Exclusions

a. Depot-level maintenance of mission-essential materiel at Army depots (core logistics). The Secretary of Defense may waive this exclusion on a case-by-case basis. (10 USC 2464, 2466, and 2469). MACOM requests to waive this exclusion and use the procedures in this regulation will confirm all of the following:

(1) Private sector performance will not adversely affect mobilization requirements or other readiness considerations.

(2) The private sector is capable of providing the technical competence and resources necessary to perform the activity.

(3) The private sector is capable of performing if surges occur.

(4) The activity is separable from those core logistics activities that do require performance by Army personnel.

(5) The Army retains essential management responsibility.

(6) The Army retains ownership and accountability of essential facilities and equipment.

b. Fire protection and security guard services performed by Army personnel (10 USC 2465). However, the cost competition requirements apply to fire protection and security guard services already under contract. This prohibition does not apply to purely civil works fire protection and security guard functions, as these are funded through separate civil works appropriations and not through DOD appropriated funds.

c. Operation of the Crane and McAlester ammunition plants. (Public Law 99-661)

d. Installations that are 180 days from closure as a result of BRAC action. Contracts must not start before the announced closure date. Police services, fire protection services, and airfield operations at BRAC installations may be contracted with the local government. (Public Law 103-160, section 2907)

e. Production operations performed in contractor-owned plants (10 USC 4532, often known as the "Arsenal Act").

f. Purely civil works functions funded entirely by civil works appropriations. CA Program policy and procedures for purely civil works and mixed funded activities are contained in U.S. Army Corps of Engineers regulation ER 5-1-3.

g. OCONUS commanders may conduct cost competition studies

for commercial activities when doing so conforms with applicable laws, treaties, and international agreements.

h. Consulting services (governed by AR 5-14).

i. Operations funded entirely by non-appropriated funds (NAF). However, this regulation is mandatory for CA when they are staffed partially with DoD employees paid by or reimbursed from appropriated funds, such as libraries, child development centers, and other morale, welfare, and recreation (MWR) activities. Also, when related installation support functions are being studied, the commander may decide that it is practical to include these functions.

j. Privatization of a commercial activity, when the Army transfers ownership, control, and responsibility for performance of the activity, is not a commercial activity conversion to contractor performance. For example, privatization of a wastewater treatment plant or an electrical distribution system may be accomplished by transferring ownership of facilities, with or without land, along with the operation and maintenance responsibility for the plant or system, to a commercial utility company. The transfer to a non-federal entity ends Army involvement in the activity and provision of service. The Army no longer determines requirements or provides quality assurance for the service, and does not have control of provision of the service or operation and maintenance of the facility. These privatizations are not subject to the cost competition requirements of this regulation.

1–7. Program Goal

The goal of the Army's Commercial Activities (CA) Program is to obtain the most cost effective commercial services through fair and open competition, consistent with the Army's national defense requirements.

Chapter 2
Review of Commercial Activities

2–1. The Army Commercial Activities Inventory

The Army CA Inventory, a listing of all CAs performed by or for the Army, provides information on the location of the CAs, the functions they perform, and the resources spent to perform them. All CAs will be entered in the CA Inventory, including those currently exempted from cost competition study. The CA Inventory provides the information necessary for annual reports to the Congress required by law.

2–2. Inherently Governmental Activities

a. Governmental functions are services that are so intimately related to the public interest that only government personnel can perform the work. These include activities which require the exercise of discretionary authority to set or change regulatory policies, or to make value judgments in the act of governing. Office of Federal Procurement Policy Letter 92-1 (DA Pam 5-20, Appendix D) provides guidance on identifying inherently governmental functions.

b. Activities considered contractible may include individual positions that perform noncontractible (governmental) functions. Competition planners should identify the governmental functions (not positions) at the outset of the cost competition study process. The management study conducted during the cost competition study process will identify MEO for both governmental and contractible functions, but the governmental functions will not be included in the cost comparison and may not be converted to contract.

2–3. Cost Competition Study Waivers

Requests for waivers to allow conversion to or from in-house, contract or IGS without cost competition study must be submitted through command channels to the ASA(IL&E) for approval.

a. The waiver request must contain documentation that demonstrates:

(1) The conversion will result in a financial improvement (greater than the conversion differential) or service quality improvement and will not significantly reduce the level or quality of competition of future performance of the work; or

(2) In-house or contract offers have no reasonable expectation of winning a cost competition conducted in accordance with this regulation.

b. The waiver request must also contain documentation that demonstrates that the various legal restrictions on converting DOD functions to contract (such as Section 8015 of the FY 97 DOD Appropriations Act and 10 USC 2461, 2462, and 2465) do not apply. (Approval of an "OMB Circular A-76 waiver" does not constitute a waiver of any law.)

c. Justification for a waiver is subject to administrative appeal procedures, but a decision not to issue a waiver is not subject to appeal.

d. Federal employees adversely affected by a decision to waive a cost competition study shall be afforded the same personnel considerations provided in Chapter 3 of this regulation.

2–4. New Requirements and Expansions

a. New Requirements. A new requirement will be obtained by a competitively awarded contract. If there is reason to believe that the contract service quality or price may be unreasonable, a cost competition study is conducted to justify in-house or IGS performance. A DA Form 7375-R (Commercial Activities Proposed Action Summary) (CPAS - paragraphs 4-5d & e) will be submitted to the MACOM for approval before beginning the cost competition study. (DA Pam 5-20, paragraph 2-5)

b. Expanding In-House Activities. An expansion is the modernization, replacement, upgrading or the enlargement of an in-house commercial activity or capability. If the expansion involves a 30-percent increase in the operating cost of the activity, a 30-percent increase in the total capital investment to perform the activity, or an increase of 65 civilian FTEs or more, a cost competition study of the entire activity is required prior to authorizing in-house performance of the expanded workload. A consolidation of two or more existing commercial activities is not an expansion unless the total operating cost is 30 percent greater than the total of the individual components or it requires an increase of 65 civilian FTEs or more. A DA Form 7375-R will be submitted to the MACOM for approval before beginning the cost competition study.

2–5. Contract Reviews

a. Contracted CAs will be continually monitored to ensure that performance is satisfactory and cost effective.

b. If a contractor selected through the cost competition study defaults during the first year of performance, the following procedures apply:

(1) If the next offeror in line for award from the cost competition study is still available and is willing to accept the balance of the work at the offered price, adjusted on a pro rata basis for the remainder of the contract term, the contracting officer will award to that offeror.

(2) If the MEO is the next lowest price, and MEO implementation is still feasible, then the activity will return to in-house performance

(3) If (1) and (2) above do not apply, then either issue a solicitation to return activities to the private sector without a cost competition study, reprocure from another contractor who offered a reasonable price on the original solicitation, or initiate a Transfer Cost Competition Study to justify conversion to in-house or IGS not later than six months after the original contractor defaults.

c. If the contractor defaults after the first year of performance, the following procedures apply:

(1) Seek interim contract support. If interim contract support is not feasible, MACOM may approve in-house or IGS performance on a temporary or emergency basis not to exceed one year. Installations will staff interim commercial activities solely with temporary-status civilian employees, permanent employees on temporary assignment, or the use of soldiers on special duty. Impacts of specia

duty on readiness must be reported in accordance with provisions of AR 220-1.

(2) Issue a solicitation to return interim activities to the private sector without a cost competition, reprocure from another contractor who offered a reasonable price on the original solicitation, or initiate a Transfer Cost Competition Study to justify conversion to in-house or IGS not later than six months after the original contractor defaults.

d. In case of an emergency, the procedures in paragraph *c*(1) above apply.

e. If the contract quality is unacceptable or the price increases significantly, the contracting officer will negotiate with the contractor to obtain reasonable prices or acceptable quality. If negotiation fails, and resolicitation does not result in reasonable prices, the installation will conduct a Transfer Cost Competition Study to justify conversion to in-house or IGS performance. Notify the MACOM that the manpower required to perform the activity in-house is or is not available prior to issuing solicitation.

f. Before beginning a Transfer Cost Competition Study (DA Pam 5-20, Chapter 9) and transferring contracted work to in-house performance, the commander will submit a DA Form 7375-R to the MACOM for approval.

g. Commanders may temporarily transfer contracted work to in-house performance by MTOE units without a cost competition study when required for unit training or sustainment of critical skills. Commanders will request and obtain HQDA approval through MACOM before transferring contracted work to a MTOE unit. When the unit departs the installation or no longer requires the work to satisfy training requirements, the installation will resolicit to return the work to contract performance.

