

January 21, 1994

Resource Management

**COMMERCIAL ACTIVITIES PROGRAM**

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BY ORDER OF THE DIRECTOR

MICHAEL E. KOCH  
Colonel, USA  
Chief of Staff

DONALD R. GREIMAN, Major, USAF  
Chief, Safety, Security and Administration

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**AUTHORITY:** Defense Commissary Agency (DeCA) Commercial Activities (CA) Program is established in compliance with DeCAD 70-20, Defense Commissary Agency (DeCA), (Date).

**MANAGEMENT CONTROLS SYSTEM:** This directive contains Management Control provisions that are subject to evaluation and testing as required by DeCAD 70-2 and as scheduled in DeCAD 70-3. The Management Control Review Checklist to be used by assessable unit managers to conduct the evaluation and test management controls is at **Appendix C**.

**APPLICABILITY:** This directive applies to the DeCA activities.

**HOW TO SUPPLEMENT:** Regions may supplement this directive by submitting proposal to HQ DeCA/RM for permission and instructions. No new forms may be created citing this directive as the authority without prior HQ DeCA/RM authorization.

**HOW TO ORDER COPIES:** Commissaries needing additional copies will submit requirements on DeCA Form 30-21 to Region/IM.

**SUMMARY:** This Directive prescribes policy, procedures, and responsibilities for establishing and implementing the DeCA CA Program. This Directive implements OMB Circular A-76, Performance of Commercial Activities, August 4, 1983; the Supplement to the OMB Circular, August 4, 1983; Department of Defense (DoD) Directive 4100.15, Commercial Activities Program, March 10, 1989; DoD Instruction 4100.33, Commercial Activities Program Procedures, September 9, 1989; and Change 1 to DoD Instruction 4100.33, May 8, 1992.

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OFFICE OF PRIMARY RESPONSIBILITY (OPR): HQ DeCA/RM  
COORDINATORS: HQ DeCA/GC/DO/AM/IR/PA/PL/DP/IG/IM/DF  
DISTRIBUTION: E

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## Chapter 1

### POLICIES AND RESPONSIBILITIES

1-1. **Applicability and Scope.** This Directive contains Defense Commissary Agency (DeCA) policy and procedures for Commissary Commercial Activities (CA) functions located in the United States, its territories and possessions, the District of Columbia and the Commonwealth of Puerto Rico. The procedures in this Directive may be applied to commissary locations outside of the Continental United States (OCONUS) at DeCA's discretion, but may not be applied when they are contrary to law, executive orders, any treaty, or international agreement. Inventory reporting requirements are contained in Chapter 3 and are mandatory for all commissary locations. This Directive contains internal control provisions and checklists for conducting internal control reviews. This Directive is mandatory for CAs staffed partially and/or wholly with DoD civilian personnel paid by or reimbursed from appropriated funds. This Directive:

- a. Does not apply to DoD governmental functions as defined in OMB Circular A-76, DoDI 4100.33 and this Directive (which define those functions that are inherently governmental in nature which mandate performance by DoD personnel).
- b. Does not apply when contrary to law, executive orders, or any treaty, or international agreement.
- c. Does not apply in times of a declared war or military mobilization.
- d. Does not provide authority to enter into contracts.
- e. Does not apply to the conduct of research and development, except for severable in-house CAs that support research and development, such as those defined in enclosure 3, DoDI 4100.33.
- f. Does not justify conversion to contract solely to avoid personnel ceilings or salary limitations.
- g. Does not authorize contracts that establish an employer/employee relationship between Department of Defense employees; i.e. commissary employees, and contractor employees as described in Federal Acquisition Regulation (FAR) 37.104.
- h. Does not establish and shall not be construed to create any substantive or procedural basis for anyone to challenge any DoD action or inaction (DeCA related) on the basis that such action or inaction was not in accordance with this Directive (except as specifically set forth in the Administrative Appeal Procedures, established under provisions of OMB Circular A-76, DoDI 4100.33 and this Directive).

1-2. **Definitions.** Terms used in this Directive are defined in DoDI 4100.33.

1-3. **Policy.** It is Agency policy to comply with DoD policy to:

- a. **Ensure Mission Accomplishment.** The implementation of this Directive shall consider the overall DoD mission and the defense objective of maintaining readiness and sustainability to ensure a capability for mobilizing the defense and support structure.
- b. **Retain Governmental Functions In-House.** Certain functions that are inherently governmental in nature, and intimately related to the public interest, mandate performance by DoD

personnel only. These functions are not in competition with commercial sources; therefore, these functions shall be performed by DoD personnel.

c. Rely on the Commercial Sector. DoD Components shall rely on commercially available sources to provide commercial products and services, except when required for national defense, when no satisfactory commercial source is available, or when in the best interest of direct patient care (not applicable to commissary operations). DoD Components shall not consider an in-house new requirement, an expansion of an in-house requirement, conversion from contract to in-house operation, or otherwise carry on any CAs to provide commercial products or services if the products or services can be procured more economically from commercial sources.

d. Achieve Economy and Enhance Productivity.

(1) Encourage competition with the objective of enhancing quality, economy, and performance. When performance by a commercial source is permissible, a comparison of the cost of contracting and the cost of in-house performance shall be performed to determine who shall provide the best value for the government, considering price and other factors included in the solicitation.

(2) If the Agency determines that it may not be cost-effective to make an award under mandatory source programs (i.e. Small Business Act or any other non-competitive preferential procurement program) a cost comparison, or any other cost analysis, although not required by OMB Circular A-76, may be performed. Performance history will be considered in the source selection process, and high quality performance should be rewarded.

e. Delegate Decision Authority and Responsibility. Decision authority and responsibility for the DeCA CA Program shall be delegated by the Director, DeCA to the Director, Resource Management Directorate, Management and Programs Division, Programs Branch to manage the DeCA CA Program in accordance with governing directives and to make intelligent use of DeCA-wide manpower resources.

f. Share Resources Saved. The Director, Resource Management Directorate is delegated responsibility for making available a share of resources saved or earned to resource critical mission needs and improve operations and working conditions for DeCA activities.

g. Provide Placement Assistance. Ensure a variety of placement assistance is provided to affected employees whose Federal jobs are eliminated through CA competitions.

h. Permit Interim-In-House Operation. An in-house CA may be established on a temporary basis if a contractor defaults or for any other contract termination. Action shall be taken to resolicit bids or proposals in accordance with the OMB Circular A-76, DoDI 4100.33, the acquisition regulations, and this Directive.

#### 1-4. Procedures and Program Overview.

a. The Government's basic policy of reliance on the private sector to provide the goods and services required by the Government is implemented through the CA Program.

b. The DeCA CA program requires that all commissary activities be reviewed to determine their eligibility for contracting. It further directs that for those commissary activities not requiring in-house operation, a determination shall be made (through the use of cost comparisons and/or direct conversions with bids/proposals solicited from the private sector), as to the most efficient and economical method of operation.

c. The CA program provides the means to ensure that activities required to be performed in-house (when governmental performance is mandated by DoD personnel in accordance with OMB Circular A-76, DoDI 4100.33 and this Directive) are not subjected to conversion to contract and that those activities which can be performed by either contract or in-house personnel are performed by the most economical method of operation.

d. The DeCA CA Program consists of five major steps which are explained in detail in subsequent chapters in this Directive. The five major steps consist of:

- (1) Governmental Functions and the CA Determination Process.
- (2) CA Inventory.
- (3) CA Reviews.
- (4) Cost Comparison Process.
- (5) Reporting and Notification Requirements.

**1-5. Responsibilities.**

a. DeCA Legislative Liaison Office (DeCA/LL), The Pentagon. The DeCA/LL Office is responsible for coordinating all CA actions requiring notification and/or approval by the Office of the Under Secretary of Defense, Environmental Security.

b. Director, DeCA. The Director, DeCA has responsibility for providing the overall direction, management, control, and administration of the CA Program for DeCA commissary activities and for ensuring the CA Program is conducted in accordance with OMB Circular A-76, the Supplement to the OMB Circular, DoDD 4100.15, DoDI 4100.33, and this Directive.

c. Chief of Staff, DeCA. The Chief of Staff is responsible for overseeing the overall direction, management, control, and administration of the CA Program, and for appointing a Chairman for the Administrative Appeal Review Board. (The Chairman of the board is responsible for appointing board members).

d. Director, Resource Management Directorate, DeCA. The Director, Resource Management Directorate, DeCA is responsible for providing supervision over the CA Program, and for:

- (1) Approving policy and procedures for the DeCA CA Program.
- (2) Approving the process and rationale used to determine which functions are governmental and which are CAs.
- (3) Approving the CA Inventory and Five-Year Review Schedule (RCS DD-P&L(A) 1540).
- (4) Approving CA Reviews and CA Decision Trees (developed by the Programs Branch to determine whether a cost comparison is conducted).
- (5) Approving requests to initiate action to conduct a Cost Comparison or a Direct Conversion.

(6) Approving and certifying the most efficient and cost effective organization (MEO) analysis developed by the CA study process.

(7) Approving Cost Comparison and Direct Conversion decisions.

e. DeCA, Resource Management Directorate, Management and Programs Division, Programs Branch. The Programs Branch is the office of primary responsibility (OPR) for the CA Program, and is responsible for:

(1) Serving as the central point of contact for developing and implementing DeCA policy and procedures for the CA Program in accordance with OMB Circular A-76, the Supplement to the OMB Circular, DoDD 4100.15, DoDI 4100.33, and this Directive.

(2) Developing and maintaining DeCA CA Decision Trees to be used in CA Reviews.

(3) Determining whether an activity is a governmental function or a CA function.

(4) Establishing Administrative Appeal Procedures for review of initial cost comparison results.

(5) Ensuring that the Freedom of Information Act Program is complied with in responding to requests for disclosure of contractor-supplied information obtained in the course of a procurement.

(6) Maintaining the technical competence necessary to ensure effective and efficient management of the CA Program.

(7) Ensuring, once the Cost Comparison is initiated, that the milestones are met, and completion of the cost comparison is without unreasonable delay.

(8) Developing policy on and managing the DeCA CA Inventory and the CA Management Information System (CAMIS) databases. Maintaining a current Inventory and Five-Year Review Schedule (RCS-DD-P&L(A) 1540) of all in-house CAs and contract activities on the DeCA Unit Manning Document (UMD) and submitting to the Under Secretary of Defense, Environmental Security annually.

(9) Ensuring that high standards of objectivity and consistency are maintained in conducting CA Reviews, Cost Comparisons, and Direct Conversions.

(10) Developing a review schedule of in-house CAs.

(11) Ensuring that all notifications and reporting requirements are satisfied.

(12) Conducting initial reviews of in-house CAs and subsequent reviews according to the DeCA CA review schedule, and serving as CA Team Leader over all CA studies, with augmentation of teams with representatives from other Headquarters staff activities (i.e. Directorate of Operations) and from the appropriate Region, Operations Division.

(13) Providing technical guidance to commissary activities to ensure effective implementation and technical competence in management of the CA Program.

(14) Developing prototype Performance Work Statements (PWS) and Quality

Assurance Surveillance Plans (QASP) for commissary functions approved as contracting candidates under the CA Program.

(15) Ensuring through interface with the DeCA Acquisition Management (AM), Contracting Division that contracts resulting from cost comparisons conducted are solicited and awarded in accordance with the FAR and the Defense Federal Acquisition Regulation Supplement (DFARS).

(16) Providing input for CA training requirements for Quality Assurance Evaluators, (QAEs), etc.

f. DeCA AM, Contracting Division. The AM, Contracting Division, Contracting Officer shall be responsible for:

(1) Making all reasonable efforts to identify commercial sources.

(2) Placing any required notices in the Commerce Business Daily (CBD) in accordance with the FAR.

(3) Issuing Solicitations and Resolicitations for DeCA commissary CAs.

(4) Conducting sealed bid and/or negotiated acquisition procedures and announcing results.

(5) Providing information concerning procedures to be followed for the Public Review Period.

(6) Awarding the contract or canceling the Solicitation.

g. Other Headquarters, DeCA Directorates and Staff Offices. Other Headquarters staff activities shall be responsible for providing the required coordination and assistance which may be needed for CA Program mission accomplishment, including the following:

(1) The Internal Review Office. The Internal Review Office shall be responsible for conducting an independent review to substantiate the currency, reasonableness, accuracy, and completeness for CA cost comparisons.

(2) Directorate of Operations. The Directorate of Operations shall be responsible for providing commissary operations support and guidance overall, as needed for the CA Program; i.e., providing representation for developing and revising the commissary operating concept for PWSs and QASPs; augmenting the CA study teams; coordinating commissary operations database requirements, etc.

(3) Office of Strategic Planning and Analysis and the Acquisition Management Directorate. The Office of Strategic Planning and Analysis and the Acquisition Management Directorate shall be responsible for developing a Contingency Plan for CA contracts, which shall provide guidance and responsibilities for each organizational level, as applicable, in the event of contract terminations, etc.

(4) Other Directorates and Staff Offices. Other Directorates and Staff Offices not specifically listed above, may be requested to provide staff assistance, as applicable, concerning CA Program policy, procedures, and responsibilities.

h. Regions.

- (1) Operations Divisions. The Regions, Operations Divisions shall be responsible for:
  - (a) Augmenting the Headquarters CA study team onsite to conduct CA studies and for providing assistance with study plans, procedures, and responsibilities.
  - (b) Coordinating with the commissary as needed by the CA study team, concerning overall study requirements and arrangements, ensuring that commissaries are maintaining accurate workload documentation, etc.
  - (c) Keeping the commissary advised overall of the ongoing CA study process and status, etc.
  - (d) Coordinating CA Program requirements, to include providing revised PWS, PR&C, IGE, and Commissary Data Sheets to the Programs Branch when resolicitation actions are required.
- (2) Personnel/Training Division/Offices. The Regions, Personnel/Training Division/Offices shall be responsible for ensuring to the maximum extent practicable, the servicing DLA OCP's involvement in finding suitable employment for any affected DoD employee displaced because of entering into a contract with a contractor for performance of a CA, to also include monitoring the servicing DLA OCP's progress in the following areas:
  - (a) Providing priority placement assistance for other Federal jobs.
  - (b) Training and relocation when these shall contribute directly to placement.
  - (c) Providing outplacement assistance for employment in other sectors of the economy with particular attention to assisting eligible employees in exercising their right of first refusal with the successful contractor.

1.6. **Program Suspension During Mobilization.** Upon mobilization, the CA Program will be suspended from all requirements to obtain approval to establish, expand, continue, convert, or transfer in-house or contract CAs. Reporting and other administrative requirements also will be suspended when a presidential or other official directive is issued to mobilize the armed services.

## Chapter 2

### GOVERNMENTAL FUNCTIONS AND COMMERCIAL ACTIVITY DETERMINATION PROCESS

2-1. **First Step in the Commercial Activities (CA) Program.** This Directive provides the criteria for determining those activities which are governmental functions and those which are CA. The first step in the Defense Commissary Agency (DeCA) CA Program shall be to evaluate and determine those commissary activities which are appropriate governmental functions and those which are CA. As proponent for the CA Program, the Programs Branch, Resource Management Directorate, DeCA shall perform this evaluation for DeCA approval and coordination with the DeCA Legislative Liaison Office (DeCA/LL).

#### 2-2. **Definitions for Governmental Function and CA:**

a. **Governmental Function.** A governmental function is a function which is so inherently governmental in nature, and intimately related to the public interest that it mandates performance by Department of Defense personnel only. These functions are not in competition with commercial sources; therefore, these functions shall be performed by DoD personnel. Governmental functions include those activities requiring either the exercise of discretion in applying governmental authority or the use of value judgment in making decisions for the Government. Services or products in support of governmental functions are CAs and are subject to this Directive. Governmental functions normally fall into two categories:

(1) The act of governing; i.e., the discretionary exercising of Government authority, as follows:

(a) Functions of the Accountable Officer (defined by DoD 7200.10-M (Department of Defense Accounting and Reporting of Government Property Lost, Damaged, or Destroyed)) involving the exercise of substantive discretionary authority in determining the Government's requirements and controlling the Government's assets cannot be performed by a contractor and must be retained in-house. The responsibilities of the Accountable Officer as an individual and the position of the Accountable Officer are not contractible.