2–6. Post-MEO Performance Reviews

a. When services are performed in-house as a result of a cost competition study, including those involving IGS, a Post-MEO Performance Review of the MEO will be conducted at the end of the first full year of performance (DA Pam 5-20, paragraph 10-10). If the review reveals failure to implement the MEO in accordance with transition and management plans and deficiencies are not corrected, the contracting officer will reaward the work to the next offeror who participated in the cost competition study. If award to the next offeror in line is not feasible, a cost competition study will be initiated.

b. The organization, position structure, and staffing of the reorganized activity (MEO) will not normally be altered for at least one year after the final decision. The exception is that the MEO may be changed in the first year if significant changes are made to the functions and workloads in the Performance Work Statement (PWS). After the activity is reorganized into the MEO, it will operate under the performance standards established by the PWS and solicitation package just as a contractor would have been expected to do. The performance standards will be modified when any changes in functions or workloads occur after the initial reorganization. Any reorganization or changes to the MEO during the first year will be fully documented to show the reasons for the change and will be included in the cost study records.

c. The MACOM will review not less than 20% of the functions performed in-house as a result of a cost competition study completed in the prior year. This review will be conducted after one full year of performance.

Chapter 3
Personnel Considerations

This chapter provides guidance on impact of CA cost competition studies and direct conversions on civilian and military personnel.

3–1. Civilian Personnel Management

Commanders will ensure that the Civilian Personnel Activity Center (CPAC) is brought into the CA planning, review, and conduct of cost competition studies from the beginning of the process. The CPAC, as a representative of the commander, should coordinate with the Civilian Personnel Operations Center (CPOC), management officials, the Equal Employment Opportunity Office, employees, and union officials to minimize personnel turbulence and adverse effects on employees.

3–2. Requirement to Consult with Employees

At least monthly during the conduct of the cost competition or direct conversion study, commanders shall consult with civilian employees who will be affected by the study and consider their views on the development and preparation of the PWS and management study. (10 USC 2467)

3–3. Right of First Refusal

Federal employees and existing Federal support contract employees adversely affected by a decision to convert to contract or IGS performance have the Right-of-First-Refusal for jobs for which they are qualified. A standard clause is included in direct conversion and cost competition study solicitations notifying potential contractors of this requirement (see FAR 52.207-3).

3–4. Reduction-in-force (RIF) planning

The goal of RIF planning is to minimize adverse personnel actions. Every reasonable effort will be made to place or retrain civilian employees displaced as a result of CA cost competition studies and direct conversions. Where no vacancies exist or are projected, coordinate with appropriate state employment offices to pursue possibilities for retraining opportunities under the Job Training Partnership Act or similar retraining programs for transitioning to the private sector. A RIF may be unavoidable even after all reasonable placement efforts have been made. In that event, every effort will be made to help separated employees find continuing employment elsewhere, particularly through first refusal rights with the CA contractor. (DA Pam 5-20, paragraph 2-10)

3–5. Military personnel

Military positions may be included in the MEO and retained if the cost comparison results in an in-house decision, provided they meet the military essentiality criteria of AR 570-4 and are properly documented in authorization documents. In the event of a contract or IGS decision, military personnel will be reassigned IAW appropriate Army regulations. While uniformed positions may or may not be converted to civilian positions as a part of this process, the conversion of in-house civilian positions to military is not authorized.

Chapter 4
Cost Competition and Direct Conversion Studies

Section I
Study Criteria and Requirements

4–1. General

Cost competition studies determine whether a CA will be performed by in-house, contract, or IGS personnel. This method of performance is used for future work unless a later cost competition study changes the determination. Except where criteria in paragraphs 1-6 or 4-2 are met, activities shall not be converted to or from in-house, contract, or IGS performance without a cost competition study. A DA Form 7375-R paragraphs 4-5*d* & *e* will be submitted to the MACOM for approval before beginning and a Final Decision Report before implementing a Full Cost Competition Study, a direct conversion study (para 4-2) or a Streamlined Cost Competition Study (para 4-3). The six major process components of a Full Cost Competition Study are:

a. Development of a Performance Work Statement (PWS). (DA Pam 5-20, Chapter 3)

b. Development of a Quality Assurance Surveillance Plan (QASP). (DA Pam 5-20, para 8-6)

c. Performance of a management study which includes the development of the in-house Most Efficient Organization (MEO). (DA Pam 5-20, Chapter 4)

d. Cost estimating. (DA Pam 5-20, Chapter 5)

e. Issuance of a Solicitation (Request for Proposals (RFP) or Invitation for Bids (IFB)). (DA Pam 5-20, Chapter 6)

f. Cost Comparison (comparison of the in-house bid against a proposed contract or IGS price) and the administrative appeal process. (DA Pam 5-20, Chapter 7)

4–2. Direct Conversions

A Full or Streamlined Cost Competition Study is required unless the function meets one of the following conditions:

a. Ten or fewer in-house civilian employees. The commander may convert in-house or IGS activities performed by 10 or fewer in-house civilian employees (and any number of military personnel) to contract, without a cost competition study, if (1) the contracting officer determines that offerors will provide required levels of service quality at fair and reasonable prices and (2) the Table of Distribution and Allowances (TDA) for the activity had 10 or fewer civilian authorizations on 30 Mar 94, the date of the passage of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226).

b. Small contracts. The commander may convert contracted activities to in-house or IGS without a cost competition study if (1) the work can be performed in-house by 10 or fewer civilian FTEs and (2) the contracting officer determines that performance is unsatisfactory or that fair and reasonable prices cannot be otherwise obtained.

c. Eleven to forty-five civilian employees. The commander may convert in-house activities performed by 11 to 45 civilian employees and any number of military personnel to contract or IGS, without a cost competition study, if (1) fair and reasonable prices can be obtained through competitive award, (2) all directly affected Federal employees serving on permanent appointments are reassigned to other comparable Federal positions for which they are qualified, and (3) the existing in-house organization is certified as the MEO.

d. Preferential Procurement Programs. The commander may convert in-house activities of any size to contract performance without a cost competition study if the contract is awarded to a required source of supplies and services as defined in FAR Part 8 at a fair market price, even if the conversion results in adverse employee actions.

e. Installations scheduled to close within 180 days.

f. Functions designated for termination on a specified date. Requests will be submitted through the MACOM to HQDA for approval.

g. IGS. (See para 4-4 for criteria under which conversions are authorized without cost competition study).

h. National Defense or Intelligence Security. Commercial activities may be performed by in-house, contract or IGS, without cost competition study, when required to assure the national defense or national intelligence security. The Secretary of Defense, or designee, approves national defense justifications. The Director of Central Intelligence, or designee, approves national security justifications.

i. Patient Care. Commercial activities at government-owned hospitals or other health facilities may be performed by in-house, IGS or contract, without cost competition study, when needed to maintain the quality of direct patient care. Requests will be submitted through the MACOM to HQDA for approval.

j. Research and Development (R&D). R&D activities may be converted to or from in-house, contract or IGS without cost competition study. However, severable R&D support activities are subject to the cost competition study provisions of this regulation.

k. CAs staffed solely with military personnel, regardless of size, may be converted to contract without a cost competition study when the contracting officer determines that offerors will provide required levels of service quality at fair and reasonable prices.

4–3. Streamlined Cost Competition Studies

Streamlined Cost Competition study procedures (DA Pam 5-20, para 5-22) may be used to convert in-house activities to contract or IGS performance when all of the following criteria are met:

a. The activity is staffed with 65 or fewer civilian FTEs and any number of military personnel (and the study has been announced to Congress IAW paragraph 4-5e(1) below if the activity is being performed by more than 45 civilian employees);

b. The commander or designee certifies the existing in-house organization as the MEO;

c. The activity is one that competes largely on a labor and material cost basis such as, but not limited to, custodial, grounds, refuse, pest control, warehousing, and maintenance services;

d. The activity will not require significant capital asset purchases or all equipment requirements will be government furnished/contractor operated; and

e. The activity is commonly contracted by the government and/or private sector; for example, there are not less than four comparable Defense contracts of the same general type and scope and the range of the existing service contract costs are reasonably grouped.

4–4. Intragovernmental Support (IGS)

IGS may offer the opportunity to reduce costs through economies of scale. The cost competition study procedures established by this regulation are to be used to determine when services should be performed by in-house, contract, or IGS resources. For the purpose of the IGS provisions of this regulation, the term IGS is defined as support provided by or to a Federal agency outside DOD. Support agreements with other Army, Navy, or Air Force installations or with other DOD activities are not governed by this regulation, with the following two exceptions: (1) A cost competition study is required when a Support Agreement with another DOD activity would result in a change to or from contract performance and (2) pursuant to OMB Circular A-126, a cost competition study shall be conducted before providing aviation services (DA Pam 5-20, App C).

a. Prior to 1 Oct 97. To encourage consideration of IGSs, commanders may consolidate existing, new, or expanded work requirements to IGSs, without cost competition study, if:

(1) That work is transferred prior to 1 Oct 97.

(2) The consolidation does not result in a conversion of work to or from contract performance.

(3) The conversion is not otherwise authorized by this regulation.

b. Effective 1 Oct 97.

(1) Existing IGS may be continued or renewed without cost competition study. Also, support services may be consolidated into new, intra-service revolving or franchise funds without cost competition study provided the consolidation does not change the method of performance.

(2) New or expanded IGS support requests must be justified by a cost competition study.

(3) If the IGS provider has competed the same type work with the private sector, the provider may increase capacity up to 30 percent or 65 civilian FTEs without a cost competition study. If a new or expanded IGS would result in a conversion of work to or from in-house or contract performance and a cost competition study has not previously justified the provider's method of performance, a cost competition study is required.

c. Cost competition studies conducted to justify IGS are subject to independent review and appeal.

d. The commander may, with proper notification to the provider, terminate an IGS and convert directly to contract performance without a cost competition study. However, a cost competition study is required to convert the work to in-house performance..

e. A prospective provider responding to a formal solicitation shall submit to the requesting agency a synopsis, management plan, and certification that the provider's reimbursable cost estimate is developed in accordance with this regulation. A complete response as required by the FAR is not required.

f. Under no conditions shall cost comparison bid opening or contract award be canceled or otherwise delayed in order to permit an IGS offeror to submit a price or reimbursable rate.

g. The requester may accept or reject the prospective provider's

offer as technically qualified or unqualified as it deems appropriate and without appeal.

h. Commanders who wish to provide commercial activities to another agency may petition the agency to conduct a cost competition study.

i. Cost competition studies must be conducted prior to offering to provide or receive commercial services to or from state or local government agencies except for emergency circumstances such as disaster relief requirements.

4–5. Reporting Requirements

a. CA Inventory. Inventory of all Army commercial activities will be maintained at all command levels. The Army CA Inventory includes information, by CA Function Code (DA Pam 5-20, App E), on all in-house and contracted activities, whether or not such activities are subject to the cost competition requirements of this regulation. Commanders may update their CA Inventory as changes are made and will submit their updated CA Inventory (RCS DD-A&L(A)-1540) in accordance with annual guidance issued by HQDA. As specified in DODI 4100.33, HQDA submits the CA Inventory to OSD by the first workday in January each year.

b. ACAMIS. The Army CA Management Information System (ACAMIS) provides information on and status of all cost competition and direct conversion studies. Upon receipt of a CPAS, the MACOM will obtain a study number from HQDA and provide it to the installation to include in ACAMIS. Commanders should initiate a record in ACAMIS upon receipt of the study number and update ACAMIS as changes are made. Commanders will submit their updated ACAMIS (RCS DD-A&L(Q)-1542) in accordance with guidance issued periodically by HQDA.

c. 18-month/36-month report. Commanders will forward a report through the MACOM to HQDA for each cost competition study that may exceed 18 months for a single-function study or 36 months for a multi-function study (from public announcement to cost comparison bid opening). Include in the report the location/function studied, number of FTEs affected, description of problems encountered, remedial actions, status, announcement date, originally projected cost comparison date, and latest projected cost comparison date. MACOM will forward the report to HQDA 30 calendar days before the date the above timeframes may be exceeded. IAW DODI 4100.33, HQDA submits this report to OSD one month before the date the above timeframes may be exceeded.

d. CPAS and Final Decision Report. Commanders will submit for MACOM approval a DA Form 7375-R (Commercial Activities Proposed Action Summary) (CPAS) (RCS CSCOA-112) before beginning and a DA Form 7379-R (Commercial Activities Final Decision Report) (RCS CSCOA-113) before implementing the results of any cost competition or direct conversion (in-house to contract or contract to in-house) — but must wait for Congressional notification before proceeding in the instances covered in paragraph 4-5e below. (DA Pam 5-20, paras 2-5 and 7-8.) MACOMs will forward a copy of the approved DA Form 7375-R to HQDA (DAIM-OP) within 5 business days of approval.

e. Congressional Notifications.

(1) Pre-study Announcement (over 45 civilian employees). IAW 10 USC 2461, a pre-study Congressional announcement is required before beginning a cost competition study of an in-house activity being performed by more than 45 civilian employees. The MACOM submits a request for Congressional announcement to the HQDA Office of the Chief Legislative Liaison (OCLL) upon receipt of a DA Form 7375-R from an installation. (DA Pam 5-20, para 2-6)

(2) Final Decision Notification (over 10 civilian employees). This notification is required after final decision but before the decision is implemented, for a cost competition study of an in-house activity being performed by more than 10 civilian employees. The MACOM submits a request for Congressional notification to OCLL upon receipt of the DA Form 7379-R from an installation. The report must be received at MACOM not later than 10 working days before the desired final decision implementation date. The desired final decision implementation date is the date desired to cancel the solicitation and award the contract, provide authority to proceed with conditional award, or implement the MEO. (DA Pam 5-20, para 7-8)

(3) Military personnel are not counted when determining if congressional notification is required.

4–6. Releasing Program Information

a. Release of Public Announcements. Periodic announcements will be made to affected employees and other interested parties on direct conversion and cost competition study plans and progress. This includes the following as a minimum:

(1) The local commander announces the intent to conduct a cost competition study or direct conversion immediately after OCLL announces the study to Congress (if required) and the MACOM returns the approved DA Form 7375-R to the installation. (DA Pam 5-20, paras 2-5 & 2-6) By law (10 USC 2467), the commander must consult with the affected work force at least monthly throughout the course of the study and consider their views on the development and preparation of the PWS and management study. (DA Pam 5-20, paras 2-8 & 2-9) (Note: Management reserves the authority to determine MEO resources, but affected employees or their representatives are encouraged to participate in developing management improvements.)

(2) At the cost comparison bid opening for a full cost competition study, the contracting officer announces the initial results as well as the start date and duration of the public review and appeals period.

(3) For a Streamlined Cost Competition Study, the initial decision will be announced after completing the comparison of in-house and contract or IGS costs.

(4) For direct conversions and Streamlined Cost Competition Studies, the local commander announces the conversion after the contract is signed but before it is provided to the contractor.

b. Information Requests and the Freedom of Information Act (FOIA). The FOIA (Exemption 5), DODD 5400.7-R, and AR 25-55 exempt from disclosure the cost competition study information listed below before cost comparison bid opening. The commander will appoint an installation official to receive information requests and release information related to the cost competition study. That official is normally the contracting officer. The releasing official will follow the guidelines in the FOIA, DODD 5400.7-R, and AR 25-55 when responding to all information requests.

(1) The releasing official will consult with the CA Program Manager, legal advisor, the study team leader, the contracting officer, and the manager of the competing CA before responding to each information request.

(2) The releasing official will not release any information that reveals the in-house cost estimate or from which the in-house estimate could be readily derived before the cost comparison. Such information is exempt from release under the FOIA. This includes:

(a) The in-house cost estimate.

(b) The proposed TDA for the MEO.

(c) The management study report.

(d) Preliminary management studies and products of manpower requirements determination processes if they reveal the in-house staffing estimates.

(e) Budgets for the activity if they show the projected operating costs or personnel resources of the MEO.

(3) For Streamlined Cost Competition Studies only, cost competition study information and backup documentation is provided to affected parties prior to solicitation.

(4) The installation will provide contractors or IGS offerors with the information required to fully understand the nature and scope of work in the commercial activity. Information that normally should be provided to requesters includes:

(a) Past, current, or projected workload requirements necessary for a contractor or IGS offeror to prepare an offer.

(b) Past or current TDA documents and staffing information unless past or current TDA is the MEO.

(c) Past or current operating procedures.

(d) Past budget execution reports or other historical reports on resource consumption and the total cost of operations.

c. Contractors' Tours of Army Facilities. The functional manager should caution affected employees about talking with contractor representatives during site visits and establish guidelines for recognizing authorized and unauthorized visitors. The contracting officer is the contractors' only authorized source of information on questions relating to the competing activity.

Section II
Acquisition Procedures

Action to conduct a cost competition of an activity will proceed with the assumption that commercial sources are available and fair and reasonable prices and acceptable service can be obtained. Determination that there are no available commercial sources will be made only if there is no acceptable response to an unrestricted solicitation for the activity being studied.