(b) Contractors can perform functions in support of the Accountable Officer and functions where they are performing in accordance with criteria defined by the Government. For example, contractors can process requisitions, maintain stock control records, perform storage and receiving/storage/holding area (former warehousing) functions, and make local procurements of items specified as deliverables in the contract.

(c) The responsibility for administrative fund control must be retained in-house.

(2) Monetary transactions and entitlements; i.e., collecting and disbursing revenue, controlling the treasury accounts and money supply, and administering public trusts).

(a) The contractor can process all required paperwork up to funds obligation which must be done by the Government employee designated as responsible for funds control. The contractor can process such documents as reports for survey and adjustments to stockage levels, but approval must rest with the Accountable Officer.

(b) In all cases, the administrative control of funds must be retained by the Government since a contractor or their employees cannot be held responsible for violations of the United States Code.

b. CA. A CA is an activity that provides a product or service which is obtainable (or is obtained) from a commercial source. A CA is not a governmental function (as defined in paragraph 2-2 a, above). A CA may be an entire organization or a part of an organization. It must be a type of work that is separable from other functions or activities so it is suitable for performance by contract. A CA falls into one of these two categories:

- (1) In-House CA. A CA operated by military and/or civilian personnel.
- (2) Contract CA. A CA operated with contractor personnel.

2-3. **Procedure Application.** Functional account codes and titles for commissary CAs are defined in DoDI 4100.33. These codes and definitions are further defined in Chapter 3-3(c) describing inventory preparation and submission.

### Chapter 3

## COMMERCIAL ACTIVITIES INVENTORY AND FIVE-YEAR REVIEW SCHEDULE (RCS DD-P&L(A) 1540)

3-1. **Second Step in the Commercial Activities (CA) Program.** This chapter provides policy and procedures for developing and maintaining the CA Inventory and Review Schedule (RCS DD-P&L(A) 1540), which is the second step in the CA Program. The CA inventory report shall be developed and updated on a fiscal year basis (as of 30 September of each year).

3-2. **Policy.** The Programs Branch, Resource Management Directorate, Defense Commissary Agency (DeCA), shall develop, maintain, and prepare the CA Inventory for annual submission. All commissary activities and functions shall be evaluated/inventoried to determine which are governmental functions and which are CA, in accordance with OMB Circular A-76, the Supplement to the OMB Circular, and DoDI 4100.33.

a. A complete DeCA inventory shall be developed for all commissary CAs including known expansions and new requirements. Information in each DoD Component's CA inventory shall be used to assess DoD implementation of OMB Circular A-76 and for other purposes.

b. The inventory shall include an entry for each in-house CA that uses at least one whole civilian or military workyear in a fiscal year. The inventory shall also include an entry for each CA that is wholly or partially performed by contract.

c. The inventory shall be developed to contain separate listings of: (1) activities of 10 Full Time Equivalent (FTE) or fewer, and; (2) activities of more than 10 FTEs.

d. The inventory shall describe, as a minimum for each CA, the following: (1) total number of FTEs; (2) nature of the CA and location; (3) date of the last review; (4) date of the next review; (5) reason for justifying continued in-house performance, (in accordance with the OMB Supplement), and; (6) date of the next scheduled review. NOTE: CAs exempted from cost-study after being reviewed shall not be deleted from the inventory.

e. The inventory shall be updated annually to reflect changes to the CA review schedule and the results of reviews, cost comparisons, and direct conversions.

f. An updated inventory shall be submitted to the Office of the Under Secretary of Defense, Environmental Security within 90 days after the end of each fiscal year (by 30 December of each year).

g. The Programs Branch will coordinate with the Offices of Primary Responsibility (OPR) for the DeCA Efficiency Review Program and the Defense Regional Interservice Support (DRIS) Program to ensure that the DeCA CA Program initiatives are not a duplication of effort and to make use of information already available.

h. The inventory shall serve as a means to manage the CA Program and to provide a method of identifying the workforce mix of military, in-service civilians, and contracts.

i. The inventory shall serve as a source for responding to Congressional and other inquiries and satisfying various reporting requirements directed by Congress, Office of Management and Budget,

Office of the Under Secretary of Defense, etc. The inventory also provides a source of data for other inquiries associated with the manpower posture, etc.

**3-3. Codes and Definitions of CA Functional Areas.**

a. A list of DoD CA functional codes and their definitions is defined in DoDI 4100.33. This list does not restrict the applicability or scope of the CA Program within DoD; i.e., the CA Program still applies to CAs not defined in the listing. The codes and definitions are a guide to assist reporting. As new functions are identified, codes will be added or existing definitions will be expanded.

b. The designated code for reporting overall Commissary Store Operations is G008, which includes ordering, receipt, storage, stockage, and retailing for commissaries. The procurement of goods for issue or resale is excluded.

c. Each commissary function is identified by a separate functional code, as follows:

- G008A: Shelf Stocking/Custodial
- G008B: Check Out
- G008C: Meat Processing
- G008D: Produce Processing
- G008E: Storage and Issue
- G008F: Other
- G008G: Troop Subsistence Issue Point

**3-4. Procedures for Developing and Submitting the CA Inventory Report and Five-Year Review Schedule (RCS DD-P&L(A) 1540).**

a. The DeCA CA inventory is maintained by the Directorate of Resource Management, Programs Branch.

b. Specific line-by-line instructions for preparation and submission of the inventory report (RCS DD-P&L(A) 1540) to the Defense Manpower Data Center (DMDC), to include data format and codes for required entries, are contained in enclosure 4, DoDI 4100.33. The guidance contained in enclosure 4, DoDI 4100.33 is mandatory.

c. The inventory report shall close out 30 September (of each year) and shall be transmitted to DMDC by 30 December (of each year). Transmission shall be by microcomputer diskette, magnetic tape, or use terminals as a medium.

## Chapter 4

### COMMERCIAL ACTIVITIES REVIEWS (CRITERIA FOR IN-HOUSE VS CONTRACT PERFORMANCE)

4-1. **Third Step in the Commercial Activities (CA) Program.** This Directive provides supplemental policy and procedures for conducting a CA Review of commissary functions to determine the most appropriate method of operation, in accordance with OMB Circular A-76, the Supplement to the OMB Circular, and DoDI 4100.33, as follows:

a. A CA Review of the function determines whether the function should be performed in-house or by contract. This determination is the CA Review process and is the third step in the CA Program. This process is described in Section A.

b. The CA Review also determines whether a cost comparison is conducted. This process is described in Section B.

4-2. **Section A - CA Review Procedures.**

a. **Decision Trees.** The Programs Branch, Resource Management Directorate, DeCA has proponent responsibility for the CA Program. The Programs Branch shall accomplish the CA Review process for DeCA approval. CA reviews shall be conducted of in-house CAs in accordance with the review schedule. The CA Review process shall be coordinated with the DeCA Legislative Liaison (DeCA/LL) Office.

(1) The CA Review process shall include development of a CA Decision Tree analysis for all commissary functions. This analysis shall include in-house and contracted CAs, known expansions and new requirements, and shall be adapted to specific requirements.

(2) The CA Decision Tree analysis shall be submitted for DeCA approval within 90 days of the publication date of this Directive. DeCA must approve all subsequent revisions to the CA Decision Tree analysis, with information copy provided to DeCA/LL.

b. **Decision Tree Criteria.** Existing in-house CAs, once reviewed shall be retained in-house without a cost comparison only when certain conditions are satisfied. Detailed documentation will be maintained to support the decision to continue in-house performance. These conditions are as follows:

(1) National Defense: (Military Essentiality).

(a) In most cases, application of this criteria shall be made considering the wartime and peacetime duties of the specific positions involved rather than in terms of broad functions.

(b) A CA, staffed with military personnel, who are assigned to the activity, may be retained in-house for national defense reasons when one of these criteria applies:

1 The CA is essential for training or experience in required military skills;

2 The CA is needed to provide appropriate work assignments for a rotation base for overseas or sea-to-shore assignments; or

3 The CA is necessary to provide career progression to needed military skill levels.

(2) Core Logistics Activities: This category is not applicable for commissary CA functions.

(3) No Satisfactory Commercial Source is Available: Commissary CA functions may be retained as Government functions; i.e., performed by DoD civilian personnel, when one of these circumstances can be demonstrated:

(a) Nonavailability. When there is no satisfactory commercial source capable of providing the product or service that is needed. Before concluding there is no satisfactory commercial source available, DeCA Acquisition Management (AM), Contracting Division shall make all reasonable efforts to identify available sources.

1 Efforts to find satisfactory commercial sources shall be carried out according to the Federal Acquisition Regulation (FAR), and Defense FAR Supplement (DFARS), including review of bidders' lists and inventories of contractors, consideration of preferential procurement programs, and requests for help from Government agencies such as the Small Business Administration.

2 Where the availability of commercial sources is uncertain, DeCA AM, Contracting Division shall place all required notices of the requirement in the Commerce Business Daily (CBD) over a 90-day period. (Notices will be in the format specified in the FAR, Chapter 1, Part 5 and Subpart 7-3). When a bona fide urgent requirement occurs, the required number of notices of the requirement shall be reduced to a maximum of two and placed in the CBD over a 30 day period. Specifications and requirements in the notice will not be unduly restrictive and will not exceed those required of Government personnel or operations.

(b) Unacceptable Delay. Use of a commercial source may cause an unacceptable delay or disruption of an essential program. In-house operation of a CA on the basis that use of a commercial source would cause an unacceptable delay or disrupt an essential program shall require a specific documented explanation, as follows:

1 The delay or disruption must be specific as to cost, time, and performance measures.

2 The delay or disruption must be shown to be of a lasting or unacceptable nature. Temporary disruption caused by conversion to contract is not sufficient support for using this criteria.

3 It must be shown that commercial sources are not able, and the Government is able to provide the product or service when needed. The fact that an Agency's CA involves a classified program, or is part of the Agency's basic mission, or that there is the possibility of a strike by contract employees, is not adequate reason for in-house performance of that activity. Further, urgency alone is not an adequate reason to continue an in-house Government operation of a CA.

4 The use of an exemption that is based on an unacceptable delay or disruption of an essential program shall require DeCA approval and shall be coordinated with the DeCA/LL Office.

(4) Patient Care. This category is not applicable for commissary CA functions.

c. Decision Tree Analysis Application. Decision Trees apply to:

(1) Existing In-House CAs. The Programs Branch shall complete an initial CA

Review of all in-house commissary CAs within 1 year after developing Decision Trees (reference paragraph 4-2). Subsequently, in-house CAs shall be reviewed every 5 years using the CA Decision Tree analysis for in-house CAs and expansions. These subsequent reviews shall be conducted based on a DeCA approved schedule. Results of the CA Review which indicates that continued in-house performance is justified under the criteria provided in OMB Circular A-76 and paragraph 4-3 of this Directive, shall be coordinated at the DeCA/LL Office level and shall include sufficient documentation to substantiate the decision. If the results indicate that continued in-house performance is not justified, appropriate notification shall be provided to DeCA/LL.

(2) Expansions. An expansion is the modernizing, replacing, upgrading, or enlarging of an in-house CA that involves a cost increase exceeding either 30 percent of the total capital investment or 30 percent of the annual personnel (includes fringe benefits), materiel, and supply costs (includes materiel markup). A consolidation of two or more in-house CAs is not an expansion unless the proposed total capital investment or annual personnel, materiel, and supply costs of the consolidation exceeds the total of the individual CAs by 30 percent or more. Government facilities and equipment normally shall not be expanded to accommodate expansions if adequate and cost-effective contractor facilities are available. In cases where expansion of an in-house CA is anticipated, a review of the entire CA, including the proposed expansion, shall be conducted using the Decision Tree analysis for in-house CAs and expansions.

If the results of the review indicate that continued in-house performance is not justified under the criteria provided in OMB Circular A-76 and paragraph 4-3 of this Directive, (criteria which determines if performance by DoD personnel is justified) a cost comparison of the entire activity shall be performed. Appropriate notification shall be provided to DeCA/LL. Additional guidance concerning expansions is provided as a separate chapter in this Directive.

(3) Contract CAs:

(a) When mission changes dictate that a review of a contract CA is appropriate, the CA Review shall be accomplished using the Decision Tree analysis for in-house CAs and expansions. This review should indicate if an in-house operation is justified under the criteria in OMB Circular A-76 and paragraph 4-3 of this Directive.

(b) When results of the CA Review using the Decision Tree for contracted CAs indicates contract costs may be unreasonable or performance becomes unsatisfactory, a cost comparison of a contract CA must be performed according to guidance in enclosures 5, 6, and 7 of DoDI 4100.33, if the following apply:

1 Recompensation with other satisfactory commercial sources does not result in reasonable prices; and,

2 In-house performance is feasible. As a result of cost comparisons, resources to support conversions to in-house performance must be reallocated from existing DeCA resources.

3 Contract CAs that are justified for conversion to in-house performance are allowed to expire (contract options are not exercised) once an in-house capability is established.

(4) New Requirements. A new requirement is a newly established need for a commercial product or service. A new requirement does not include interim in-house operation of essential services pending reacquisition of the services prompted by such action as the termination of an existing contract operation; i.e., for convenience of the Government, defaults, etc.)

(a) The determination of the proper method of operation for a new requirement is made using the Decision Tree analysis for new requirements. This review must be accomplished in the

earliest stages of the acquisition process.

(b) Normally, in those cases when in-house operation of new requirements is not justified using the Decision Tree analysis, in accordance with OMB Circular A-76 and paragraph 4-3 of this Directive; i.e., when performance by DoD personnel is not required for new requirements, the workload can be performed by contract. If there is reason to believe that commercial prices may be unreasonable, a preliminary cost analysis must be conducted to determine whether it is likely that the work can be performed in-house at a cost that is less than that anticipated for contract performance. A cost comparison shall be scheduled if in-house performance appears to be more economical. The appropriate conversion differential will be added to the preliminary in-house cost to determine if in-house performance is likely to be more economical.

(c) Actions which are a result of a reorganization of existing workload are not new requirements.

(d) Government facilities and equipment normally shall not be expanded to accommodate new requirements if adequate and cost effective contractor facilities are available. The requirement for Government ownership of facilities and equipment does not obviate the possibility of a contract operation. If justification for in-house operation is dependent on relative cost, the cost comparison shall be delayed to accommodate the lead time necessary for acquiring the facilities and equipment.

(e) Approval to budget for a major capital investment associated with a new requirement will not constitute Office of the Under Secretary of Defense approval to retain as a Government function; i.e., to perform the new requirement with DoD personnel (civilians and/or military). Government performance shall be determined according to guidance in OMB Circular A-76 and paragraph 4-3 of this Directive.

#### 4-3. **Section B - Conversion Approvals and Cost Comparison Requirements.**

##### a. Conversion Approvals.

(1) **Initiating Cost Comparisons and Direct Conversions.** DeCA has approval authority to initiate actions to conduct cost comparisons and direct conversions without prior Congressional notification for activities of 45 or fewer civilian personnel; however, prior Congressional notification is required for activities of 46 or more civilian personnel. All actions to conduct cost comparisons and direct conversions shall be coordinated with DeCA/LL. Notification procedures are contained in Chapter 14.

(2) **Conversion Notification.** Prior to conversion of activities to contract performance (regardless of the size of the activities) notifications (memoranda) of all actions (cost comparison decisions and direct conversions) approved by DeCA for conversion of in-house activities to contract performance shall be submitted through DeCA/LL for review, approval, and submission to Congress (Committee on Appropriations of the House of Representatives and the Senate), with information copy provided to the Under Secretary of Defense, Environmental Security. Additional guidance concerning Congressional notification is contained in Chapter 14. The notification shall contain the following information:

- (a) Function
- (b) Location
- (c) Number of military and civilian authorizations (by specialty code)
- (d) Applicable program element code(s)

(e) Brief rationale for action

(3) Approval Dates. Approval dates described in paragraph 4-5a and b, above, are required entries in the Commercial Activities Management Information System (CAMIS) data base. Guidance for developing CAMIS is contained in Chapter 14. Approval dates consist of the following:

(a) Date approved for initiation of the cost comparison and/or direct conversion. This is the date of DeCA approval for activities of 45 or fewer civilian personnel or the date of Congressional notification for activities of 46 or more civilian personnel.

(b) Date approved for conversion. This is the date of Congressional notification for all activities prior to conversion (regardless of the size of the activities).

b. Direct Conversions. Once approved for conversion, an activity can be directly converted to contract without conducting a cost comparison or performing a management study, under the following guidelines:

(1) The activity is currently performed by 10 or fewer civilian employees and the Region Director certifies that all affected civilian employees will be offered jobs within the Region's local area or boundary/line; or, in coordination with other Region Directors, within other Region boundaries/lines, commensurate with their current skills and pay grades. If no such vacancies exist, the employees will be offered retraining opportunities for existing or projected vacancies within the Region's local area or boundary/line; or, in coordination with other Region Directors, within other Region boundaries/lines. The employees' potential right-of-first-refusal with civilian contractors does not satisfy this requirement.

(2) The activity is performed exclusively by military personnel.

(3) The activity is performed outside of the United States, its territories and possessions; the District of Columbia; or the Commonwealth of Puerto Rico.

(4) Additional guidance for conducting direct conversions is contained in Chapter 9.

c. Cost Comparisons (when Direct Conversion criteria does not apply). For CAs performed within the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico, the following provisions apply:

(1) All CAs performed wholly or partially by civilian personnel are subjected to a cost comparison between the in-house and a contract operation prior to converting to contract.

(2) The two categories of cost comparisons are: full cost and simplified cost comparisons.

(3) Policy and procedures for conducting full cost and/or simplified cost comparisons are contained in Chapter 9.

d. Summary of Process. If performance of a CA by DoD personnel cannot be justified under national defense, nonavailability of commercial source, etc., (in accordance with OMB Circular A-76 and paragraph 4-3 of this Directive) then a full cost comparison shall be conducted to determine if performance by DoD employees is justified on the basis of lower cost (unless the criteria for simplified cost comparisons and direct conversions are met). The conclusion that a CA will be cost-compared reflects a management decision that the work need not be accomplished by military personnel. Therefore, all direct personnel

costs shall be estimated on the basis of civilian performance. Funds shall be budgeted to cover either the cost of the appropriate in-house operation required to accomplish the work or the estimated cost of the contract. Neither funds nor manpower authorizations shall be removed from the budget in anticipation of the outcome of a study. A summary of cost comparison and/or direct conversion criteria and approval levels, is as follows:

(1) Direct Conversions. A CA performed by 10 or fewer civilian employees can be converted to contract without performing a cost comparison (in accordance with guidance in this Directive). A management study is not required. Procedures are provided in Chapter 13 for guidance in supporting the conversion to contract.

(2) Simplified Cost Comparisons. A CA performed by more than 10, but fewer than 46 civilian employees can be converted to contract only after performing either a simplified or full cost comparison. A most efficient and cost-effective organization (MEO) analysis is required. Procedures are provided in Chapter 13 for guidance in supporting the conversion to contract.

(3) Full Cost Comparisons. A CA performed by 46 or more civilian employees can be converted to contract only after performing a full cost comparison. A management study (MEO) is required. Procedures are provided in Chapter 13 for guidance in supporting the conversion to contract.

## Chapter 5

### COST COMPARISON PROCESS AND COSTING PROCEDURES

5-1. **Fourth Step in the Commercial Activities (CA) Program.** This chapter defines and describes the overall cost comparison process. The cost comparison is the fourth step in the CA program process.

5-2. **Mandatory Requirements.**

a. Cost comparisons will be developed in accordance with DoDI 4100.33 and Part IV of the Supplement to OMB Circular A-76.

b. Costing procedures outlined in the DoDI 4100.33 and the Supplement to the OMB Circular are by major subjects. These procedures must be followed when developing in-house and contract cost estimates, to ensure the development of cost studies will be fair, reasonable, and consistent. These directives provide specific instructions for recording line-by-line cost estimates on the cost comparison form and provide details required for each line (for including or excluding specific costs) to include retaining computations to support the cost comparison.

c. The DoDI 4100.33 guidance outlines mandatory requirements which must be followed in developing cost comparisons and includes issuance by the Under Secretary of Defense, Environmental Security of inflation factors for adjusting costs for the first and subsequent performance periods, use of the pricing formula for supplies and materials, other in-house cost estimate requirements, contract cost estimates, etc.

d. To the maximum extent possible, the cost documentation must support the cost comparison without further explanation. The documentation must enable the reviewer to track the computations from start to finish.

5-3. **Definition of Cost Comparison.** A cost comparison is the process of developing an estimate of the cost of performance of a CA by DoD civilian employees and comparing it to the cost to the Government for contract performance of the CA, using either of these cost comparison methods:

a. **Full Cost Comparison.** A full cost comparison is one that must be performed on those activities which are operated by 46 or more civilian employees. These cost comparisons start upon Congressional announcement. For full cost comparisons, the guidance in DoDI 4100.33 and Part IV of the Supplement to OMB Circular A-76, applies.

b. **Simplified Cost Comparison.** A simplified cost comparison is one that may be performed on those activities which are operated by at least 1, but no more than 45 civilian employees. For simplified cost comparisons, the guidance in enclosures 7 and 8, DoDI 4100.33, applies.

5-4. **Cost Comparison Process.** The overall cost comparison process generally includes:

a. Making appropriate notifications; i.e., Congressional, DoD, Commerce Business Daily (CBD), and local notifications; developing a performance work statement (PWS); determining the most efficient and cost-effective organization (MEO) (the management study and/or MEO analysis); computing and comparing costs; conducting an independent review; and addressing administrative appeals. Details regarding these specific activities are covered in Chapters 11 and 14.

b. The following procedures shall be followed in the cost comparison process:

(1) Cost comparisons are generally based on 5-year totals; however, the cost comparison period must match the period of the contract plus options as reflected in the contract solicitation.

(2) Costs related to conducting the cost comparison must not be included in the cost comparison.

(3) The in-house performance cost is based on the same level of effort and description of work as identified to the contractor in the PWS and other solicitation documents and includes estimates of all significant and measurable costs. The estimated costs of in-house operation of the function undergoing cost comparison are recorded on the cost comparison form and are based on these costs:

(a) Personnel costs.

(b) Materiel and supply costs.

(c) Other specifically attributable costs; i.e., depreciation, rent, maintenance and repair, utilities, insurance, travel, and other costs; overhead costs (operations overhead and general and administrative overhead); and additional costs.

(4) The in-house cost estimate is based on the MEO needed to accomplish the requirements in the PWS. The PWS and management study are the source documents used and provide the basis for developing the in-house estimate. Certification by the Director, Resource Management is required for the in-house estimate, prior to bid opening or the date for receipt of initial proposals, certifying that the in-house estimate is based on the most efficient and cost-effective organization practicable to accomplish the requirements in the PWS.

(5) After the costs of in-house performance and costs of contract performance (other than costs dependent on contract price) have been estimated, the cost comparison form must be signed and dated by the preparer/CA team leader (Programs Branch, Resource Management Directorate, DeCA). At this stage, the contract price is still unknown.

(6) The estimates of in-house costs and any contract costs which can be computed prior to the cost comparison must be reviewed by a qualified activity, independent of the preparer of the cost comparison study. The Internal Review Office (IRO) is the designated independent reviewing activity.

(a) The independent review shall be completed prior to submission of the cost comparison form and supporting data to the DeCA Acquisition Management (AM), Contracting Division.

(b) Upon receipt by the Programs Branch of the independent review certification and the signed and dated cost comparison form from the reviewer (IRO) the cost comparison package (containing the independent review certification, cost comparison form and supporting documentation, PWS, management study, and solicitation) will be hand-carried by the Programs Branch (in a sealed and identified envelope) to the DeCA AM, Contracting Division by the required submission date for bids or proposals.

(7) The confidentiality of all cost data, including the contract price, must be maintained to ensure that Government and contract cost figures are completely independent. For example, the DeCA AM, Contracting Division will not know the in-house cost estimate until the cost comparison is accomplished at the bid opening date.

(8) Procedures shall be followed in accordance with Part IV of the Supplement to OMB Circular A-76 and FAR 7.306 for both advertised and negotiated procurements.

(9) Under sealed bid procedures, the Contracting Officer shall open the sealed envelope containing the in-house estimate for Government performance and enter the price of the apparent low bidder on the cost comparison form. Under negotiated acquisitions, the Contracting Officer shall, before public announcement, open the sealed estimate in the presence of the preparer, enter the amount of the most advantageous proposal on the cost comparison form, and return the form to the preparer of the cost estimate for completion.

(10) The computations on the cost comparison form will be verified by a qualified person (in either the Resource Management Directorate or IRO) who did not take part in preparing the cost estimate. The cost comparison form will then be submitted by the Programs Branch to the Director, Resource Management for signature/approval of the cost comparison decision.

(11) The DeCA AM, Contracting Division will then announce to the interested parties the initial decision to convert to contract or retain in-house performance.

(12) If no clearly acceptable bids/proposals are received, the Government cost estimate will not be revealed. The confidentiality of the in-house cost estimate will be safeguarded until it is decided that no further solicitation will be made.

(13) The final decision is made after all appeals and protests have been resolved.

(14) The Programs Branch will notify the DeCA AM, Contracting Division upon receiving approval and clearance to end the cost study. The DeCA AM, Contracting Division will either award a contract or cancel the solicitation.

(15) The complete cost study record will be retained by the Programs Branch for 5 years or until completion of a later cost study of the activity, whichever occurs first.

#### **5-5. General Information on Cost Comparisons.**

a. **Civilian Personnel Versus Military Personnel.** The conclusion that a CA will be cost compared reflects a management decision that the work does not have to be accomplished by military personnel. Therefore, all direct personnel costs will be estimated on the basis of civilian performance.

b. **Funding.** Funds will be budgeted to cover either the cost of the in-house operation required to accomplish the work or the estimated cost of the contract. Neither funds nor manpower authorizations will be removed from the DeCA's and/or the Region's budget in anticipation of the outcome of a cost comparison.

c. **Common Costs.** Cost comparisons include all significant costs of both Government and contract performance. Common costs (costs that are the same for either an in-house or contract operation) will not be computed, but the basis of the common costs will be identified and included in the cost comparison documentation.

## Chapter 6

### PERFORMANCE WORK STATEMENT AND QUALITY ASSURANCE SURVEILLANCE PLAN DEVELOPMENT

6-1. **Preparation of the Performance Work Statement (PWS) and the Quality Assurance Surveillance Plan (QASP).** This chapter provides policy and procedures for preparing the PWS and QASP.

6-2. **Policy.**

a. Preparation of the PWS is critical since it is the basis for the cost comparison. It must be sufficiently comprehensive to ensure that in-house or contract performance satisfies Government requirements. The PWS must clearly state what is to be done without describing how it is to be done. The PWS shall describe the output requirements of the operation, including the requirements for facilities, equipment, materials, supplies, etc. The PWS must be based on accurate and timely historical and/or projected workload data and provide reasonable, measurable, and verifiable performance standards. The PWS forms the basis for both the in-house and contractor cost estimates.

b. Concurrent with the development of a PWS, a QASP is required to ensure a comparable level of performance for either an in-house or contract operation.

c. The PWS and the QASP shall be prepared in accordance with DoDI 4100.33 and Part II of the Supplement to OMB Circular A-76, (Office of Federal Procurement Policy (OFPP) Pamphlet #4) for full cost comparisons, simplified cost comparisons, and direct conversions. Employees and/or their bargaining unit representatives shall be encouraged to participate in preparing or reviewing the PWS.

6-3. **Procedures.**

a. Responsibilities.

(1) The Programs Branch, Resource Management Directorate, DeCA has proponent responsibility for the development and revision of prototype PWSs and QASPs for commissary functions approved as contracting candidates under the Commercial Activities (CA) Program. The Programs Branch shall obtain DeCA Chief of Staff approval of prototype PWSs and QASPs and disseminate copies to DeCA activities.

(2) DeCA approved prototype PWSs and QASPs shall be utilized by DeCA activities for all commissary CA initiatives; i.e., new studies (cost comparisons and direct conversions) and for resolicitations.

b. Team Effort.

(1) The development of quality prototype PWSs and QASPs is accomplished through team effort, including meetings, workshops, onsite visits, etc.

(2) The principal members of the team are representatives from Resource Management, functional, and contracting offices. These representatives determine the required services (work to be done) and standards to measure the quality of services, provide technical expertise for

compliance with procurement directives, determine workload collection and documentation, etc. Advisory personnel; i.e., General Counsel, DeCA DP and DLA Offices of Civilian Personnel (OCP), Internal Review Office, Inspector General, Security, Safety, etc., are also called upon for recommendations in regard to PWS and QASP development, as needed.

(3) The Programs Branch exercises team leader authority and responsibility (with input from functional, contracting, and advisory representatives) for development and completion of the prototype PWSs and QASPs, and for the utilization and tailoring of prototype documents to individual activities when conducting new studies.

(4) The Programs Branch provides guidance to the regions for utilization and tailoring of prototype documents for existing contracts, as needed for resolicitations (for contract defaults, terminations, etc.). PWSs and QASPs requiring resolicitation action shall be forwarded to the Programs Branch for coordination and approval. The Programs Branch shall provide the finalized documents to the DeCA Acquisition Management (AM), Contracting Division for resolicitation action.

**6-4. Initial Guidance.**

a. Upon decision and approval to conduct a CA study, the Programs Branch shall provide specific guidance to all concerned activities concerning the overall CA study plan, to include preparation and development of the PWS and QASP, etc.

b. The Programs Branch guidance shall include participation by employees and/or their union representatives in development of the PWS and coordination with other installation activities, concerning issues relating to civilian personnel, safety, security, transportation, access to the installation, adherence to installation regulations/directives, etc.

c. The Programs Branch shall maintain coordination with the DeCA AM, Contracting Division concerning submission of completed PWSs and QASPs for solicitation action.

**6-5. Special Considerations.**

a. Guidance on Government Property When Conducting New Studies.

(1) The contractor shall be responsible for providing the equipment necessary to perform the work described in the PWS for shelf stocking and custodial services; however, Government equipment for the receiving/storage/holding area will be made available to the Contractor.

(2) The determination on Government property shall be supported by current, accurate, complete information and be readily available for the independent reviewing activity. The design of this analysis shall not give a decided advantage and/or disadvantage to either in-house or contract competitors.

(3) The management of Government property provided to a contractor shall also be in compliance with the Federal Acquisition Regulation (FAR).

b. Maintenance of Equipment. The contractor shall be responsible for maintenance on Government equipment accepted by the contractor for use.

c. Supplies and Materials. The contractor shall be responsible for providing the supplies and materials necessary to perform the work described in the PWS.

d. Contingency Plans. A contingency plan is not required for expansion of commissary tasks in anticipation of wartime/emergency situations; however, contingency plans are required to ensure the continuous performance of required tasks, as follows:

(1) Contract Operation. The Contractor shall be required to develop a labor strike contingency plan to include procedures for notifying the Government of a strike and identifying procedures detailing actions to be taken for continuation of responsible tasks to avoid interruption of services to the Government.

(2) Government Operation. The Government's contingency plan will include procedures for accomplishing continuous performance of required tasks in the event of a contractor default, termination, or a strike; i.e., by use of Government overhire authority on a temporary basis and/or utilization of local and/or region resources (overtime, details, temporary duty assignments, etc.) until a new contract is negotiated or the strike is settled.

e. Relationship of the PWS and the Management Study. Development of the PWS, QASP, management study, and/or the most efficient and cost-effective organization analysis (MEO) are normally accomplished concurrently.

f. Security Clearances. Normally there should be no requirement for contractor employees to have access to classified information or to controlled or restricted areas in order to provide the required services, thereby negating the requirement for contractor employees to obtain security clearances. Contractor employees who do not require access to classified information for work performance, but require entry into restricted areas of the installation, may be authorized unescorted entry only when the provisions of DoD Directive 5220.2-R, (DoD Personnel Security Program Regulation) apply.

## Chapter 7

### MANAGEMENT STUDY

#### 7-1. **Basic Criteria for the Management Study.**

a. This chapter provides policy and procedures for conducting a Commercial Activities (CA) management study and for identifying the techniques used and documentation required in the study. The management study will identify the most efficient and cost-effective in-house organization (MEO) and position structure to perform the work/requirements in the Performance Work Statement (PWS) and will identify staffing requirements for contract administration.

b. The Programs Branch, Resource Management Directorate, DeCA has proponent responsibility for the CA management study plan for all commissary candidates approved for study. The Programs Branch is responsible for establishing and disseminating procedures to be followed in conducting CA management studies and shall serve as the study team leader for CA studies at individual locations.