4–7. Performance Work Statements (PWS)

A PWS will be developed for all Cost Competition Studies. The PWS will describe all functional and performance requirements of the work, the location of the work, the units of work, the quantity of work units, and the quality and timeliness of the work units. (DA Pam 5-20, Chapter 3)

a. Facilities and equipment. According to general policy set forth in the FAR, the government will offer or not offer existing facilities and equipment to a contractor depending on which is in the government's best interest. Offering the facilities and equipment on hand, and programmed for use by the MEO, to prospective contractor is normally in the government's best interest as the most economical and competition-enhancing alternative. The decision not to offer existing facilities and equipment to prospective contractors will be based on a comprehensive, documented analysis of the costs and benefits of offering versus reprogramming the facilities and equipment. (DA Pam 5-20, paragraph 3-10)

b. Supplies and materials. The contractor will normally provide the supplies and materials necessary to perform the work described in the contract or IGS agreement. The policy regarding contractor use of government supply sources is set forth in FAR 51.101. The contracting officer may authorize contractors to use government supply systems under cost-reimbursement contracts after contract award, based on specific requests, justification, and adherence to stated procedures for ordering, furnishing assistance, payment and title transfer. (DA Pam 5-20, para 3-10)

4–8. Wage Rates (DA Pam 5-20, para 6-10)

Commercial activities contracts may require the application of the Service Contract Act (SCA) or the Davis-Bacon Act (DBA). Work will not be separated or aggregated to avoid the applicability of either the SCA or the DBA. Service call or work order estimates used to determine the applicability of either act will be based on the least cost alternative.

a. Service Contract Act (41 USC 351-358). Contracts for $2500 or more subject to the SCA require wage determinations from the Department of Labor. The contracting officer will request a wage determination from Department of Labor no earlier than 120 calendar days, and no later than 60 calendar days, before the solicitation release date. When a delay of 60 or more calendar days occurs in the solicitation process, the contacting officer will request an updated wage determination from Department of Labor.

b. Davis-Bacon Act (40 USC 601 et seq).

(1) Normally, construction projects are not included in CA studies and will be competed separately. However, requirements in a contract (subject to the SCA) calling for construction, alteration, renovation, and painting performed in response to a service call or work order in excess of $2,000 are subject to the DBA.

(2) Installation support services such as building maintenance, grounds maintenance, plant operations, custodial services and snow removal are subject to the SCA. When the service call or work order is clearly for maintenance work, the SCA will apply regardless of dollar value.

(3) When the service call or work order is clearly for construction, alteration, renovation or painting, the DBA will apply unless the value of the work order is less than $2,000 in which case the SCA will apply.

4–9. Solicitation (Invitation for Bids (IFB) or Request for Proposals (RFP))

a. The cost competition study process identifies the least costly method of performance of a commercial activity. Since the least costly method of performance is not known in advance, the Army compares the cost of in-house, contract or IGS performance to identify whether it is less expensive to continue the current method of performance or convert. To compare these costs requires soliciting offers from contractors through an IFB or RFP. (DA Pam 5-20, Chapter 6)

b. Solicitations may be issued at any time after appropriate command approval, but not until the PWS is completed and management study is approved, as required. (DA Pam 5-20, para 4-7)

c. When a solicitation or unrestricted resolicitation fails to produce an acceptable bid or offer, the commander will request approval from the MACOM to end the study.

4–10. Contract Administration

Although many people are important in ensuring that a contractor performs according to the specifications, the contracting officer is responsible for the overall administration of the contract. The roles and responsibilities of the functional managers, the Contracting Officer's Representative (COR) and the Quality Assurance Evaluator (QAE) during the transition and after conversion will be clearly defined and documented in the contract administration plan. (DA Pam 5-20, Chapter 8)

4–11. Occupational Safety and Health Act (OSHA)

As employers, both the government and the private sector are required to provide a safe workplace. With the exception of military unique equipment, systems and operations, the standards established under the OSHA for private sector employers are the Army safety standards. Solicitations will list the deficiencies in work sites identified in the most recent annual inspection. Solicitations will not include work to bring government furnished facilities into compliance with OSHA. Likewise, OSHA-required repairs will not be included in the in-house cost estimate. Offerors will be informed of the government's intention to correct the deficiencies, or any deficiencies later discovered, at its expense, taking into account safety and health priorities.

Section III
Management Study Procedures

4–12. Requirements for Management Studies

a. A management study will be conducted for all Full Cost Competition Studies. (A management study may not be performed after receipt of MACOM approval to perform a Streamlined Cost Competition Study.) The primary products of the management study are the MEO and, if required by the solicitation, the technical performance plan. (DA Pam 5-20, Chapter 4)

b. The MEO describes the staffing and position structure required to perform the work. The MEO is the basis for the in-house cost estimate. The technical performance plan reflects the MEO and equates to an achievable level of performance that corresponds to the quantity and quality of work described in the PWS. (DA Pam 5-20, para 4-1)

c. Required approvals for acquisition of equipment and facilities must be obtained before approval of the management study. This applies unless such approval depends on the approval of the management study or the outcome of the cost comparison. Effort to obtain conditional approval will be documented.

d. The management study will be completed and approved before the independent review (para 4-14). Commanders will ensure that

the solicitation and the MEO are based on the most current workload data. Changes that require revisions of the in-house cost estimate after the independent review is complete also require another review by the independent reviewer. In any event, changes to the MEO are prohibited after receipt of bids or initial offers, except if required following comparison of the in-house and selected contractor's technical performance plans. (DA Pam 5-20, para 6-22)

e. If essential information in the management study is classified, the classified material will be included in a separate classified appendix.

4–13. Certification and Implementation of Most Efficient Organization (MEO)

a. MEO Certification. The MEO is certified in Item 19 of the cost comparison form. (DA Pam 5-20, para 5-6) The certifying official may be any technically competent individual (1) organizationally independent of the function under study or (2) at least two levels above the most senior official included in the in-house cost estimate. The certifying official must also be able to commit to the provision of necessary resources to perform the activity. Such certification is made before the review of bids or proposals.

b. MEO Implementation.

(1) The MEO will begin to be implemented upon the commander's approval. This precludes continued expenditure of resources at levels higher than necessary and allows the MEO and methods improvements to be tested.

(a) If the management study team discovers unauthorized work being performed, that work will be discontinued when that study finding is verified by the functional manager.

(b) More cost effective methods will be implemented as they are identified.

(c) Where practical, attrition and management-initiated reassignments of employees from excess positions will be used to implement the MEO. There is no policy in this regulation that further restricts the commander's authority to locally determine whether to use reduction-in-force procedures to reorganize into the MEO prior to cost comparison bid opening.

(2) Once a decision is reached to retain a CA as an in-house operation, commanders and managers at all levels will ensure that -

(a) The in-house work force complies with the management study, including the MEO.

(b) The work and mission requirements performed by the in-house work force are in accordance with the PWS.

(c) The function is performed within the cost levels established in the in-house cost estimate.

(d) The in-house work force implements levels of performance and QA measures required of potential contractors and described in the PWS and the resulting solicitation upon which commercial firms submit offers.

Section IV
Independent Review, Cost Comparison, and Administrative Appeals

4–14. Independent Review of the In-house Cost Estimate (DA Pam 5-20, para 5-36)

a. The in-house cost estimate shows the cost to the government of performing the work in the PWS with the proposed in-house organization (MEO). The in-house cost estimate also establishes the costs to be added to the contract price to arrive at the full cost of contract performance. The completed estimate, supporting documents, the PWS, and the management study will be provided to the independent reviewer. USAAA will review in-house cost estimates for functions with over 65 civilian FTEs. For functions with 65 or fewer civilian FTEs, the installation may use their Internal Review Office, the MACOM, or other government or commercial sources approved by the MACOM.

b. The independent reviewer will be notified when work begins and may begin review before the estimate is completed. The completed estimate for a single-function activity will be provided to the independent reviewer at least 30 days before it is due to be submitted to the contracting officer. If the estimate is for a multi-functional activity, the estimate must be provided to independent reviewer at least 60 days before it is due to be submitted to the contracting officer.

4–15. Cost Comparison Bid Opening (DA Pam 5-20, Chapter 7)

The cost comparison bid opening is the actual comparison of the in-house costs to those of the selected contractor bid or proposal. At cost comparison bid opening, the in-house cost estimate is opened and the bid or proposal cost is entered on the cost comparison form.

4–16. Administrative Appeals Procedure (DA Pam 5-20, para 7-6)

a. Any interested party may appeal waivers (para 2-3), based on factual questions regarding justifications to waive a cost competition study, or direct conversion and cost competition studies, based on noncompliance with requirements and procedures set forth in OMB Circular A-76 or specific items entered on the cost comparison form. The appeals process is intended to protect the rights of all interested parties. An Administrative Appeals Board (AAB) decision is not subject to negotiation, arbitration, or agreement. Interested parties include employees of the activity under study, unions and other employee organizations representing affected federal employees, and bidders or offerors responding to the solicitation. Appeals must as a minimum (1) identify specific instances of denial of information not otherwise protected by law or regulation, or (2) demonstrate that the items appealed, individually or in aggregate, would reverse the initial decision.

b. Appeals of waivers are submitted directly to the ASA(IL&E). Cost competition study and direct conversion appeals are submitted to the contracting officer. In either case, the appeal must be submitted in writing and received within 20 calendar days after the date that all supporting documents are made public. The MACOM may extend the appeal period up to 30 calendar days if the cost competition study is particularly complex.

c. Cost competition study and direct conversion appeals will be forwarded to the MACOM within five calendar days. The MACOM will assign an official or officials to serve as Administrative Appeals Board (AAB) for that appeal. The AAB must render its decision within 30 calendar days of receipt of the appeal by the MACOM.

Section V
Final Decisions

4–17. Final Decision Approval

After the AAB has issued decisions on all appeals, and after all protests have been resolved, the DA Form 7379-R will be forwarded through the MACOM to HQDA for congressional notification and clearance to end the study (para 4-5). (DA Pam 5-20, para 7-8 for a full cost competition, paragraph 7-15 for a streamlined cost competition, or para 7-16 for a direct conversion).

4–18. Economic Effects Analysis

If the decision in a cost competition study is to convert to contract and more than 75 civilian employees are directly affected, an economic effects analysis must be included with the final decision report. (DA Pam 5-20, App G)

Appendix A
References

Section I
Required Publications

OMB Circular A–76
Revised Supplemental Handbook (Performance of Commercial Activities), March 1996 (Cited in para 1-1.)

DA PAM 5–20
Commercial Activities Study Guide (Cited throughout.)

Section II
Related Publications
A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

AR 1–35
Basic Policies and Principles for Interservice Support Agreements

AR 25–55
Freedom of Information Act

AR 5–14
Managing Analytical Support Services

AR 570–4
Manpower Management

DFARS
Defense Federal Acquisition Regulation Supplement

FAR
Federal Acquisition Regulation

DODI 4100.15
Commercial Activities Program Procedures

DOD 4100.33
Operation of Commercial and Industrial-Type Activities

DODD 5400–7–R
Defense Freedom of Information Act

10 USC 2461
Commercial or industrial type functions: required studies and reports before conversion to contractor performance

10 USC 2462
Contracting for certain supplies and services required when cost is lower

10 USC 2464
Core logistics functions

10 USC 2465
Prohibition on contracts for performance of firefighting or security-guard functions

10 USC 2466
Limitations on the performance of depot-level maintenance of materiel

10 USC 2467
Cost comparisons: requirements with respect to retirement costs and consultation with employees

10 USC 2468
Contracts to perform workloads previously performed by depot-level activities of the DOD: requirement of competition

10 USC 4532
Factories and arsenals: manufacture at; abolition: of Section 8015 of the FY 97 DOD Appropriations Act

Section III
Prescribed Forms

DA Form 5473–R
Performance Requirements Summary (See para 3-10, DA Pam 5-20.)

DA Form 5475–R
Surveillance Activity Checklist (See para 8-7, DA Pam 5-20.)

DA Form 5476–R
Surveillance Activity Checklist (See paras 8-7 and 8-9, DA Pam.)

DA Form 5477–R
Customer Complaint Record (See paras 8-3 and 8-9, DA Pam 5-20.)

DA Form 5478–R
Decision Table (See paras 8-7 and 8-9, DA Pam 5-20.)

DA Form 5479–R
Contract Discrepancy Report (See paras 8-7 and 8-9, DA Pam 5-20.)

DA Form 5481–R
Tally Checklist (See paras 8-7 and 8-9, DA Pam 5-20.)

DA Form 7196–R
Analysis of Most Efficient Organization Tasks and Staffing (See para 4-17f, DA Pam 5-20.)

DA Form 7197–R
Analysis of Governmental-in-Nature Tasks and Staffing (See para 4-17h, DA Pam 5-20.)

DA Form 7375–R
Commercial Activities Proposed Action Summary (CPAS) (See para 2-5, DA Pam 2-3.)

DA Form 7376–R
Generic A-76 Cost Comparison Form (CCF) (See paras 4-17 and 5-2, DA Pam 5-20.)

DA Form 7377–R
Streamlined A-76 Cost Comparison Form (SCCF) (See paras 5-22 and 7-9, DA Pam 5-20.)

DA Form 7378–R
Pre-audit Cost Study Checklist (See para 5-37, DA Pam 5-20.)

DA Form 7379–R
Commercial Activities Final Decision Report (See para 4-5, DA Pam 5-20.)

DA Form 7384–R
Aircraft and Aviation Cost Comparison (See Appendix C, DA Pam 5-20.)

DA Form 7385–R
A-76/MV Cost Comparison For Motor Vehicle Fleets (See Appendix D.)

Section IV
Referenced Forms

DA Form 3820
Procedure Chart

DA Form 3953
Purchase Request and Commitment

DD Form 1423
Contract Data Requirements

DD Form 1664
Data Item Description

DD Form 1723
Flow Process Chart

DD Form 1724
Work Distribution Chart

DD Form 2030
Activity and Task List

DD Form 2033
Operations Chart

DD Form 3825
Layout Chart

OF 612
Optional Application for Federal Employment

SF 98
Request for Wage Determination

Glossary

Section I
Abbreviations

ACAMIS
Army Commercial Activities Management Information System

ACSIM
Assistant Chief of Staff for Installation Management

AFARS
Army Federal Acquisition Regulation Supplement

AMC
Army Materiel Command

AMEC
Army Management Engineering College

AMEDD
Army Medical Department

ALP
Acceptable Level of Performance

AR
Army Regulation

ASA(FM&C)
Assistant Secretary of the Army (Financial Management & Comptroller)

ASA(IL&E)
Assistant Secretary of the Army (Installations, Logistics & Environment)

ASA(M&RA)
Assistant Secretary of the Army (Manpower and Reserve Affairs)

ASA(RD&A)
Assistant Secretary of the Army (Research, Development & Acquisition)

BRAC
Base Realignment and Closure

CA
Commercial Activity(ies)

CAS
Commercial Activities System

CBD
Commerce Business Daily

CCF
Cost Comparison Form

CG
Commanding General

CLL
Chief Legislative Liaison

COCO
Contractor-owned, Contractor-operated

COE
Chief of Engineers

CONUS
Continental United States

COR
Contracting Officer's Representative

CPA
Chief of Public Affairs

CPAC
Civilian Personnel Advisory Center

CPAS
Commercial Activities Proposed Action Summary

CPOC
Civilian Personnel Operations Center

DA
Department of the Army

DBA
Davis-Bacon Act

DCSINT
Deputy Chief of Staff for Intelligence

DCSLOG
Deputy Chief of Staff for Logistics

DCSOPS
Deputy Chief of Staff for Operations

DCSPER
Deputy Chief of Staff for Personnel

DPW
Directorate of Public Works or Director of Public Works

DFARS
Defense Federal Acquisition Regulation Supplement

DISC4
Director of Information Systems for Command, Control, Communications & Computers

DOC
Directorate of Contracting or Director of Contracting

DOD
Department of Defense

DOL
Directorate of Logistics or Director of Logistics

DPCA
Directorate of Personnel and Community Activities or Director of Personnel and Community Activities

DRM
Directorate of Resource Management or Director of Resource Management

FAR
Federal Acquisition Regulation

FLSA
Fair Labor Standards Act

FOA
Field Operating Agency

FOIA
Freedom of Information Act

FSC
Federal Supply Code

FTE
Full-time Equivalent

G&A
General and Administrative

GAO
General Accounting Office

GFE
Government Furnished Equipment

GFP
Government Furnished Property

GIN
Governmental-in-Nature

GOCO
Government-owned, Contractor-operated

GOGO
Government-owned, Government-operated

GS
General Schedule (Civilian Personnel)

GSA
General Services Administration

HQDA
Headquarters, Department of the Army

IFB
Invitation for Bid

IG
Inspector General

IGE
Independent Government Estimate

IGS
Intragovernmental Support

JAG
Judge Advocate General

KO
Contracting Officer

MACOM
Major Army Command

MTF
Medical Treatment Facility

MEDDAC
Medical Department Activity

MEO
Most Efficient Organization

MOS
Military Occupational Specialty

MS
Management Study

MTOE
Modification Table of Organization and Equipment

NAF
Non-appropriated Fund

NAFI
Non-appropriated Fund Instrumentality

NISH
National Industries for the Severely Handicapped

OCONUS
Out of the Continental United States

OMB
Office of Management and Budget

PoP
Period of Performance

PR
Purchase Request

PRS
Performance Requirements Summary

PWS
Performance Work Statement

QA
Quality Assurance

QAE
Quality Assurance Evaluator

QASP
Quality Assurance Surveillance Plan

RDT&E
Research, Development, Test, and Evaluation

RFP
Request for Proposals

RIF
Reduction-in-Force

SADBU
Small and Disadvantaged Business Utilization

SBA
Small Business Administration

SCA
Service Contract Act

SCCF
Streamlined Cost Comparison Form

SOP
Standard Operating Procedure

SIMOS
Space Imbalanced Military Occupational Specialty

SJA
Staff Judge Advocate

SSA
Source Selection Authority Staff Support Agency

SSAC
Source Selection Advisory Council

SSEB
Source Selection Evaluation Board

SSP
Source Selection Plan

TE
Technical Exhibit(s)

TPP
Technical Performance Plan

TJAG
The Judge Advocate General (at HQDA)

TDA
Table of Distributions and Allowances

TIG
The Inspector General

TOE
Table of Organization and Equipment

TSG
The Surgeon General

USAAA
U.S. Army Audit Agency

U.S.C.
United States Code

VE
Value Engineering

WDC
Work Distribution Chart

Section II
Terms

ACCEPTABLE LEVELS OF PERFORMANCE (ALP)
The ALP is the maximum percent defective or the maximum number of defects per hundred units considered satisfactory for purposes of a sampling inspection. It is the allowable variance from a standard expressed by narrative description before the Government will reject the specific service.