#### 7-2. **Procedures.**

a. The Programs Branch shall provide the necessary guidance and procedures to be followed in conducting management studies to all affected managers, including coordination of the CA study schedule, corresponding milestones, guidance concerning the management study plan, CA cost study process, and information concerning the general size and scope of the study, etc.

b. Development of the CA management study plan shall include the following events, as a minimum:

(1) Selection and training for personnel to conduct management studies. The existing DoD Commercial Activities Process (CAP) Course will be utilized for training personnel on conducting CA management studies, as well as the use of other DoD formal programs and training courses.

(2) Coordination and approval of the CA study schedule. The CA study schedule shall be approved by DeCA and coordinated with the DeCA Legislative Liaison Office (DeCA/LL) and shall be protected under classification (For Official Use Only) until all appropriate notifications are made, such as Congressional, Under Secretary of Defense, Environmental Security, etc., (as required) and approvals are provided to proceed with the CA study schedule. Criteria and guidance for appropriate notification procedures is contained in Chapter 14.

(3) Early identification of workload to be considered and development of workload documentation by functional managers.

(4) Timeframe for conducting the management study and augmentation of CA study teams by functional representatives. The management study will be conducted by a team with expertise in management analysis, manpower, position classification, and the operation of the CA function under study.

(5) Actual conduct of the management study, including study disciplines and documentation.

(6) Notifications for major commands, installation commanders, installation activities, and appropriate management officials. Notifications will include identification of the function to be

studied, inclusive study dates, study team members, milestones, special requirements, etc.

(a) The Regions Operations Division and Personnel/ Training Division/Offices will be included in the conduct of the Management Study.

(b) The study team will participate in meetings with the Region Personnel/Training Division/Office and union representatives to ensure that all affected employees are kept informed of the CA study process, and kept advised of employee rights and benefits in the event of a contract award.

(c) Coordination with other installation activities will be required concerning requirements which may be unique to contractor personnel at individual installations.

(7) OnSite Visits. The onsite visit to conduct the management study will include development of the PWS, QASP, and collection of cost data for each CA study conducted.

c. This chapter is not intended to replace formal training on management study techniques, but merely to establish the basic criteria and the interrelationship between the management study and the PWS.

#### 7-3. **Scheduling Constraints.**

a. The management study that establishes the MEO to be used in the CA cost study cannot begin until all required notifications are made and the cost study is announced to the affected work force.

b. The participation of a fully informed work force is essential for the management study to be valid and credible.

c. The management study, to include a draft proposed change to the Unit Manning Document (UMD) for the MEO, and position structure must be approved before the in-house cost estimate can be completed. These documents are procurement sensitive and should be safeguarded.

#### 7-4. **Management Study Requirements.**

a. A management study is performed to analyze completely the method of operation necessary to establish the MEO needed to accomplish the requirements in the PWS. The PWS does not need to be completely written before the management study is initiated, but the major decisions on performance standards and whether compliance with the old procedures is mandatory must be made before the MEO can be developed. Development of the MEO is a crucial step in the cost comparison process. The management study identifies essential functions to be performed, and determines performance factors, organizational structure, staffing requirements, and operating procedures for the MEO performance of the CA work center. The MEO becomes the basis of the Government estimate for the cost comparison with potential contractors. In this context, "efficient" (or cost-effective) means that the required level of workload (output, as described in the PWS) is accomplished with as little resource consumption (input) as possible without degradation in the required quality level of products or services. When developing the MEO, the performance standards in the PWS must be followed so there are no workload data differences between the in-house and contract cost estimates.

b. The management study, ideally, is a team effort which utilizes the talents of individuals with expertise in management analysis, staffing, position classification, work measurement, value engineering, industrial engineering, cost analysis, contracting, and the technical aspects of the functional area under cost comparison. The objective of the management study team is to find new, innovative, and creative ways to provide the required products or services in a cost-effective manner.

c. Mandatory Requirements.

(1) The management study shall be prepared in accordance with DoDI 4100.33 and Part III of the Supplement to OMB Circular A-76.

(2) The management study MEO is mandatory for all full cost comparisons.

(3) A MEO analysis and a certification are required for simplified cost comparisons. CAs which meet direct conversion criteria do not require an MEO analysis.

d. Relationship to Staffing and Standards. The estimated workload must be based on the PWS and not necessarily on the current workload, staffing, or work methods. If an existing manpower standard or guide is used, it may be necessary to make upward or downward adjustments for the CA work center. The adjustments are necessary because existing standards or guides may be based on work elements or performance standards or describe work methods which may not be appropriate to accomplish the workload described in the PWS. If current staffing patterns are used, similar upward or downward adjustments may also be needed.

e. Employees and Union Participation. Early in the management study of the CA under review, management will solicit the views of the employees and/or their representatives for their recommendations about the MEO or ways to improve the method of operation. The process and the comments/suggestions produced through this process will be documented in the management study report. The MEO staffing and other procurement-sensitive information which may compromise the in-house cost estimate will not be released in such discussions. If there is a labor (union) management agreement in effect at the activity, union involvement in all post-announcement management actions will be governed by the applicable terms of such agreement. The terms of the negotiated labor union-management agreement will govern the involvement of the union in the management study process.

f. Resources. The management study procedures shall ensure the in-house operation, as specified in the MEO, is capable of performing according to the requirements of the PWS. The management study shall ensure the resources (facilities, equipment, and personnel) specified in the MEO are available to the in-house operation, and that in-house performance remains within the requirements and resources specified in the PWS and MEO for the period of the cost comparison, unless documentation to support changes in workload/scope are made available.

g. Organization and Position Structuring. Once PWS workload requirements have been determined, an organizational configuration and position structure which best meets the PWS workload must be designed.

(1) The new organization and position structure should arrange the PWS workload in the most efficient manner. The workload should be divided according to skill levels required. Supervisory and administrative support requirements (not a part of operations overhead) should be included. Also, consideration must be given to multi-skilled positions to fully utilize employees; the best mix of work schedules for accomplishing the workload, (full-time, part-time, and intermittent); and the use of overtime (unscheduled, seasonal, or peak workload).

(2) In developing a position structure, position descriptions may have to be written or rewritten. The classification specialists from the Regions Personnel/Training Division/Offices and/or DeCA DP ensure proper design and structuring of the positions according to pay plan; i.e., general schedule (GS), Federal wage system (FWS), or other occupational series and grades. This task should be approached as if all current positions are to be abolished. This theoretical approach helps develop the MEO. These decisions should be made during the management study. The new organization, as defined in

the management study, is costed in the cost comparison.

**7-5. Management Study Principles.**

a. The management study must reflect the best efforts of the activity to improve the operations of the area under cost comparison, with primary emphasis on defining what must be done (mission of the activity) and the best way to do it (methods improvement). The best way to accomplish the essential mission may involve changing procedures, revising paper flow, restructuring the organization, reconfiguring facilities, making equipment changes, eliminating or downgrading positions, and using other techniques to provide the same quantity and quality of service with the smallest possible consumption of resources.

b. The MEO may include a recommendation to reduce staffing requirements by consolidating activities, or functions; eliminating redundant supervision, functions, and tasks; reducing clerical and other support positions; increasing the span of control; and eliminating nonessential positions. If the management study identified a need for fewer people in the activity, support areas should also be investigated for reduced requirements.

**7-6. Study Methods.** Management study disciplines and techniques typically used in management studies can range from the entire spectrum of work measurement, value engineering, methods improvement, organizational analysis, position management, and systems and procedures analyses. The techniques chosen depend on the type of function under study and the data, time, and analysts available. The techniques selected must support the study recommendations and be described in the study report. Some techniques commonly used in development of the management study include: statistical and analysis techniques, technical estimates, operational audits, etc.

**7-7. Performance Indicators.**

a. The performance requirements of the PWS are developed during the initial job analysis phase of the management study or PWS development; however, these requirements pertain only to final outputs and assume that the contractor will develop and operate an organization to meet these performance requirements. Therefore, it may be necessary for the study team to develop performance indicators for functions below the final output level to assist in developing the in-house organization.

b. Performance indicators required for developing the in-house organization should be established at the same time the performance indicators for the PWS are developed. This ensures there are no discrepancies or omissions that inflate or deflate the in-house organization for the required outputs. The most direct way of evaluating performance is to count output units and compare them to some pre-determined requirements. Similarly, resource requirements can be predicted by comparing each person's average outputs to projected workload. In some cases, output measures which are easily counted may be difficult or impossible to obtain. In all cases, however, indicators of performance must be devised. These performance indicators should reflect the quantitative, as well as qualitative, aspects of organizational output. When quantitative measures are infeasible, other measures, such as, effectiveness, timeliness, or quality, should be used.

**7-8. Management Study Documentation.**

a. The management study is a major management analytical evaluation of an organization to determine if the job can be accomplished in a more economical manner. The results of the study are used to develop the Government's cost to compare with the contractor's cost to provide the product or service. The results of the management study must be documented to show the development and extent of the analytical process and to record the new Government organization.

b. Part III of the Supplement to OMB Circular A-76 and DoDI 4100.33 provide the format and guidance for documenting the management study. This format is mandatory. The management study documentation must include a discussion of all applicable areas covered in the format.

c. The management study is the basis for certifying that the Government's cost estimate is based on the most efficient and cost effective organization practicable.

7-9. **Implementation of the MEO.** Once a decision is reached to retain a CA as an in-house operation, implementation of the MEO will proceed. Guidance for MEO implementation is addressed in Chapter 13.

## Chapter 8

### **COST COMPARISONS FOR EXPANSIONS, NEW REQUIREMENTS, AND CONVERSIONS FROM CONTRACT TO IN-HOUSE OPERATION**

8-1. **Procedure Differences in the Cost Comparison Process.** This chapter describes supplemental methods and procedures which are necessary to perform a cost comparison study for an expansion, new requirement, or conversion of a function from contract to in-house performance. The procedures in Part IV, Chapter 5 of the Supplement to OMB Circular A-76 are mandatory for developing cost comparisons for the following:

- a. Where an expansion of an in-house Commercial Activity (CA) is anticipated and the activity is not justified under an exclusion.
- b. For a new requirement for a CA.
- c. When it is determined as beneficial to study a currently contracted function for more economical performance in-house.

8-2. **Definitions for Expansions, New Requirements, and Conversions from Contract to In-House Operation.**

- a. Expansions.

(1) An expansion is the modernization, replacement, upgrading, or enlargement of a Government CA involving a cost increase exceeding either 30 percent of the total capital investment or 30 percent of the annual personnel and material costs. A consolidation of two or more activities is not an expansion unless the proposed total capital investment or annual personnel and material costs of the consolidation exceeds the total of the individual activities by 30 percent or more.

(2) In cases where expansion of an in-house Government CA is anticipated, a review of the entire activity, including the proposed expansion, shall be conducted to determine whether a Government operation is authorized under provisions of the OMB Circular A-76; i.e., if performance by DoD personnel is authorized for National Defense reasons, because no commercial source is available, or because it is in the best interest of direct patient care. If performance by DoD personnel is not justified under these criteria, a cost comparison of the entire activity shall be performed.

(3) Government facilities and equipment normally will not be expanded to accommodate expansions if adequate and cost effective contractor facilities and equipment are available.

(4) Cost comparison thresholds for expansions are the same as for existing in-house CAs (in accordance with the OMB Circular). Thirty days' public notice shall be given in the Commerce Business Daily (CBD) if the review has not previously been scheduled.

- b. New Requirements.

(1) A new requirement is an anticipated or a newly established need for a commercial product or service. A new requirement that does not meet the criteria for Government performance described in the OMB Circular A-76 should normally be performed by contract; i.e., a review shall be conducted to determine if performance by DoD personnel is authorized under provisions of the OMB

Circular A-76 (for national defense reasons, because no commercial source is available, or because it is in the best interest of direct patient care). If performance by DoD personnel is not justified under these criteria, then the new requirement normally shall be performed by contract.

(2) If there is reason to believe that commercial prices may be unreasonable, an informal preliminary review (cost analysis) shall be conducted by the Programs Branch to determine whether it is likely that the work can be performed in-house at a cost that is less than anticipated for contract performance by 10 percent of Government personnel-related costs, plus 25 percent of the acquisition cost of any additional equipment and facilities; i.e., capital assets not currently owned by the Government. If in-house performance appears to be more economical, a cost comparison shall be scheduled. The appropriate differential will be added to the preliminary in-house cost before it is determined that in-house performance is likely to be more economical.

(3) When in-house performance to meet a new requirement is not feasible or when contract performance would be by a commercial or mandatory source under a preferential procurement program a contract may be awarded without conducting a cost comparison; however, if there is reason to believe that it may not be cost effective to make an award under the mandatory source programs, or non-competitive preferential procurement program, a cost comparison or any other analysis, although not required by OMB Circular A-76, may be performed.

(4) Government facilities and equipment normally will not be expanded to accommodate new requirements if adequate and cost-effective contract facilities are available. The requirement for Government ownership of facilities does not obviate the possibility of contract operation. If justification for in-house operation is dependent on relative cost, the cost comparison may be delayed to accommodate the lead time necessary for acquiring the facilities.

(5) Approval or disapproval of in-house performance of new requirements involving a capital investment of \$500,000 or more will not be re delegated below the level of DAS or equivalent.

(6) Approval to budget for a major capital investment associated with a new requirement will not constitute OSD approval to perform the new requirement with DoD personnel. Government performance shall be determined in accordance with DoDI 4100.33.

c. Conversions from Contract to In-House Operation.

(1) Contracted CAs should be continually monitored to ensure performance is satisfactory and cost effective.

(2) When contract costs become unreasonable or performance becomes unsatisfactory, a cost comparison of a contracted CA shall be performed in accordance with Parts II, III, and IV of the Supplement to OMB Circular A-76, if:

(a) Re-competition with other satisfactory commercial sources does not result in reasonable prices; and

(b) In-House performance is feasible.

(3) Contracts for CAs that are justified for in-house performance based on cost comparisons will be allowed to expire (options will not be exercised) once in-house capability is established. If the required FTEs cannot be accommodated within DeCA's personnel ceiling, a request for adjustment will be submitted through Defense Commissary Agency/Legislative Liaison Office (DeCA/LL) to OMB in conjunction with the annual budget review.

**8-3. Costing Methods and Procedures.**

a. Costing methods and procedures which are necessary to perform cost comparisons for the three categories identified above differ from those for full cost comparisons in basically four areas, as follows:

- (1) Identification of new or increased costs expected to be incurred.
- (2) Cost of capital on additional assets.
- (3) One-time conversion costs.
- (4) Minimum cost differentials.

b. The method for computing the in-house costs of expansions, new requirements, and conversions from contract to in-house operation shall follow the procedures identified for full cost comparisons, with certain adjustments (identified in Part IV, Chapter 5, of the Supplement to OMB Circular A-76).

c. The costing methods and procedures described in Chapter 5 of the OMB Supplement were developed for use in circumstances of inadequate competition (expansions, new requirements, and conversions from contract to in-house operation), as follows:

(1) For conversions from a contract to an in-house operation and for new requirements, the preparer of the cost comparison (the Programs Branch), Directorate of Resource Management, DeCA) must identify the increases in cost expected to be incurred.

(2) For expansions, the preparer of the cost comparison, (the Programs Branch) must first compute the increase related to the expansion portion of the function. Then total impact (existing and expansion) is computed, which would result from conversion to contract:

(a) In addition to increased personnel and material costs, there might be increased cost because of a requirement for increased facilities and equipment. Normally, Government facilities and equipment will not be expanded to accommodate expansions if adequate and cost effective contractor facilities and equipment are available.

(b) The cost of all capital assets not provided to the contractor will be computed using the same depreciation method as for full cost comparisons.

(c) There might also be increases for rent, maintenance and repair, utilities, travel, and support provided by the overhead activities.

(3) Governmental costs currently being incurred, which would be the same for either in-house or contract operation, must be identified, but shall not be computed.

## Chapter 9

### SIMPLIFIED COST COMPARISONS AND DIRECT CONVERSIONS

9-1. **Policy and Procedures.** This chapter provides policy and procedures for the following:

a. **Simplified Cost Comparisons.** Conducting simplified cost comparisons to convert Commercial Activities (CAs) employing 45 or fewer DoD civilian employees to contract performance without a full cost comparison.

(1) Simplified cost comparisons shall be developed in accordance with enclosures 7 and 8, DoDI 4100.33.