ACQUISITION PLAN (AP)
The AP addresses the technical, business, management, and other significant considerations that will control acquisition. The Contracting Office representative on the CA study team will prepare and maintain the AP.

ACTIVITY ANALYSIS
Activity analysis states what starts a job, what takes place when doing the job, and the outcome of the job.

ACQUISITION PLANNING
The process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated for a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost.

ADMINISTRATIVE APPEAL BOARD (AAB)
The independent forum or body of individuals designated by the appropriate MACOM to review cases submitted on appeal to ensure that all costs are properly accounted for in accordance with the principles and procedures of AR 5-20 and DA Pam 5-20. The AAB shall also ensure that all participants have full and equal access to the decision process.

ADVANCED ACQUISITION PLANNING (AAP) SYSTEM
Dollar thresholds for acquisition strategy development are lower than those for acquisition plans. Some acquisitions over MACOM established dollar thresholds but under the AP dollar threshold require preparation of an AAP system. Although less formal than an AP, the principles of AP should still be incorporated.

ASSET ACQUISITION COST
Sum of the purchase price and of the costs (for transportation; packing, crating, handling; installation, etc.) incurred to place an asset in use.

ASSET USEFUL LIFE
Estimated period of economic usefulness of an asset in a particular operation.

AUGMENTATION CONTRACT
Means of performing recurring projects or continuing services portions of a CA workload without using MEO personnel. Augmentation contracts may be awarded without cost competition, IAW the direct conversion, new requirement, and expansion criteria in this regulation.

BASE PAY
Civilian wages (including shift/hazardous duty differentials) that earn fringe benefits.

BENCH STOCK
On-hand supplies appropriate for assignment to the individual worker in advance of need.

BIDDER
A bidder is a prospective contractor who submits a one time offer, called a "bid", to the government in response to the government's Invitation for Bid (IFB). The IFB is the solicitation document used in sealed bid contracting. Contract award will be made to the responsible bidder who was responsive to the requirements stated in the IFB and whose bid was the lowest price.

BID OPENING
For a sealed bid procurement, bid opening is the date and time established to open, read aloud, and display the bids received in response to an IFB. For negotiated procurement action the term is solicitation closing date—the time set in the Request For Proposal (RFP) and monitored by the contracting office at which time all proposals must be received. For a sealed bid procurement, "bid opening" is the same as "cost comparison bid opening" because the contract bids are opened at the same time as the in-house cost estimate. For a negotiated procurement, only the price negotiated with the selected contractor and the in-house cost estimate are opened at "cost comparison bid opening."

CAPITAL ASSETS (TANGIBLE)
Structures, machinery and equipment having an original acquisition cost of $5,000 or greater.

CA STUDY GUIDE
DA Pam 5-20, Commercial Activities Study Guide provides the mechanics of the CA process.

CAPITAL IMPROVEMENT COSTS
Costs of major overhauls and modifications that add to the value or prolong the life of capital assets.

CASUALTY AND LIABILITY INSURANCE COSTS
Costs of government self-insurance against casualty losses and liability claims.

CASUALTY LOSSES
Costs of replacing equipment, facilities, materials/supplies, and minor items destroyed by fire/flood, and so forth.

COLLECTIVE BARGAINING AGREEMENT
The negotiation of employment matters between employers and employees through the use of a bargaining agent designated by an uncoerced majority of the employees within the bargaining unit. Under the Federal Labor Relations Act contractor employees have a statutory right to organize, join unions, and bargain collectively. The fact that these employees are working on government facilities under a government contract does not deprive them of their statutory rights.

COMMERCE BUSINESS DAILY (CBD)
CBD is the public notification media by which U.S. Government agencies identify proposed contract actions and contract awards. The CBD is published in five or six daily editions weekly, as necessary.

COMMERCIAL ACTIVITY
An activity providing a product or service that can be performed by a private source. (See definition for "recurring commercial activities," which are the functions to which this regulation applies.)

COMMERCIAL SOURCE
A commercial source is any business or other concern that is eligible for contract award in accordance with Federal Acquisition Regulations.

COMMON/"WASH" COSTS
Costs that will be incurred regardless of the outcome of the cost competition and are, therefore, not included in the cost comparison (e.g. government furnished property, security clearance processing, quality assurance, utilities, and other facilities support services.

CONDITIONAL AWARD
A contract award made upon the initial decision in a cost competition involving a negotiated acquisition. Contractor performance is conditioned on the offeror's proposal being the most advantageous offer.

CONTRACT ADMINISTRATION
Contract administration includes those inherently governmental activities performed by warranted contracting officers, contract administrators, the contracting officer's representative, and related payment evaluation staff. Contract administration is not to be confused with contract quality control, performance evaluation, or inspection which are defined as commercial activities by AR 5-20.

CONTRACT DISCREPANCY REPORT
A report, used by QAE, to document unsatisfactory performance by the contractor.

CONTRACTING OFFICER (KO)
A Contracting Officer is the only person with the authority to create, modify or terminate a contract. The Contracting Officer is the only official who can obligate the government through a contract.

CONTRACTING OFFICER'S REPRESENTATIVE (COR)
The COR is the individual appointed in writing by the contracting officer and delegated specific authority to monitor contractor performance.

CONTRACTOR-OWNED CONTRACTOR-OPERATED (COCO)
A facility owned and operated by a contractor.

CONVERSION TO CONTRACT
A conversion to contract is the change of performance of a commercial activity from in-house performance by Federal employees to performance by a commercial source.

CONVERSION FROM CONTRACT
Conversion from contract to in-house performance (sometimes referred to as "re-federalization") means the change of a commercial activity from performance by contract with a commercial source to performance by Federal employees with government resources. Unless the activity is performed by ten or fewer contract employees, a Transfer Cost Competition Study must be conducted before the conversion. "Conversion from contract" also includes the conversion of expansions and/or new requirements (work) from contract performance to in-house performance.

CONVERSION DIFFERENTIAL
The conversion differential is the minimum savings to be gained from converting from one method of operation to another. The differential reflects the unpredictable costs inherent in changing the status quo. These include such costs as retained pay and the temporary loss of productivity associated with a conversion. The conversion differential is the lesser of ten percent of personnel costs or $10 million over the performance period.

CORE CAPABILITY
A core capability is a commercial activity operated by a cadre of highly skilled employees, in a specialized technical or scientific development area, to ensure that a minimum capability is maintained. The core capability does not include the skills, functions or FTE that may be retained in-house for reasons of National Defense, including military mobilization, security or rotational necessity, or to the patient care or research and development activities as provided in AR 5-20.

COST COMPARISON BID OPENING
The process of formally comparing the estimated cost of in-house performance with the cost of commercial or IGS sources. Cost comparison bid opening results in the initial decision. (See definitions for "bid opening" and "initial decision.")

COST COMPETITION
The process of conducting a study that leads to a cost comparison bid opening between potential in-house, IGS and/or contract providers of a commercial activity. A cost competition that is not conducted IAW Streamlined Cost Comparison Study procedures is referred to as a Full Cost Comparison Study. A direct conversion study is generally not considered a cost competition study.

COST-PLUS-AWARD-FEE CONTRACT
A cost-plus-award-fee contract is a cost-reimbursement contract that provides for a fee consisting of a base fee amount (which may be zero) fixed at inception of the contract, and an award amount, based upon a judgmental evaluation by the government,

sufficient to provide motivation for excellence in contract performance.

COST-REIMBURSEMENT CONTRACT
Cost reimbursement contracts are suitable for use only when uncertainties involved with contract performance do not permit costs to be estimated with sufficient accuracy (FAR 16.301). The contractor would then be reimbursed for allowable expenses within a preestablished ceiling.

CROSSWALK
The comparison between manpower, budget and functional requirements.

CURRENT OPERATIONS
This describes the organization as it exists at the outset of the study, including staffing, organization facilities, equipment, and any problems that affect efficient operation.

DECISION TABLE
The decision table identifies the possible causes of the unsatisfactory performance and lists a number of questions which, when answered will probably pinpoint the source of the problem.

DEPRECIATION
Method used to spread the total cost of a tangible capital asset, less residual value, over an asset's useful life. [Annual depreciation cost is computed by dividing the depreciable basis (acquisition cost plus capital improvements less residual value) by the useful life of the asset.]

DIRECT CONVERSION
Conversion to contract without a formal cost competition study.

DIRECT STAFFING
Personnel directly involved in producing the outputs of the function under study whose efforts can be directly traced to a unit of output.

DISPOSAL VALUE (SAME AS RESIDUAL VALUE)
Value at disposition (less costs of disposal/transfer) estimated at the time of an asset's acquisition.

DISPLACED EMPLOYEE
Any DA employee, including a temporary employee, adversely affected by a conversion to contract. Adverse actions include job elimination, grade reduction, and reassignment to another position. Displaced employees include those in the function converted to contract and those outside the function who are affected adversely by reassignment or the exercise of bumping or retreat rights related to a RIF resulting from the conversion.

EXCLUSION
Activities outside the scope of the CA Program because of legislative (e.g. RDT&E activities, depot level maintenance, and firefighting and security guard functions) or administrative requirements.

EXEMPTION
See "waiver."

EXPANSION
An expansion is the modernization, replacement, upgrading or the enlargement of an in-house commercial activity or capability. If the expansion involves a 30-percent increase in the operating cost of the activity, a 30-percent increase in the total capital investment to perform the activity or an increase of 65 FTE or more, a cost competition study is required prior to authorizing in-house performance. A consolidation of two or more existing commercial activities is not an expansion, unless the total operating cost is 30 percent greater than the total of the individual components or it requires an increase of 65 FTE or more.

FIRM-FIXED-PRICE CONTRACT
A firm-fixed-price contract uses the basic profit motive of business enterprise. It is used when the risk involved is minimal or can be predicted with an acceptable degree of certainty.

FINAL DECISION
The decision made after the resolution of appeals, conduct of preaward surveys, and resolution of GAO protests. (See "initial decision. ") The installation implements the final decision after the installation submits the Final Decision Report and the HQDA Office of the Chief Legislative Liaison (OCLL) makes the Final Decision Notification to Congress.

FRINGE BENEFITS
Retirement (e.g., CSRS, FERS), health insurance, life insurance, disability insurance, unemployment compensation, bonuses, awards, and MEDICARE.

FULL COST COMPETITION STUDY
A process that develops the PWS and MEO, solicits bids or offers, and compares the in-house cost with the cost of the bidder or offeror to determine whether to continue or change the method of performance. (Also see "cost competition.")

FULL TIME EQUIVALENT
A position that involves the planned use of 2,087 straight time paid hours in a fiscal year (to include authorized leave and paid time off for training); for example, two part-time employees, each working a total of 2,087 straight time paid hours in a FY equals one FTE.

FUNCTIONAL ACTIVITIES
Those installation-level activities responsible for producing a product or service.

GENERAL AND ADMINISTRATIVE OVERHEAD
Identifies personnel outside the organization under study and exclusive of the first supervisory level above the organization under study. This includes such functions as civilian personnel, resource management, legal, procurement, and so forth.

GENERAL AND ADMINISTRATIVE (G&A) OVERHEAD COSTS
All support costs, other than operations overhead costs, incurred for the function under study.

GOVERNMENTAL-IN-NATURE (GIN)/ INHERENTLY GOVERNMENTAL
GIN functions are government functions that are so intimately related to the public interest as to mandate performance by Government employees or military personnel. 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 entitlements. All functions are either GIN functions or commercial activities. See OFPP Policy Letter 92-1 at Appendix B of DA Pam 5-20.

GOVERNMENT-FURNISHED PROPERTY (GFP)
Government facilities and equipment on hand, programmed for use by the MEO, and offered to prospective bidders "as is."

GOVERNMENT-OWNED CONTRACTOR-OPERATED
A facility owned by the government and operated by a contractor.

IMPLEMENTATION DATE
The date the contract becomes effective and the contractor begins operation or the date the installation fully implements the MEO.

INDEPENDENT GOVERNMENT ESTIMATE (IGE)
The IGE is the government's estimate of the costs the private sector would charge to do the work. Not to be confused with the in-house cost estimate (which may not be revealed to any official involved with the selection of the contractor to compete against the in-house cost estimate), the IGE is used by the Contracting Officer during negotiations with contractors for comparing the cost of doing business. It is used to ensure the contractors' cost estimates are not buy-ins or their costs elevated. Therefore, the IGE documents cost estimates for all of the elements that contribute to the contract price.

INDEPENDENT REVIEW
The independent review is completed by an activity outside the activity doing the CA study. The independent reviewer will substantiate the currency, reasonableness, accuracy, and completeness of costs that can be

determined before cost comparison. This includes assuring the in-house cost estimate is based on the same PWS contained in the solicitation.

INDEPENDENT REVIEWER
The official(s) who certifies prior to bid opening that the government's performance and cost comparison estimates have been prepared in accordance with AR 5-20.

INDIRECT STAFFING
Personnel involved in support of producing the outputs of the functions under study whose efforts cannot be traced directly to a unit of output.

IN-HOUSE COST ESTIMATE
The in-house cost estimate is the government's bid. It is based on the MEO, which is developed during the Management Study. The staffing required to do the workload specified in the PWS is the basis for the in-house cost proposal (estimate).

IN-HOUSE PERFORMANCE
The performance of work by Army employees, including military, civilian, and non-appropriated fund employees.

INITIAL DECISION
Initial decision is the decision made at the time of cost comparison bid opening to retain a CA as is or convert a CA to contract, in-house, or IGS performance. The initial decision may differ from the final decision because of actions such as public review of the competition, determinations of contractor responsibility, administrative appeal board (AAB) decisions, and contractor protests to the General Accounting Office (GAO). ("Initial decision" as used in this regulation is synonymous with "tentative decision" as used in the OMB Circular A-76 Revised Supplemental Handbook.)

INTRAGOVERNMENTAL SUPPORT (IGS)
Support provided by a DoD activity to a non-DOD Federal activity and vice versa.

INVENTORY
The CA Inventory is a listing of all in-house and contracted commercial activities governed by AR 5-20, including the workyears or FTEs expended on each CA during the preceding fiscal year.

INVITATION FOR BID (IFB)
A document that communicates government requirements to prospective contractors and is used in the sealed bid process.

LIABILITY CLAIMS
Claims against the government for damage/injury caused/sustained by its employees.

LOT SIZE
The lot is the group of service output, such as work orders; therefore, the number of outputs in a lot is the lot size.

MANAGEMENT STUDY
The management study is the document that outlines the changes that will result in the Government's MEO to perform the commercial activity in-house. It provides the staffing patterns and operating procedures that serve as a baseline for in-house cost estimates. (This document is referred to as the "Management Plan" in the OMB Circular A-76 Revised Supplemental Handbook.)

MINOR ITEMS
Non-depreciable durable items whose current replacement cost is less than $5,000.

MOST EFFICIENT ORGANIZATION (MEO)
The MEO refers to the Government's streamlined in-house organization to compete with contractors to perform a commercial activity. It may include a mix of Federal employees and contract support. It is the basis for all in-house costs entered on the Cost Comparison Form. The MEO is the product of the Management Study and is based upon the PWS.

MULTI-FUNCTION STUDY
A study that includes more than one CA Function Code identified in DA Pam 5-20, Appendix E.

NEW REQUIREMENT
A newly established need for a commercial service.

NET BOOK VALUE
Depreciable basis less accumulated annual depreciation costs (see "depreciation").

OFFEROR
An offeror is a prospective contractor or service provider who submits an offer to the government in response to the government's RFP. The RFP is the solicitation document used in the negotiation. The RFP has the same purpose as the IFB: to communicate government requirements to prospective contractors and to solicit offers from them. The RFP usually calls for separate technical (how) and cost (how much) proposals from the offeror.

OPERATIONS OVERHEAD COSTS
Those costs incurred by the first supervisory work center one element above and in support of the function under study.

ORGANIZATIONAL ANALYSIS
This process is used to determine the accurate and complete mission statement of the function. It provides a framework for determining what services (outputs) are provided by the function under study.

OUTSOURCING
The transfer of a function previously performed in-house to an outside provider.

OVERHEAD
Overhead is included in the in-house estimate and is defined as those costs that are not directly attributable to the activity under study. Overhead is calculated by multiplying Line 1 (personnel) of the cost comparison form by 12%. (This is a change in the March 1996 OMB Circular A-76 Revised Supplemental Handbook.)

PERFORMANCE INDICATOR/ MEASURE
The performance indicator is the tool used to measure actual occurrence to the performance standard. The performance indicator determines if the work performed was below, met or exceeded the standard.

PERFORMANCE MEASURES
Performance measures provide a series of indicators, expressed in qualitative, quantitative or other tangible terms, that indicate whether current performance is reasonable and cost effective. Performance measures can include workload and output-to-cost ratios, transaction ratios, error rates, consumption rates, inventory fill rates, timeliness measures, completion and back order rates, etc. Quality service measures may include responsiveness rates, user satisfaction rates, etc.

PERFORMANCE REQUIREMENTS SUMMARY (PRS)
The PRS lists those tasks that are key performance indicators of the function. The result is a list of key required services, standards of performance, associated ALPs, the identification of the services to be counted, and the determination of appropriateness of the performance standards for evaluation.