(2) Simplified cost comparisons serve as a procedure for considering cost data as a factor in the decision to convert to contract for those activities which do not require a full cost comparison.

(3) Simplified cost comparisons cannot be used to justify an in-house operation based on cost; therefore, if a simplified cost comparison indicates in-house performance is cheaper (based on the estimates of in-house and contract cost), a full cost comparison should be scheduled after sufficient time has elapsed (so that the cost data will no longer be compromised).

b. **Direct Conversions.** Directly converting CAs with 10 or fewer DoD civilian employees without conducting a simplified cost comparison.

(1) Direct conversions shall be developed in accordance with enclosure 8, DoDI 4100.33.

(2) Directly converting CAs performed exclusively by military personnel not subject to deployment in a combat, combat support, or combat service support role may be accomplished by converting to contract without a cost comparison when adequate competition is available and reasonable prices can be obtained from qualified commercial sources.

9-2. **General Guidance for Simplified Cost Comparisons.** Simplified cost comparisons must meet the following criteria:

a. The activity is currently wholly or partially performed by a least 1 but fewer than 46 civilian employees.

b. Competitive, fair, and reasonable prices can be obtained from qualified commercial sources.

c. Defense Commissary Agency (DeCA) approval of the initiative and certification that the estimated in-house cost for each simplified cost comparison is based on a completed most efficient and cost-effective organization MEO analysis.

(1) The completed MEO shall be developed by the Programs Branch, Resource Management Directorate, DeCA and shall be submitted to the Director, Resource Management Directorate for approval/certification.

(2) The MEO analysis certification shall be provided to Congress (Committee on Appropriations of the House of Representatives and the Senate) before conversion to contract performance (as required by Public Law 102-172, as defined in enclosure 8, DoDI 4100.33). This guidance is mandatory prior to converting.

(3) In no case will any CA involving more than 45 civilian employees be modified, reorganized, divided, or in any way changed for the purpose of circumventing the requirement to perform a full cost comparison.

9-3. **Simplified Cost Comparison Process.** When adequately justified under the criteria stated in enclosure 8, DoDI 4100.33) CAs involving 45 or fewer DoD civilian employees may be converted to contract based on simplified cost comparison procedures. Enclosure 7, DoDI 4100.33 (Part IV of the Supplement to OMB Circular A-76) shall be utilized to define the specific elements of cost to be estimated in the simplified cost comparison and for developing the MEO. The following supplemental guidelines must also be used for completing a simplified cost comparison:

a. A simplified cost comparison should be used only if there is confidence that the in-house and the contractor cost estimates are as accurate as possible.

b. The specific elements of the simplified cost comparison are defined the same as in the full cost comparison (reference DoDI 4100.33).

c. Estimated contractor costs must be determined. This may be accomplished by an independent Government estimate (IGE). Input for this estimate may be available from the functional OPR (Directorate of Operations) and any other sources (Directorate of Acquisition Management, etc.) that might contribute expertise in developing the estimate.

d. An independent review is not a mandatory requirement for simplified cost comparisons and will not be conducted.

e. The cost estimate is based on 5 years (initial period plus 4 option years).

f. For activities small in total size (45 or fewer civilian and military personnel):

(1) Estimated in-house costs generally should not include overhead costs, as it is unlikely that they would be a factor for a small activity.

(2) Similarly, estimated contractor costs generally should not include contract administration, one-time conversion costs, or other contract price add-ons associated with full cost comparisons.

g. For activities large in total size (46 or more civilian employees and a significant number of military personnel), all cost elements should be considered for both in-house and contractor estimated costs.

h. In either case, large or small, the 10 percent conversion differential contained in enclosure 7, DoDI 4100.33, should be applied.

i. Enclosure 7, DoDI 4100.33 shall be utilized to define the specific elements of cost of Government and contract performance to be estimated.

9-4. **Approval, Comparison, and Notification Process.**

a. The Programs Branch shall complete the simplified cost comparison form. Based on the estimates, if contract performance is the least costly, the Programs Branch shall obtain approval through Headquarters, DeCA command channels and provide notification to the DeCA Legislative Liaison Office (DeCA/LL) prior to proceeding with the cost comparison action. At the time of this approval, a notice is published in the Commerce Business Daily (CBD) (by DeCA AM, Contracting Division). Directly affected parties are notified at this time that a simplified cost comparison is being performed and the function may be converted to contract. (Copies of the simplified cost comparison documentation are not provided to directly affected parties at this time.)

b. The DeCA AM, Contracting Division must insert in the solicitation the provision at FAR 52.207-1, Notice of Cost Comparison (Advertised), or the provision at FAR 52.207-2, Notice of Cost Comparison (Negotiated). In addition, the solicitation must include the provision at FAR 52.207-3, Right of First Refusal of Employment. The DeCA AM, Contracting Division must also include in the solicitation the "Cost of Social Security (Except Medicare) and Thrift Plan Contributions (Deviation)".

c. A cost comparison between the estimated in-house cost and the contractor proposal is required. This is accomplished to ensure that an activity is not contracted for which an in-house workforce can do the work for less cost. Actual contract costs are entered to the right of "Estimated Costs" on the cost comparison form. Additionally, actual costs for social security (less medicare) and thrift and profit sharing plan costs are deducted and Federal income tax is computed on the actual contract price.

d. The in-house cost estimate must be properly safeguarded.

e. Certification is required for all simplified cost comparisons and activities involving 11 to 45 DoD civilian employees. The certification shall be approved and signed by the Director, Resource Management Directorate. The certification statement must certify that the estimated in-house cost for each simplified cost comparison is based on a completed MEO. Certification of this MEO analysis as required by Public Law 102-172 (reference DoDI 4100.33) shall be provided to Congress (the Committee on Appropriations of the House of Representatives and the Senate) before conversion to contract performance, as described in enclosure 8, DoDI 4100.33.

f. Prior to conversion, the simplified cost comparison approval containing (1) a certification of the MEO analysis, (2) a copy of the approval to convert, and (3) a copy of the cost comparison fact sheet (attachment 1 to enclosure 8, DoDI 4100.33) with back-up data, shall be submitted through channels to the DeCA/LL, for coordination and for submission to the:

(1) Committee on Appropriations of the House of Representatives and the Senate (11-45 civilian employees, only).

Copies shall be submitted to:

(2) Assistant Secretary of Defense (Legislative Affairs), Room 3D918, the Pentagon, Washington, D.C. 20301.

(3) Assistant Secretary of Defense (Public Affairs), Room 2E757, the Pentagon, Washington, D.C. 20301.

(4) Office of Economic Adjustment, Room 4C767, the Pentagon, Washington, D.C. 20301.

(5) Deputy Assistant Secretary of Defense, (Installations), Room 3E787, the Pentagon, Washington, D.C. 20301.

9-5. **Direct Conversion Process.** Functions which qualify for direct conversion may be directly converted to contract performance without conducting a simplified cost comparison. To qualify, proposed direct conversions must meet the following criteria:

a. CAs Involving 10 or Fewer DoD Civilian Employees:

- (1) The activity is currently performed by 10 or fewer DoD civilian employees.
- (2) The direct conversion makes sense from a management or performance standpoint.
- (3) The direct conversion is cost effective.
- (4) The Region Director must certify that all affected civilian employees in the CA work center will be offered jobs within the Region's local area or boundary/line; or, in coordination with other Region Directors, in other DeCA Region's boundaries/lines, commensurate with their current skills and pay grades. If no such vacancies exist, the Region Director must certify that the employees in the CA work center will be offered retraining opportunities for existing or projected vacancies within the Region's local area or boundary/line; or, in coordination with other Region Directors, in other DeCA Region's boundaries/lines. The employees' potential right-of-first-refusal with civilian contractors does not satisfy this requirement.
- (5) Direct conversion requests must include in-house and contractor estimated costs, placement plans for affected employees, and the total number of affected employees.
- (6) Each potential candidate for direct conversion should be reviewed on a case-by-case basis to ensure that both the in-house and contractor cost estimates are as accurate as possible.
- (7) The decision to directly convert a CA involving military personnel and/or 10 or fewer DoD civilian employees reflects a management decision that the work need not be performed in-house. Therefore, all military personnel costs will be estimated on the basis of civilian performance (reference enclosure 8, DoDI 4100.33).

b. CAs Involving Military Personnel. CAs performed exclusively by military personnel not subject to deployment in a combat, combat support, or combat service support role may be converted to contract without a cost comparison, when adequate competition is available and reasonable prices can be obtained from qualified commercial sources.

## Chapter 10

### INDEPENDENT REVIEW AND CERTIFICATION OF THE IN-HOUSE ESTIMATE

10-1. **Performance Requirements.** This chapter outlines the requirements for performing an independent review and for obtaining certification of Commercial Activities (CA) studies.

10-2. **Independent Review.**

a. The independent review shall be performed by a qualified person from an impartial activity which is organizationally independent of the CA being studied and the activity preparing the cost comparison.

b. The independent review is mandatory for full cost comparisons.

c. The Internal Review Office (IRO) meets the criteria for the independent reviewing activity and shall perform the independent review for Defense Commissary Agency (DeCA) CA studies.

10-3. **Overview of the Independent Review Process.** The independent review is conducted to substantiate the currency, reasonableness, accuracy, and completeness of the in-house cost estimate. The review shall ensure that the in-house cost estimate is based on the same required services, performance standards, and workload contained in the solicitation. The reviewing activity shall scrutinize and attest to the adequacy and authenticity of the supporting documentation. Supporting documentation shall be sufficient to require no additional interpretation.

a. The independent review shall ensure that costs have been estimated and supported in accordance with DoDI 4100.33 and the Supplement to OMB Circular A-76. It is not the objective of the independent review to validate or approve management decisions concerning the most efficient and cost-effective organization (MEO).

b. If there aren't any (or only minor) discrepancies noted during the independent review, the reviewer (IRO) indicates the minor discrepancies and signs, dates, and returns the cost comparison form to the preparer (Programs Branch, Resource Management Directorate, DeCA). If significant discrepancies are noted during the review, the discrepancies are reported to the Programs Branch for recommended correction and resubmission.

c. The independent review is completed far enough in advance of the bid or initial proposal receipt date to allow the Programs Branch to correct any discrepancies found before sealing the in-house cost estimate.

d. Following the independent review of the CA study, the in-house cost estimate and supporting documentation (PWS, management study, solicitation, and the Statement of Independent Review) will be delivered by IRO to the Programs Branch.

10-4. **Overview of the Certification Process.**

a. Upon receipt by the Programs Branch of the in-house cost estimate and supporting documentation from IRO (containing the Statement of Independent Review, PWS, management study and

solicitation) the completed CA study package will be submitted to the Director, Resource Management Directorate for final approval/certification.

b. The Director, Resource Management Directorate shall certify (by signing the Statement of Certification) that the in-house cost estimate is based on the MEO practicable and needed to accomplish the requirements in the PWS.

c. The MEO certification shall be made before the bid opening or the date for receipt of initial proposals.

d. Following the MEO certification, the completed CA study containing the Statement of Certification shall be hand-carried by the Programs Branch to the DeCA Acquisition Management (AM), Contracting Division in a sealed and identified envelope to await bid opening or date for receipt of proposals.

## Chapter 11

### SEALED BID AND NEGOTIATED ACQUISITIONS (BID OPENING AND/OR NEGOTIATION PROCEDURES)

11-1. **General Guidance and Procedures.** This chapter provides general guidance and summarizes procedures using sealed bid and negotiated acquisitions for cost comparisons. Specific guidance is provided in the Federal Acquisition Regulation (FAR).

a. Following the independent review, the preparer of the cost comparison (Programs Branch, Resource Management Directorate, DeCA) shall submit to the DeCA Acquisition Management (AM), Contracting Division the cost comparison form and any supporting documentation in a sealed and identified envelope.

b. This must be done by the required submission date for bids or by the date established for receipt of the contractors' initial proposals.

c. The DeCA AM Contracting Officer must not open the in-house cost estimate until the time the comparison of in-house to contract costs is accomplished.

11-2. **Sealed Bid Acquisitions.** For sealed bid acquisitions, the following procedures apply:

a. **Bid Opening.** The DeCA AM Contracting Officer opens the bids, records the results, and determines the apparent low bidder. The DeCA AM Contracting Officer opens the in-house bid and enters on the cost comparison form the price of the apparent low contractor bidder and contributions for social security and thrift and profit sharing plans (if any). The Programs Branch then completes the proper remaining items on the cost comparison form and advises the DeCA AM Contracting Officer of the tentative result.

b. **Announcing the Results.** The DeCA AM Contracting Officer announces the tentative results of the cost comparison. Concurrent with this announcement, the Contracting Officer:

(1) States that this result is subject to required DeCA processing, to include evaluating for responsiveness and responsibility, completing and auditing the cost comparison form and resolving any requests for review under the administrative appeal procedures;

(2) States that no final determination for performance by the Government or under contract may be made during the public review period specified in the solicitation plus any additional period required by the administrative appeal procedures;

(3) Makes available for public review by interested parties, upon request, the abstract of bids, completed cost comparison form, and detailed supporting documentation; and

(4) Announces the name of the tentative winning contractor (if the decision is to contract) or price of the bidder whose bid would have been most advantageous to the Government (if the decision is to perform in-house).

c. **Explaining Costing Techniques.** When requested, the Programs Branch shall explain cost estimating techniques and provide backup data to directly affected parties either verbally or in writing.

d. **Public Review Period.** The public review period shall begin on the day the cost comparison form, detailed supporting documentation, and bid abstract are made available to directly affected parties. The public review period lasts for the period specified in the solicitation (at least 15 calendar days, but up to a maximum of 30 calendar days if the Contracting Officer considers the action to be complex). Upon completion of the public review period and resolution of any questions raised, a contract is awarded or the solicitation is cancelled. If the final decision is to award a contract, appropriate notifications are made prior to actual award. Notification procedures are contained in Chapter 14.

e. **Correcting Discrepancies in the In-House Estimate:**

(1) **Prior to Comparison.** If it becomes necessary to amend or correct the cost comparison form after it is sealed in an envelope and it is in the possession of the Contracting Officer, the needed changes are made on a revised cost comparison form, which is sealed in another envelope with an explanation for the changes, and given to the Contracting Officer. At bid opening, all of the envelopes are opened and the changes are explained.

(2) **After Comparison.** If a discrepancy is identified during the public review period, the Programs Branch corrects it during a time that corresponds to the requirement and the validity date of the bids. The solicitation is not cancelled even if there are significant changes, omissions, or defects in the cost comparison. These corrections are made before the expiration of bids and may require the extension of bids. Details on documenting changes are contained in Chapter 12-2(c)(4)(g).

11-3. **Negotiated Acquisitions.** For negotiated acquisitions, the following procedures apply:

a. **Completion of Negotiations.** After evaluating the proposals and conducting negotiations, the Contracting Officer selects the most advantageous proposal in accordance with normal contracting procedures (FAR, Part 15). Also, where appropriate, a Small Business Administration clearance, an equal employment opportunity clearance, the local contract file reviews, and a major command contract approval must be obtained. Before public announcement, the Contracting Officer opens the sealed cost comparison form, in the presence of the Programs Branch representative, enters on the cost comparison form the amount of the most advantageous proposal and contributions for social security and thrift and profit sharing plans (if any), and returns the form to the Programs Branch representative who completes the remaining items.

b. **Announcing the Results:**

(1) If the result of the cost comparison favors performance under contract, the Contracting Officer shall award a contract in accordance with agency procedures. Concurrently with the award, the Contracting Officer:

(a) Notifies interested parties of the result of the cost comparison;

(b) Informs directly affected parties that the completed cost comparison form and detailed supporting data are available for review upon request;

(c) Announces the contractor's name; and,

(d) Advises directly affected parties that contractor preparations for performance are contingent upon completion of the public review period specified in the solicitation plus any additional period required by the administrative appeal procedure.