PERFORMANCE STANDARD
A performance standard reflects the minimum, sector-specific, Federal requirement for the performance of a commercial activity It incorporates both quality measures and cost measures. Cost measures reflect the cost comparability procedures of AR 5-20.

PERFORMANCE WORK STATEMENT (PWS)
A performance work statement is a statement of the technical, functional and performance characteristics of the work to be performed, identifies essential functions to be performed, determines performance factors, including the location of the work, the units of work, the quantity of work units, and the quality and timeliness of the work units. It serves as the scope of work and is the basis for all cost entered in the Cost Comparison Form.

PERSONAL SERVICES CONTRACT
A personal services contract, by its expressed terms or how it's administered, makes contractor personnel appear to be government employees. This happens when it appears that contractor personnel are subject to relatively close and continuous government supervision.

POST-MEO PERFORMANCE REVIEW
When services are performed in-house, as a result of a cost competition, including those involving an IGS agreement, a formal review and inspection of the MEO should be conducted. Typically, this review should be conducted following the end of the first full year of performance. Post-MEO Performance Reviews: confirm that the MEO has been implemented in accordance with the Transition Plan; establish the MEO's ability to perform the services of the PWS; and confirm that actual costs are within the estimates contained in the in-house cost estimate. Adjustments may be made for formal mission or scope of work changes.

PREFERENTIAL PROCUREMENT PROGRAM
See definition of "required source of supplies and services."

PRE-AWARD INQUIRIES
Written questions and comments about PWS specifications, terms, and conditions in the solicitation.

PRE-BID OR PRE-PROPOSAL CONFERENCE
A meeting held to provide a site visit, provide an opportunity for bidders/offerors to view the publications library assembled for their use in preparing a realistic bid or offer, explain any revisions made to the PWS and/or solicitation requirements, and answer any questions from bidders/offerors.

PRIVATIZATION
A subset of "outsourcing," privatization is the process of changing a federal government entity or enterprise to private or other non-federal control and ownership. It does not include determinations as to whether a support service should be obtained through public or private resources, when the Government retains full responsibility and control over the delivery of those services.

PRODUCTIVE HOURS
The number of man-hours per year that an employee would have available to do his/her primary duties—after subtracting time off for holidays, leave (sick, annual, and administrative), training, and so forth—if the employee worked an 8-hour day all year. [For full-time/part-time employees 1,776 hours/year; for intermittent employees = 2,007 hours/Year.]

PROPOSED ORGANIZATION
A detailed description of the MEO, including staffing, organization chart, facilities, equipment, and operating procedures. This also gives the staffing and organization for the GIN functions and discusses the relationship of the MEO to the GIN operation or of a contractor and the GIN operation.

QUALITY ASSURANCE (QA)
This is a structured program used by the Army to monitor the actions of either the contractor or the MEO to ensure the Army gets the work done that is required by the PWS.

QUALITY ASSURANCE EVALUATOR (QAE)
QAEs are personnel technically qualified with work experience in the type functions they will inspect. They also should be skilled in preparing reports.

QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)
The QASP is a formal document prepared by the Army to ensure a systematic inspection of the required services. The QASP is not part of the PWS, and should not be issued with the solicitation. Sometimes referred to as Quality Assurance Plan.

QUALITY ASSURANCE SURVEILLANCE
Quality Assurance Surveillance is the method by which Federal employees will monitor in-house or contract performance to ensure that the standards of the PWS are met within the costs agreed to.

QUALITY CONTROL (QC)
Refers to actions taken by a contractor or the MEO to control the production of goods or services so that they will meet the requirements of the PWS.

RDT&E SUPPORT
BASOPS support functions for an RDT&E installation.

REAL PROPERTY
Buildings and grounds, utilities system, structures, surfaced areas, and improvements identified in the category codes of AR 415-28. Includes equipment affixed and built into a facility as an integral part.

REASONABLE OR COMPETITIVE PRICES
The expected range of prices resulting from experience obtained through the competitive free enterprise system for like or similar activities. Determinations are to be made by the contracting officer.

RECURRING COMMERCIAL ACTIVITIES
A recurring commercial activity is one that is required by the Government on a consistent and long term basis. This definition does not imply an hourly, daily, monthly or annual requirement, but must, in a general sense, be repetitive in nature, wherein the expected workload can be reasonably estimated.

REDUCTION-IN-FORCE
Release of civilian employees by separation, demotion, or reassignment requiring displacement resulting from lack of work, reorganization, or reclassification due to a change of duties. An involuntary reduction of civilian personnel.

REQUEST FOR PROPOSALS (RFP)
The solicitation document used in the negotiation method is the RFP. The RFP usually calls for separate technical (how to perform PWS requirements) and cost (how much) proposals from the offeror.

REQUIRED SOURCE OF SUPPLIES AND SERVICES
As used in paragraph 4-2d of AR 5-20, these sources are those specified in FAR Part 8. As of the date of publication of this Appendix, these sources included (1) Federal Prison Industries and (2) the workshops administered by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 USC 46-48c).

SAMPLE
A sample consists of one or more service outputs drawn from a lot, the outputs being chosen at random. The number of outputs in the sample is the sample size.

SAMPLING GUIDE
The sampling guide identifies the ALP associated with the requirement, the lot and sample size, how the output sampling and inspection will be performed, and the number of defects that will be allowed before the performance is considered unsatisfactory.

SEVERABLE EXPANSIONS
A severable expansion is an expansion of currently contracted, in-house or IGS agreement provided work that could be provided using the current approach or could, without severe additional administrative burden, be provided by another competitive offeror. Economy of scale is not justification for dismissing new or expanded work as severable; these economies will be tested through competitive offer.

SINGLE-FUNCTION STUDY
A study that includes one CA Function Code as identified in DA Pam 5-20, Appendix E.

SOLICITATION
The formal document containing the PWS, attachments to the PWS such as maps and technical exhibits, and the conditions and terms prospective bidders/offerors must meet for procuring services by contract. (See definitions for Invitation for Bid (IFB) and Request for Proposal (RFP).)

SOURCE SELECTION
The process starting with acquisition and continuing through receipt and evaluation of proposals.

SOURCE SELECTION ADVISORY COUNCIL (SSAC)
Senior military and civilian officials who represent the various functional areas involved in the CA study, and who serve as advisors to the SSEB during the selection process.

SOURCE SELECTION AUTHORITY (SSA)
A manager at a level in the installation hierarchy above the CA Manager.

SOURCE SELECTION EVALUATION BOARD (SSEB)
A group of government personnel representing the various functional and technical disciplines relevant to an acquisition that conduct a comprehensive evaluation of each offeror's proposal.

SOURCE SELECTION PLAN (SSP)
The written guide for the source selection process. It describes how proposals will be solicited from industry and how they will be negotiated. It reflects who will evaluate proposals, composition of the SSEB, functional areas required to be presented, determination of security needs, and a timetable for contract execution.

STREAMLINED COST COMPETITION STUDY
A process that uses the current cost of in-house work force performance for comparison to not less than four existing comparable service contracts or IGS offers in the cost comparison in order to determine whether to change the method of performance.

SURVEILLANCE ACTIVITY CHECKLIST
Used for those required services which cannot be surveilled using random sampling techniques.

SURVEILLANCE SCHEDULE
A schedule based on the QASP requirements which indicates when the various PWS requirements will be monitored. The surveillance must cover all hours of operation to include nights, holidays, and week-ends.

TECHNICAL PERFORMANCE PLAN (TPP)
The TPP provides a description of management capabilities, personnel qualifications, performance history, delivery schedule compliance, and technical capability to perform the workload specified in the PWS. If it is required of prospective contractors by the solicitation (usually for negotiated procurements), a TPP will also be developed by the in-house activity. The installation's TPP reflects the MEO and is sealed prior to the consideration of any part of any contract offer.

TENTATIVE DECISION
See "initial decision." "Initial decision" as used in this regulation is synonymous with "tentative decision" as used in the OMB Circular A-76 Revised Supplemental Handbook.

TRANSFER
A change in the method of performance from contract to in-house.

TRANSFER COST COMPETITION STUDY
See definition for "conversion from contract."

TRANSITION PERIOD
The period of time during which functional operations transfer from the current organization or method of operation to a successor organization or method of operation.

TALLY CHECKLIST
The tally checklist is used to tally information on inspection observations and defects.

TREE DIAGRAM
Tree diagramming breaks work down into specific sub-divisions of that work. The tree diagram resembles an organization chart, but the break-out is functionally, not organizationally.

WAIVER
A waiver is a determination by the ASA (IL&E), made in accordance with AR 5-20, that specified commercial activities may be converted to or from in-house, contract or IGS performance, without cost competition study. A waiver may be justified by reasons other than cost.

WAGE DETERMINATION
The wage determination sets the minimum wages and fringe benefits that contractors and/or their subcontractors must pay their employees subject to the Davis Bacon or Service Contract Act. The wage determination becomes part of the solicitation.

Section III
Special Abbreviations and Terms
This section contains no entries.

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