(2) If the result of the cost comparison favors Government performance, the

Contracting Officer:

- (a) Notifies directly affected parties of the result of the cost comparison;
- (b) Informs directly affected parties that the completed cost comparison form and detailed supporting data relative to the Government cost estimate are available for public review upon request;
- (c) Announces the price of the contractor's offer most advantageous to the Government; and,
- (d) Advises directly affected parties that the decision is contingent upon completion of the public review period specified in the solicitation plus any additional period required by the administrative appeal procedure.

c. Explaining Costing Techniques. When requested, the Programs Branch explains, either verbally or in writing, the cost estimating techniques and provides backup data to directly affected parties.

d. Public Review Period. The public review period begins on the day the cost comparison form and detailed supporting documentation are made available to directly affected parties. The review period lasts for the period specified in the solicitation (at least 15 calendar days, but up to a maximum of 30 calendar days if the Contracting Officer considers the action to be complex). Upon completion of the public review period and resolution of any questions raised, a notice to proceed is issued or the solicitation is cancelled and the directly affected parties are notified of action taken. Appropriate notifications must be made prior to the Contracting Officer issuing the notice to commence with the award. Notification procedures are contained in Chapter 14.

e. Correcting Discrepancies in the In-House Cost Estimate:

(1) Prior to Comparison. If it becomes necessary to amend or correct the cost comparison form after it is sealed in an envelope and it is in the possession of the Contracting Officer, the needed changes are made on a revised cost comparison form, which is sealed in another envelope along with an explanation for the changes, and given to the Contracting Officer. At the time of the cost comparison, all envelopes are opened and the changes are explained.

(2) After Comparison. If a discrepancy is identified during the public review period, the Programs Branch corrects it during a time that corresponds to the requirement and the validity date of the proposals. The solicitation is not cancelled even if there are significant changes, omissions, or defects in the cost comparison. These corrections are made before the expiration of the proposals and may require the extension of the proposal acceptance period.

## Chapter 12

### ADMINISTRATIVE APPEAL PROCEDURES

12-1. **Administrative Appeals.** Administrative appeal procedures are intended to resolve questions from directly affected parties relating to: (1) determinations resulting from cost comparisons; and (2) determinations to convert to contract based on a simplified cost comparison and/or a direct conversion, in accordance with OMB Circular A-76, the OMB Supplement, and DoDI 4100.33.

#### 12-2. **Appeals of Cost Comparison Decisions.**

a. An Administrative Appeal Review Board shall be established to resolve questions from directly affected parties relating to determinations resulting from cost comparisons performed under provisions of OMB Circular A-76, the OMB Supplement, and DoDI 4100.33. Administrative appeal procedures outlined in this chapter have been developed in accordance with regulatory directives and compliance is mandatory for administrative appeals. The administrative appeal procedures do not apply to questions about:

- (1) Award to one contractor in preference to another; or
- (2) DoD management decisions.

b. The administrative appeal procedures provide an administrative safeguard to ensure cost comparisons are conducted fairly, equitably, and according to regulatory procedures and directives. The administrative appeal procedures shall be independent and objective and provide for a decision on the appeal within 30 calendar days of receipt of the appeal. Since the appeal procedures are intended to protect the rights of all directly affected parties; i.e., Federal employees and their representative organizations, and bidders or offerors, the procedures and the decision upon appeal may not be subject to negotiation, arbitration, agreement, or for appeal outside of the Defense Commissary Agency (DeCA) or a judicial review.

c. To ensure consistency in administrative appeal procedures, the following guidelines apply:

(1) **Documentation to Directly Affected Parties.** Detailed documentation supporting the initial cost comparison decision is provided (in writing) to the directly affected parties upon request when the initial decision is announced. The DeCA Acquisition Management (AM), Contracting Division will announce the start date and duration of the appeal period at the announcement of the initial decision. The appeal period will not normally exceed 15 calendar days. (If the documentation is not available when the initial decision is announced, the time allotted for submitting appeals is extended the number of days equal to the delay.) The detailed documentation includes as a minimum:

(a) Completed cost comparison form containing the in-house cost estimate and contractor's cost.

(b) In-house cost estimate with detailed supporting data.

(c) Name of the tentative winning contractor (if the decision is to contract), or the price of the bidder whose bid or proposal would have been the most advantageous to the Government (if the decision is to perform in-house).

(d) Abstract of bids (for sealed bid acquisitions).

(2) Parameters Constituting an Appeal. For an administrative appeal to be considered eligible for review under the administrative appeal procedures, the appeal must:

(a) Be received by DeCA (AM, Contracting Division) in writing within 15 working days after the date the supporting documentation is made available to the directly affected parties. The appeal period may be extended by the DeCA AM, Contracting Division to a maximum of 30 calendar days if the cost comparison is particularly complex. The appeal must be postmarked within the appeal period specified in the solicitation (15 to 30 calendar days). No final cost comparison decision can be made until all appeals are resolved.

(b) The solicitation shall include the following as the minimum information required when filing an appeal:

1 Address specific line items on the cost comparison form and provide the rationale for questioning those items.

2 Demonstrate that the result of the appeal may change the cost comparison decision.

(3) Establishing an Administrative Appeal Review Board. In accordance with DoD guidance, an impartial official, who is at a level organizationally higher than the official who approved the original cost comparison decision shall administer the administrative appeal procedures and provide the decision on the appeal. The cost comparison approving official and the Administrative Appeal Review Board officials, are as follows:

(a) The Director, Resource Management Directorate shall approve the cost comparison decision.

(b) The Chief of Staff shall serve as the impartial official and shall appoint an Administrative Review Board Chairman. Although personnel involved in the cost comparison process are not part of this board, they may be consulted to provide additional information or explanations. The board is composed of at least three members (military and/or civilian).

(c) The Chairman of the Administrative Appeal Review Board will appoint the board members.

(d) The Chairman of the board shall at least be the same or higher rank or grade as the official who approved the initial cost comparison decision (the Director, Resource Management Directorate) and shall be from another activity that neither directly supports nor receives support from the organization being studied.

(e) Members of the board should be senior military or civilian personnel who have experience or training in either Commercial Activities (CA) costing procedures and program requirements, contracting, or management. Board members must be impartial and avoid even the appearance of a conflict of interest.

(f) A legal advisor knowledgeable of the procurement process shall be available to the board.

(4) Actions Upon Receipt of Appeal:

(a) The appellant sends appeals to DeCA AM, Contracting Division in writing. The DeCA AM, Contracting Division in turn, should immediately provide the appeal to the manpower representative; i.e., the preparer of the cost comparison (the Programs Branch, Resource Management Directorate, DeCA).

(b) The Programs Branch forwards the appeal along with a copy of the original cost comparison form, supporting backup documentation, and contract solicitation package, to the Chairman of the Administrative Appeal Review Board, and provides guidance concerning the board's responsibilities, the appeal process, the cost comparison procedures and any additional information necessary to facilitate the appeal process.

(c) Upon receipt of the appeal, the Chairman advises the appellant of the receipt (usually within 5 calendar days from receipt of the appeal) by receipt-requested certified mail. The members of the board analyze each element of the appeal and provide a recommendation upon which the Chairman makes a decision.

(d) The board makes an informal administrative review of the issues raised in the appeal of the initial decision. The appeal procedure is not judicial in nature and does not provide for judicial review or for further levels of appeals outside of the Agency.

(e) In making its decision, the board has access to all resources and documents involved in the cost study.

(f) The board shall prepare a written decision on each appeal.

(g) If any discrepancies in the cost comparison are identified that require changes to the cost comparison, these changes shall be made by the Programs Branch prior to appeal decision notification and all interested parties shall be notified (in writing) of the change or changes including rationale.

1 When making changes to the original cost comparison form and supporting documentation, a complete audit trail shall be maintained and provided for validation of the revised computations (to the independent reviewing activity, (Internal Review Office (IRO)) to show that changes are as a result of appeal discrepancies identified through the appeal procedures.

2 As cost comparison forms are changed to reflect or incorporate discrepancies, each corrected version is sequentially numbered, dated, and referenced; e.g., Corrected Cost Comparison Form, Number 1, October 1, 1991, per Appeal Decision (reference and attach applicable appeal documentation and decision).

(h) The Chairman of the board provides to the appellant by receipt-requested certified mail the written decision of the board on the appeal within 30 calendar days of receipt of the appeal from the appellant.

(i) Copies of the appeal board decision shall be provided to the Programs Branch and to the DeCA AM, Contracting Division.

(j) Upon receipt of the decision of the appeal review, the DeCA AM, Contracting Division awards the contract or cancels the solicitation, whichever is applicable.

(5) Final Decision. The Administrative Appeal Review Board decision is final.

12-3. **Appeals of Simplified Cost Comparisons and Direct Conversions.** The administrative appeal procedures established to resolve questions from directly affected parties for a decision to convert to contract based on a simplified cost comparison or direct conversion, shall be the same as the appeal procedures established for full cost comparisons, except as follows:

a. Directly affected parties may appeal decisions to convert to contract based on a simplified cost comparison or direct conversion decision. The appeal must address reasons why fair and reasonable prices will not be obtained.

b. Directly affected parties shall file appeals of direct conversions within 30 calendar days after the decision is announced in the Commerce Business Daily (CBD) of a decision to convert directly to contract.

c. Final Decision. The Administrative Appeal Review Board decision is final.

## Chapter 13

### MOST EFFICIENT AND COST-EFFECTIVE ORGANIZATION (MEO) IMPLEMENTATION

#### 13-1. **Timing of the Implementation.**

a. Implementation of the most efficient and cost-effective in-house organization (MEO) shall be initiated no later than 1 month after the solicitation is canceled and shall be completed within 6 months.

b. When the MEO is not initiated and/or completed as prescribed in DoDI 4100.33 and OMB Circular A-76 (when situations outside of the Defense Commissary Agency (DeCA) control prevents timely or full implementation of the MEO), the Programs Branch, Resource Management Directorate, DeCA (as the central point of contact office for the CA Program) shall take action within 1 month to schedule and conduct a subsequent cost comparison.

c. The Programs Branch shall ensure that the in-house operation (as specified in the MEO) is capable of performing in accordance with the requirements in the Performance Work Statement (PWS); i.e., that the resources (facilities, equipment, and personnel) specified in the MEO are available to the in-house operation.

d. The Programs Branch shall ensure that in-house performance remains within the requirements and resources specified in the PWS and MEO for the period of the cost comparison, unless justification and documentation to support changes in workload/scope is available.

#### 13-2. **Resource Limitations.**

a. An in-house CA authorized on the basis of a cost comparison is limited to expanding, at the maximum, the dollar value at those workyears and grades priced-out in the cost comparison. The activity may exercise latitude in resource management (overtime, grade changes, etc.), as long as the changes do not increase the total dollar amount of resources in the cost comparison. An exception may be made if a documented change in workload occurs from those stated in the PWS. These changes would have caused an increase or decrease in contractor costs if the activity was performed by a contractor. The tasks outlined in the PWS are performed with the resources estimated in the cost comparison. If significant additional resources are required without a corresponding increase in workload, a new cost comparison is required. The main intent is to perform in such a manner that the Government is not accused of "buying-in."

b. The in-house work force should not be required to operate under costing procedures or decisions made during the MEO, which in consideration of new information, prove to be unworkable. While it is best to correct the deficiency within existing resources, this question must be asked: "Is there a substantial likelihood that the required additional resources (if reflected in the original Government cost estimate) would have altered the outcome of the cost comparison?" If the answer is affirmative, a new cost comparison is required. If the answer is negative, a new cost comparison is not required.

c. Activities that are retained in-house after a cost comparison are fundamentally Government operated activities governed by Government directives (unless specifically waived in developing the management study). They are subject to the nuances of the budget process and must share the limitations imposed on Government resources.

13-3. **Equipment and Facilities.**

a. Equipment and facilities may be changed or added if these actions would normally be taken under a contract operation, if offsetting savings would occur, or for normal replacement. These actions are reflected in the cost comparison to the extent they can be predicted. Complete documentation must be retained for these changes.

b. The MEO is not based on acquiring the equipment unless the equipment availability date is known. Relief for late receipt of this equipment is not authorized unless the equipment and its availability date were included in the PWS as Government-furnished equipment. In this case, either a contractor or an in-house operation would be granted relief for late receipt of the equipment.

13-4. **Materiel and Supply.** Materiel and supply costs in a service organization are sometimes beyond the control of the manager; however, the usage should not vary significantly from the costs estimated in the cost comparison. Unexplained variances from the in-house usage and the cost estimate require corrective action.

## Chapter 14

### REPORTING AND NOTIFICATION REQUIREMENTS

14-1. **Commercial Activities (CA) Reporting and Notifications.** This chapter outlines specific reporting and notification requirements for the Defense Commissary Agency (DeCA) CA Program.

14-2. **Section A - CA Management Information System (CAMIS) (RCS DD-P&L(O) 1542).** Purpose, Procedures, and Use of the CAMIS Data Base in Accordance with OMB Circular A-76:

a. The purpose of CAMIS is to maintain an accurate CA data base in accordance with OMB Circular A-76 and DoDI 4100.33. The CAMIS is divided into two parts, as follows:

(1) Part I contains data on CAs that undergo an OMB Circular A-76 cost comparison (those in progress, those terminated, and those completed).

(2) Part II contains data on CAs that are converted directly to contract without a cost comparison.

b. The CAMIS A-76 data base is used to:

(1) Respond to informational requests and reports required by Congress, Office of Management and Budget (OMB), General Accounting Office (GAO), Office of the Under Secretary of Defense, and others.

(2) Perform quantitative analyses in order to assist management in making informed decisions about manpower utilization policies.

c. The following procedures are mandatory for development and submission of CAMIS (RCS DD-P&L(O) 1542):

(1) The Programs Branch, Resource Management Directorate, DeCA shall create and manage the DeCA CAMIS data base of cost comparisons and direct conversions for commissary activities, in those categories identified in paragraphs 14-2a(1) and (2), above. The DeCA CAMIS A-76 data base shall be used to provide required input to the DoD CAMIS A-76 data base.

(2) On approval of a full cost comparison, a simplified cost comparison, or a direct conversion CA, the Programs Branch shall create the initial entries into the CAMIS data base, using the format (DoD data element format) and procedures in enclosure 9, DoDI 4100.33. The CAMIS data base shall have a comprehensive edit check on all input data in the computerized system. All data errors in the CAMIS data base shall be corrected as they are found by the established data check program. The procedures outlined in enclosure 9 are mandatory for development and submission of CAMIS (RCS DD-P&L(O) 1542).

(3) The Programs Branch shall submit an automated tape or diskette, annotated with the number of records submitted and the record length, to the Defense Manpower Data Center (DMDC) on a quarterly basis (within 10 days of the end of each quarter). Any adjustment in submission requirements shall be coordinated with DMDC.

(4) DMDC will use the DeCA quarterly automated submission to update the DoD

CAMIS A-76 data base.

(5) Subsequent updates are made by entry or correction of data.

(6) When cost studies or direct conversions are cancelled, they require no further update. Results of completed studies shall be stored in both the DeCA and DoD data bases.

d. The CAMIS is divided into sections to depict major events (and information about each major event), as follows:

(1) Part I - Cost Comparisons. The record for each cost comparison is divided into six sections. Each of these sections shall contain information developed by DeCA concerning each cost comparison. The first five sections are arranged in a sequence of milestone events occurring during a cost comparison. Each section is completed immediately following the completion of the milestone event. These events are used as milestones because upon their completion some elements of significant information on the cost comparison become known. A sixth section is utilized for tracking historical data after the cost comparison is completed. This section contains data elements concerning contracts and cost information during the second and third performance periods. These events are as follows:

(a) EVENT: DeCA Approves Conducting a Cost Comparison (cost comparison number, announcement and/or approval date, required codes, Performance Work Statement (PWS) data, etc.).

(b) EVENT: The Solicitation Is Issued (issue date, type and kind of solicitation, authorizations, workyears, etc.).

(c) EVENT: In-House and Contractor Costs of Operation are Compared (initial decision date, preliminary results, and number of bids or offers received, and costing method, etc.).

(d) EVENT: The Contracting Officer Either Awards the Contract or Cancels the Solicitation (final result, the in-house bid, information on the contract, in-house and contract cost information, etc.).

(e) EVENT: The Contract/most efficient and cost effective organization (MEO) Starts (actual date the contractor began operating or the date the Government implements the MEO) (employee data, administrative appeal data, etc.).

(f) EVENT: Quarter Following Contract and/or Option Renewal (original costs, savings, information on subsequent performance periods, and miscellaneous contract data).

(2) Part II - Direct Conversions and Simplified Cost Comparisons. The record for each direct conversion and simplified cost comparison is divided into six sections. Each of the first five sections is completed immediately following the completion of the milestone event. A sixth section is utilized for tracking historical data after the direct conversion or simplified cost comparison is completed. This section contains data elements on contracts and cost information during the second and third performance periods. These events are as follows:

(a) EVENT: DeCA Approves the CA action (direct conversion/simplified cost comparison number, approval date, required codes, PWS data, etc.).

(b) EVENT: The Solicitation Is Issued (issue date, type and kind of solicitation, authorizations, workyears, etc.).

(c) EVENT: The In-House and the Contractor Costs of Operation are Compared (date of the conversion/comparison, (initial decision), preliminary results, number of bids or offers received, costing method used in the conversion/comparison, etc.).

(d) EVENT: The Contracting Officer Either Awards the Contract or Cancels the Solicitation (final result, information on the contract, the in-house bid, and costing information from the direct conversion/simplified cost comparison fact sheet, etc.).

(e) EVENT: The Contract/MEO Starts (contract or MEO start date and the personnel actions taken as a result of the conversion and/or comparison, administrative appeal data, etc.).

(f) EVENT: Quarter Following Contract and/or Option Renewal (original costs, savings, information on subsequent performance periods and miscellaneous contract data, etc.).

**14-3. Section B - Commercial Activities Inventory and Five-Year Review Schedule (RCS DD-P&L(A) 1540).** Purpose and Procedures for the CA Inventory and Review Schedule (RCS DD-P&L(A) 1540).

a. This section outlines the purpose and procedures for developing and submitting the CA Inventory reporting requirement. The Inventory of both in-house CAs and contract CAs is maintained on the DeCA Unit Manning Document (UMD).

b. The Programs Branch, Resource Management Directorate, DeCA has overall responsibility for development, management, and submission of the DeCA CA Inventory and Five-Year Review Schedule (RCS DD-P&L(A) 1540) to the DMDC at least annually to reflect changes to the review schedule and the results of reviews, cost comparisons, and direct conversions.

c. The Programs Branch shall evaluate all commissary activities and functions to determine which are governmental functions (which mandate performance by DoD personnel, only) and which are CAs, in accordance with OMB Circular A-76, the Supplement to the OMB Circular, DoDI 4100.33, and this Directive.

d. The Programs Branch shall enter all CAs into the Inventory (in-house and contract CAs) including known expansions and new requirements. CAs exempted from cost study after review shall not be deleted from the Inventory.

e. The Inventory provides the information necessary for annual reports to Congress, required by law.

f. The Inventory is an annual reporting requirement and shall describe, as a minimum, the number of FTEs, the nature and location of the CA, the date of the last review, the date of the next review, and reason for justifying continued in-house performance.

g. Specific line-by-line instructions for submission of the Inventory Report and Review Schedule (DD-P&L(A) 1540) to DMDC are contained in enclosure 4, DoDI 4100.33. These procedures are mandatory. Supplemental guidance for preparation and submission of the CA Inventory is also addressed in a separate chapter of this Directive.

**14-4. Section C - Congressional Notifications.** Annual Report to Congress (Section 2461, 10 U.S.C.)

a. Purpose and General Notification Information. The Annual Report to Congress, Section 2461, 10 U.S.C., prescribes specific notification, certification, and reporting requirements that must be met

before converting to contract any DoD in-house CA that is being performed by 46 or more civilian employees. Section 2461 is permanent law. Specifically, 2 Congressional notifications are required of activities involving 46 or more civilian employees:

(1) The first is an announcement to Congress when the decision is made to cost compare an in-house CA for possible conversion to contract.

(2) The second notification to Congress is required before a decision is made to convert an in-house CA to contract.

b. Scope of Section 2461, 10 U.S.C.

(1) The geographic scope of Section 2461 applies to the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) Actions involving proposed cost comparison conversions (for activities of 46 or more civilian employees) are required to be reported under Section 2461.

c. Congressional Reporting Procedures as required by Title 10, Section 2461. The Programs Branch, Resource Management Directorate has overall responsibility for development, management and submission of Congressional notifications and Congressional reporting requirements. The Programs Branch shall ensure the following:

(1) Provide notification to Congress (when in session) of the intention to do a cost comparison for each CA, as required by Section 2461. The notification shall be submitted through Defense Commissary Agency, Legislative Liaison Office (DeCA/LL) with separate copy of the notification provided to the Office of the Under Secretary of Defense of any such intent (at least 5 working days before the Congressional notification). The cost comparison process begins on date of Congressional notification.

(2) Develop and submit a detailed summary report (of the cost comparison initial decision), as required by Section 2461. Notification shall be provided to Congress (when in session) before sending the detailed summary report. The detailed summary of the cost shall include:

(a) The amount of the offer accepted for the performance of the activity by the private contractor.

(b) The costs and expenditures that the Government will incur because of the contract.

(c) The estimated cost of performance of the activity by the MEO.

(d) A statement indicating the life expectancy of the contract.

(e) Certifications that the entire cost comparison is available, and that the Government calculation for the cost of performance of such function by DoD employees is based on an estimate of the MEO of such performance by DoD employees.

(3) Activities of 45 or fewer civilian employees. Chapter 9 covers direct conversions and simplified cost comparisons; however, the following is included here, to ensure clarification of Congressional notification requirements. Although activities involving 45 or fewer civilian employees do not require announcement to Congress prior to conducting a cost comparison, notification to Congress is required before conversion of an in-house CA to contract. These activities are not reported under Section 2461.

(4) Activities of 75 or More Total Employees. Provide the following additional information:

(a) The potential economic effect on the employees affected, the local community and the Federal Government of contracting for performance of the function shall be included in the report to accompany the above certifications, if more than 75 total employees (including military and civilian, both permanent and temporary) are potentially affected.

(b) The Army Corps of Engineers' model (or equivalent) may be used to generate this information.

(c) The potential impact on affected employees shall be included in the report, regardless of the number of employees involved. Also the report shall include the decision to convert to contract or continue in-house performance, the projected date of contract award, the projected contract start date, and the effect of contracting the function on the military mission of that function.

(5) Section 2461 Reporting Requirement. By the 15th of December (of each year), the Programs Branch shall submit to the Office of the Under Secretary of Defense the data required by Section 2461. In describing the extent to which CA functions were performed by DoD contractors during the preceding fiscal year, the following shall be included in the report:

(a) The estimated number of work years for the in-house operation as well as for contract operation (including percentages) by major OSD functional areas, as described in DoDI 4100.33, such as G008A/shelf stocking, G008E/storage and issue, etc.

(b) The estimate of the percentage of CA functions that will be performed in-house and those that will be performed by contract during the fiscal year during which the report is submitted. The estimated work years shall be included for in-house CAs as well as for contracted CAs and the rationale for significant changes when compared to the previous year's data.

(c) The number of studies the Agency expects to complete in the next fiscal year (showing total civilian and military FTEs).

**14-5. Section D - Other Notifications. Commerce Business Daily (CBD) Notification.** Mandatory procedures and format for notification are specified in the Federal Acquisition Regulation (FAR), Defense Federal Acquisition Regulation Supplement (DFARS), and paragraph E, DoDI 4100.33.

a. A notification shall be published in the CBD (a responsibility of the DeCA Acquisition Management (AM), Contracting Division of the intent to conduct a cost study for possible conversion to contract.

b. This notification is required when the availability of commercial sources is uncertain. All required notices of the requirement shall be run for a 90-day period. Notices will be in the format specified in FAR, Chapter 1, Part 5 and Subpart 7.3. When a bona fide urgent requirement occurs, the required number of notices of the requirement shall be reduced to a maximum of two and placed in the CBD over a 30 day period.

c. Specifications and requirements in the notice will not be unduly restrictive and will not exceed those required for Government personnel or operations.

d. Notices shall not be published until Congress has been notified of the intent to conduct a cost study (for activities of 46 or more civilian employees).

14-6. **Local Notifications.** The Programs Branch, Resource Management Directorate, DeCA as the office of primary responsibility (OPR) for the CA study process, shall properly notify all appropriate management officials and affected parties prior to conducting a CA cost study. Local notification procedures are as follows:

a. Upon DeCA approval to proceed with a CA study (following any required prior Congressional notification; i.e., for activities of 46 or more civilian employees), the Programs Branch shall proceed with appropriate notifications to the DeCA/LL and the DeCA Public Affairs Office (PAO).

b. The Programs Branch shall provide separate notifications of all cost comparison and direct conversion actions to activities involved in the CA study process, to include at least the following: the major command, installation commander, appropriate installation activities (DLA Office of Civilian Personnel (OCP), Comptroller/ Resource Management Directorate, CA Office/Manpower Management Office), the local Interservice Support Coordinators (ISCs), and the Chairman of the appropriate Joint Interservice Regional Study Group (JIRSG)), Region Commander/Director, and Commissary Officer.

c. Commissary Officers shall be advised to provide a brief explanation of the cost-comparison process to the affected employees and to arrange for individuals from the Region Personnel/Training Division/Offices, to include the union representative, according to local applicable collective bargaining agreements, and CA/Manpower Management Office to brief the commissary employees on involvement/participation of the employees and union representatives (labor relations specialists) in the CA process and to answer any questions the employees might have concerning personnel related issues.

d. Employees and the union representatives will need to receive proper and prompt notification throughout the CA process and be kept informed as to employee entitlements to placement, employee benefits, retraining, potential RIF procedures, etc. In accordance with DoDI 4100.33, at least monthly during the development and preparation of the Performance Work Statement (PWS) and management study, affected employees shall be consulted to consider their views of development of the PWS and management study. Consultations may occur more frequently and on other matters relating to the cost comparison, as appropriate. The employee consultation requirement may be satisfied for employees represented by a labor organization accorded exclusive recognition under 5 U.S.C., Section 7111, through consultation with representatives of the labor organization. Employee consultation for nonunion civilian employees may be through group meetings. Civilian employees may be invited to designate one or more representatives to speak for them. Other methods may be implemented if adequate notice is provided to nonunion civilian employees and the right to be represented during the consultations is ensured.

e. Prior to the onsite visit, the Programs Branch shall provide guidance and pertinent details, procedures, and study requirements, as follows: the CA study concept of the CA function under study, the CA study team's plans for conducting the onsite management study (to determine the Government's MEO), gathering data to develop the PWS, developing the Government's in-house cost estimate, personnel and workload documentation requirements, equipment issues, etc.

f. The Programs Branch shall lead the CA study team. The study team shall be augmented with members from other Agency staff activities (i.e. Directorate of Operations) and from the appropriate Region, Operations Division and Personnel/Training Division/Office.

g. The Region Personnel/Training Division/Office shall be advised that the CA team shall require their assistance to determine one-time labor-related expenses associated with conversion to contract. There will be a continuing need for the Region Personnel/Training Division/Office and servicing DLA OCPs support in answering employees questions concerning employees rights and benefits and for effecting

personnel actions to implement the results of the cost comparison decision.

h. Coordinating with appropriate installation officials to ensure that all installation requirements which would affect a potential contractor are included in the PWS (security, decals, safety, emergency medical assistance, etc.).

i. Following the cost comparison process and initial decision result, the Programs Branch shall provide advance notification to the Region Personnel/Training Division/Office in order that the Region Personnel/Training Division/Office can forward information to the servicing DLA OCP to initiate actions required for RIF procedures to take place. (This step is intended to provide the servicing DLA OCP with sufficient time to prepare for RIF procedures). The servicing DLA OCP will be advised that no RIF notices shall be given to employees until the Programs Branch has advised them to do so, which will follow Congressional approval and announcement of the final decision to proceed with award of the contract.

j. The Programs Branch shall provide notification following contract award to all appropriate activities.

## Chapter 15

### RESOLICITATIONS OF EXPIRING OR DEFAULTED CONTRACTS

15-1. **Preparation of the Performance Work Statement (PWS), the Quality Assurance Surveillance Plan (QASP), Independent Government Estimate (IGE) or "Should Cost", and the Purchase Request and Commitment (PR&C) When Required For the Resolicitation Process.** This chapter provides policy and procedures for preparing the PWS, PR&C, and IGE when required for the resolicitation process for expiring or defaulted contracts.

#### 15-2. **Policy.**

- a. Policy for preparation of the PWS and QASP is contained in Chapter 6.
- b. Concurrent with the development of the PWS and QASP, the following information is also required:
  - (1) An IGE or "Should Cost" for the cost of performance of a CA contract by DoD civilian employees.
  - (2) A PR&C is required for certification of the funds for the CA contract.
  - (3) Commissary Data Sheet (**Appendix D**).

#### 15-3. **Procedures.**

- a. Resolicitation action for CA contracts is necessary for expiring contracts, contract defaults, terminations, etc.
- b. A period of at least 6 months is normally required to process resolicitation actions through the Resource Management Directorate, Programs Branch, and Acquisition Management, Contracting Division channels.
- c. A corresponding properly completed IGE or "Should Cost", PR&C, and Commissary Data Sheet (**Appendix D**) should be attached to each PWS input submitted for resolicitation action.
- d. A complete Acquisition Package (PWS, PR&C, IGE, and Commissary Data Sheet) should be assembled and provided the Programs Division by the Regions, Operations Divisions, as the requirement for each site is completed, rather than holding an individual requirement until the packages for all sites have been completed.
- e. In order to accomplish standardization of CA contracts DeCA-wide, the DeCA approved standardized PWS is the only PWS document acceptable for resolicitation of CA contracts.
  - (1) The standardized prototype PWS should be tailored for each store's operating requirements (i.e., hours of operation, workload, square footage, etc.). PWS areas that are optional and/or are to be tailored to the store include paragraphs on use of baler/compactor, employee lockers, utilization of seasonal decoration kits, display building, etc.
  - (2) Pages from the standardized prototype PWSs may be xeroxed and changes may be

made in pen and ink to reflect revisions required for these areas for resolicitation purposes. After the PWS is updated, forward the pages reflecting revisions to Headquarters, DeCA, Resource Management Directorate, Programs Branch for approval and development/finalization of the PWS. After finalization of the PWS, the Programs Branch will forward the document to AM, Contracting Division, for resolicitation action.

(3) Rewording standard PWS language is not acceptable.

f. Regions, Operations Divisions must ensure that options are not added to the PWS that would improperly convert an in-house function to contract.

g. Regions, Operations Divisions are also reminded that caution is necessary to avoid contracting anything that has not been studied and that would impact Government personnel.

#### 15-4. **Responsibilities.**

a. DeCA, Resource Management Directorate, Management and Programs Division, Programs Branch. The Programs Branch is the Office of Primary responsibility (OPR) for the preparation of the documents required for the resolicitation process. Responsibilities include:

(1) Initiates data call to Region, Operations Divisions for expiring contracts during fourth quarter of fiscal year.

(2) Disseminates copies of the DeCA approved standardized PWS to the Regions, Operations Divisions with guidance for utilization and tailoring of PWS for existing contracts for resolicitation action due to expiring contracts, contracts defaults, terminations, etc.

(3) Disseminates copies of the standardized QASP to the Region, Operations Divisions. (Regions, Operations Divisions need not attach a QASP when forwarding PWS requirements for processing.)

(4) Disseminates a disk with instructions for utilization in the preparation of the IGE or "Should Cost."

(5) Receives for review, coordination, and approval Acquisition Packages from the Regions, Operations Divisions (the PWS, PR&C, IGE, and Commissary Data Sheet) for the resolicitation process. Develops and finalizes the PWS tailored to the store.

(6) Receives, reviews, and staffs in HQ DeCA any suggested improvements to the prototype PWS received from the Region, Operations Divisions and makes suggested improvement to the prototype PWS when approved.

(7) Provides AM, Contracting Division the finalized Acquisition Package required for resolicitation action.

b. **Regions, Operations Divisions.** The DeCA Regions, Operations Divisions are responsible for the following:

(1) Provides the Programs Branch a list of contracts expiring in next fiscal year during fourth quarter each year.

(2) Provides the Programs Branch Acquisition Packages (PWS, PR&C, IGE, and

Commissary Data Sheet) for expiring contracts by the end of October each year.

(3) Conducts all coordination with stores to validate/ verify PWS input data; i.e., case counts, square footage for custodial, etc.

(4) Determines that only minimum essential services (in accordance with the PWS prototype) are being addressed in the PWS.

(5) Submits separately, at time the PWS requirement is submitted for resolicitation, any suggested improvements to the prototype PWS.

## Chapter 16

### MODIFICATIONS FOR POST-AWARD CONTRACTS

16-1. **Modifications for Post-Award Contracts.** This chapter provides policy and procedures for preparing modifications to Post-Award Commercial Activities (CA) type Contracts.

16-2. **Policy.** It is DeCA policy that once a contract is awarded, CA contract files are transferred to the Regional Contracting Divisions for administration with full successor Contracting Officer authority.

16.3. **Procedures.**

a. Contracts cannot be modified to include functions/expand the scope of work beyond the CA work center description in the A-76/CA study; i.e., if the original A-76 study did not include receiving/storage/holding area (former warehouse) functions such as sorting and segregating, then these functions cannot be added to the shelf stocking and custodial contract. This requires a CA inventory change, notification to Congress, and a new A-76/CA study or Direct Conversion procedures.

b. Operational changes within the scope of work which do not expand the work center may be made as determined by the Regional Commander/Director. Proposed operational changes must be incorporated within the contract prior to initiation by the Contractor. Examples of changes within the scope of work include changes in store operating hours and changes in surveillance methods.

c. Contract modifications required based on the terms and conditions of the contract may be made at the discretion of the successor Contracting Officer. Examples of modifications required by the contract include incorporation of revised Department of Labor wage rates, settlement of claims and disputes, and exercise of contract options.

d. Copies of all modifications will be provided to the Programs Branch.

16.4. **Responsibilities.**

a. DeCA, Resource Management Directorate, Management and Programs Division, Programs Branch. The Programs Branch is the Office of Primary responsibility (OPR) for the A-76 Program. Responsibilities include:

(1) Schedules studies and revises inventory as appropriate for paragraph 16.3.a. above.

(2) Maintains a data base of Commercial Activities actions and enters all modifications into the data base.

(3) Receives summary of cost changes (line item costs) monthly from Regions for each transaction involving monies for CA contracts. Inputs cost change information into data base maintained by the Programs Branch.

(4) Makes operational revisions, received from the Regions, Operations Divisions, to the record copy of the Performance Work Statement (PWS).

b. Regions, Operations Divisions. The DeCA Regions, Operations Divisions are responsible

for the following:

- (1) Executes modifications covered in paragraph 16.3.b. and 16.3.c. above.
- (2) Submits operational changes/modifications to the Programs Branch for incorporation into the PWS.
- (3) Submits copies of all modifications to the Programs Branch for input to the data base maintained by Programs Branch.
- (4) Submits summary of cost changes (line item costs) to the CA contracts to the Programs Branch monthly.

## References

### Section I

#### Required Publications

OMB Circular A-76

Performance of Commercial Activities. (Cited in paragraphs 1-1, 4-20b).

### 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.

CFR

Code of Federal Regulations

DeCAD 70-2

Management Control Program

DeCAD 70-3

Management Control Plan

DFARS

Defense Federal Acquisition Regulation Supplement

DOD 1400.20-1-m

DOD Program for Stability of Civilian Employment: Policies, Procedures, and Programs Manual

DOD 4000.19-R

Defense Regional Interservice Support (DRIS) Regulation

DOD Directive 4100.15

Commercial Activities Program

DOD Instruction 4100.33

Operation of Commercial Activities

DOD Directive 5220.2-R

DOD Personnel Security Program Regulation

DOD Directive 7200.10-M

DOD Accounting and Reporting of Government Property Lost, Damaged or Destroyed

FAR

Federal Acquisition Regulation

FAR 52.207-1

Notice of Cost Comparison (Advertised)

FAR 52.207-2  
Notice of Cost Comparison (Negotiated)

FAR 52.207-3  
Right of First Refusal of Employment

FPM  
Federal Personnel Manual

FPM Bulletin 330-75  
Assistance for Preference Eligibles in Restricted Positions in Contracting Out Situations

OFPP Pamphlet #4  
A Guide for Writing and Administering Performance Statements of Work for Service Contracts

OMB Circular A-64  
Position Management Systems and Employment Ceilings

PL 102-172

## Glossary

### Section I

#### Abbreviations

AM

Acquisition Management

CA

Commercial Activities

CAMIS

Commercial Activities Management Information System

CBD

Commerce Business Daily

CCF

Cost Comparison Form

CO

Contracting Officer

COR

Contracting Officer Representative

CONUS

Continental United States

DeCA

Defense Commissary Agency

DeCAD

Defense Commissary Agency Directive

DFARS

Defense Federal Acquisition Regulation Supplement

DLA

Defense Logistics Agency

DMDC

Defense Manpower Data Center

DO

Directorate of Operations

DOD

Department of Defense

DODI  
Department of Defense Instruction

DOL  
Department of Labor

DP  
Directorate of Personnel and Training

DRIS  
Defense Regional Interservice Support

FAR  
Federal Acquisition Regulation

FLRA  
Federal Labor Relations Authority

FPM  
Federal Personnel Manual

FTE  
Full-time Equivalent

FTP  
Full-time Permanent

FWS  
Federal Wage System

FY  
Fiscal Year

GAO  
General Accounting Office

GC  
General Counsel

GFA  
General Functional Area (Code)

GFM  
Government-furnished Material

GFP  
Government-furnished Property

GS  
General Schedule

GSA  
General Services Administration

IRO  
Internal Review Office

ISC  
Interservice Support Coordinator

JIRSG  
Joint Interservice Regional Study Group

LL  
Legislative Liaison Office

MEO  
Most Efficient and Cost Effective Organization

NISH  
National Industries for Severely Handicapped

OCONUS  
Outside the Continental United States

OCP  
Office of Civilian Personnel

OFPP  
Office of Federal Procurement Policy

OMB  
Office Of Management and Budget

OPM  
Office of Personnel Management

OSD  
Office of the Secretary of Defense

PAO  
Public Affairs Office

P&A  
Office of Strategic Planning and Analysis

PL  
Public Law

POC  
Point of Contact

POM  
Program Objective Memorandum

PWS  
Performance Work Statement

QA  
Quality Assurance

QAE  
Quality Assurance Evaluator

QASP  
Quality Assurance Surveillance Plan

RIF  
Reduction In Force

RM  
Directorate of Resource Management

SADBU  
Small and Disadvantaged Business Utilization

SBA  
Small Business Administration

UIC  
Unit Identification Code

UMD  
Unit Manning Document

WB  
Wage Board

WG  
Wage Grade (Civilian Personnel)

## Section II

### Terms

**Announced Authorized Positions.**

The number of military and civilian authorized UMD positions in the activities and functions to be studied.

This figure is an estimate of the number of spaces performing functions that are potentially contractible and included in the PWS. This term does not include position that are identified as "Governmental"; required to be retained to preserve the enlisted overseas rotation base; exempted or potentially exempt from cost study for other noncost seasons; noncontractible for statutory or regulatory reasons; or otherwise believed to be noncontractible. Potential additional spaces for contract administration are not subtracted from spaces to be studied. The announced authorized positions are fixed upon announcement to Congress; they do not change as the study progresses. They are the baseline for the audit trail leading to the "current authorized" positions at study completion used for space adjustments and reapplications. The announced authorized spaces are used for programming and to measure program progress by OSD.

**Commercial Activity.**

An activity providing a produce or service that can be obtained from a private source. An activity must be separable from other activities for performance by a contract or an in-house work force. CAs provide regularly needed goods and services, are not related to support of a specific project, and have a total lifespan of 2 years or more. An activity is the organization (including personnel, facilities, equipment, and contracts) performing commercial functions.

**Contract Administration Authorized.**

The number of additional authorized military or civilian positions allocated for contract administration (including CORs and QAEs) in the cost estimate.

**Conversion.**

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

**Cost Comparison.**

The process that compares the cost of contract performance to the cost of the in-house estimate.

**Cost Study.**

The process that determines if it is more economical to obtain products or services from an in-house work force or to acquire them from a commercial source.

**Current Authorized.**

The number of military and civilian authorized UMD positions in the activities and functions to be studied as of the time the number is reported in the quarterly update of the OMB Circular A-76 data base or at the time of study completion. The current authorized number is adjusted as changes are made to the identification of positions as contractible or noncontractible and as authorizations change in the course of the cost study.

**Decision Tree.**

An analysis of work requirements of the functions under study organized or broken down into increasingly specific subdivisions of the work; i.e., hierarchy format beginning with function, broken down into specific subdivisions (general headings of work, work requirements, specific task breakdown, etc.)

**Direct Conversion.**

Conversion to contract without a cost study of military only commercial activities; or conversion to contract with a simplified cost comparison for CAs employing 45 or fewer civilians.

**Exclusion.**

The elimination of an activity from CA Program requirements. Exclusion is determined on the basis that the activities are not CAs as defined by OMB and DOD.

**Exemption.**

In-house performance of a commercial activity for reasons other than cost. These reasons include direct patient care and national defense criteria such as rotation base protection, combat-unique training, and national security.

**Expansion.**

The modernization, replacement, upgrading, or enlargement of a Government commercial activity involving a cost increase exceeding either 30 percent of the total capital investment or 30 percent of the annual personnel and material costs. A consolidation of two or more CAs is not an "expansion" unless the proposed total capital investment or personnel and material costs of the consolidation exceeds the total of the individual activities by 30 percent or more.

**Final Decision.**

The cost study decision made after the resolution of appeals, conduct of preaward surveys, and resolution of GAO protests.

**Full-Time Equivalent.**

A position that involves the planned use of 2,087 straight time paid hours in a FY (to include authorized leave and paid time off for training).

**Government Function.**

A function that involves uniquely Governmental responsibilities. Such functions require the exercise of discretionary authority to set or change regulatory policies and procedures, as in directing the national defense, conduct of foreign relations; regulating industry and natural resources, and obligating public funds.

**In-House Performance.**

The performance of functions by Government employees, including military, civilian, and nonappropriated fund employees.

**Initial Decision.**

The decision made at the time of bid opening or initial preparation of a cost comparison. The initial decision may be affected by actions such as public review of the cost study, determinations of contractor responsibility, and appeal board and GAO decisions.

**Inventory.**

A listing of all in-house and contracted commercial activities governed by OMB Circular A-76, the Supplement to the OMB Circular, and DODI 4100.33, including those that have been exempted from cost study.

**Most Efficient and Cost Effective Organization (MEO) Authorized.**

The number of authorized civilian positions established in the UMD of the MEO established by the management study and used as the basis for the in-house cost estimate. The reported MEO authorized should include all adjustments made by appeal boards.

**New Requirement.**

A newly established need for a commercial product or service.

**Commercial Source.**

A business, university, or other non-Federal activity that provides a commercial product or service required by Government agencies. It may be located in the United States, its territories and possessions, the District of Columbia, or the Commonwealth of Puerto Rico.

**Review.**

The examination of an in-house or contracted activity to find out if the current method of performance is proper. The review decision determines whether to conduct a cost study or to continue the current method of performance.

**Transfer.**

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

**Management Control Review Checklist  
(Page 1 of 8 Pages)**

**TASK:** Comptroller/Resource Management

**SUBTASK:** Commercial Activities

**THIS CHECKLIST:** Commercial Activities Program

**ORGANIZATION:**

**ACTION OFFICER:**

**REVIEWER:**

**DATE COMPLETED:**

**ASSESSABLE UNIT:** The assessable units are HQ DeCA and Commissary Regions, Operations Divisions. Each test question is annotated to indicate which organization(s) is(are) responsible for responding to the question(s). Assessable unit managers responsible for completing this checklist are shown in the DeCA MCP.

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**EVENT CYCLE 1:** Identification of Commercial Activities

**Step 1:** Identify and report corrective functions.

**Risk:** Cost comparison will not be conducted in violation of sec 1111, DOD FY 88/89 Authorization Act.

**Control Objective:** Accurate identification and reporting of the inventory of contractible functions within each organization for cost comparisons.

**Control Technique:** Review Unit Manning Documents (UMD) to identify commercial functions; code all contractible functions by GFA code per DeCAD 70-20.

**Test Question:**

1. Have all UMD organizations been reviewed to identify contractible functions and have these functions been included in the inventory? **(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

2. Are all contractible functions coded by GFA code per DeCAD 70-20? **(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

**Management Control Review Checklist  
(Page 2 of 8 Pages)**

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**EVENT CYCLE 2:** Cost Comparison Process

**Step 1:** Determine work requirements.

**Risk:** A contract or in-house function will be deficient.

**Control Objective:** Accurate identification of work requirements.

**Control Technique:** Perform job analysis to identify required work.

**Test Question:**

1. Does the job analysis consider both historical and anticipated future work requirements? **(HQ DeCA/RM and Region, Operations Division)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

2. Does the job analysis identify performance standards and acceptable quality levels? **(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

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**Step 2:** Prepare Performance Work Statement (PWS).

**Risk:** Functions and equipment requirements will be unknown.

**Control Objective:** Describe all work requirements for performance by the function and the equipment necessary to perform function.

**Control Technique:** Develop an accurate, comprehensive PWS.

**Test Question:**

1. Is the PWS based on the results of the job analysis; is there an audit trail? **(HQ DeCA/RM; Region, Operations Division)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

**Management Control Review Checklist  
(Page 3 of 8 Pages)**

2. Are the task requirements clearly and specifically described? **(HQ DeCA/RM; Region, Operations Division)**

**Response:** YES \_\_\_ NO \_\_\_ NA \_\_\_

**Remarks:\***

3. Are tasks and required frequencies quantified? **(HQ DeCA/RM; Region, Operations Division)**

**Response:** YES \_\_\_ NO \_\_\_ NA \_\_\_

**Remarks:\***

4. Are material and equipment requirements identified properly for inclusion in the solicitation; is there an audit trail? **(HQ DeCA/RM; Region, Operations Division)**

**Response:** YES \_\_\_ NO \_\_\_ NA \_\_\_

**Remarks:\***

5. Are procedures developed to maintain the currency of workload data? **(Region, Operations Division)**

**Response:** YES \_\_\_ NO \_\_\_ NA \_\_\_

**Remarks:\***

6. Has a Quality Assurance Surveillance Plan (QASP) been developed that identifies acceptable quality levels and the scope and frequency of inspections? **(HQ DeCA/RM)**

**Response:** YES \_\_\_ NO \_\_\_ NA \_\_\_

**Remarks:\***

**Management Control Review Checklist**  
**(Page 4 of 8 Pages)**

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**Step 3:** Prepare the Management Study.

**Risk:** The Most Efficient In-House Organization (MEO) will not be identified.

**Control Objective:** Identify all possible efficiency improvements to minimize the cost of in-house performance.

**Control Technique:** Analyze all work methods and staffing plans to identify opportunities for reducing costs.

**Test Question:**

1. Is the Management Study based on the results of the job analysis? **(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

2. Does the Management Study clearly describe the proposed MEO, including the reasons for changes in staffing or other resource requirements? Are the management improvements documented to reflect expected savings? **(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

3. Has the capability of the MEO to perform the work requirements of the PWS been verified by an independent reviewer per DeCAD 70-20? **(HQ DeCA/RM; HQ DeCA/IR)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

4. Does the Management Study include surveillance requirements to ensure performance standards are met by the MEO? **(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

**Management Control Review Checklist**  
**(Page 5 of 8 Pages)**

5. Does the Management Study identify the directly attributable overhead support for the MEO?  
**(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

6. Does the Management Study identify the contract administration plan and the most efficient staffing for contract administration in the event of a contract conversion? **(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

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**Step 4:** Cost Comparison.

**Risk:** The Cost Comparison will not identify the least costly source.

**Control Objective:** The Cost Comparison accurately reflects costs per OMB Circular A-76 and supplements, including DeCAD 70-20.

**Control Technique:** Accurately identify and calculate costs per OMB Circular A-76 and supplements, including DeCAD 70-20.

**Test Question:**

1. Are all costs of the MEO identified? **(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

2. Are all overhead costs identified? **(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

**Management Control Review Checklist**  
**(Page 6 of 8 Pages)**

3. Have all costs common to both in-house and contractor performance been identified and excluded from the Cost Comparison?  
**(HQ DeCA/RM)**

**Response:** YES \_\_\_ NO \_\_\_ NA \_\_\_  
**Remarks:\***

4. Have in-house estimates been sealed and submitted to Contracting Officer before receipt of initial proposals or bids? **(HQ DeCA/RM; HQ DeCA/IR)**

**Response:** YES \_\_\_ NO \_\_\_ NA \_\_\_  
**Remarks:\***

5. Have all lines of the Cost Comparison form been accounted for, in particular line 13, and the Cost Comparison calculations verified? **(HQ DeCA/RM; HQ DeCA/IR)**

**Response:** YES \_\_\_ NO \_\_\_ NA \_\_\_  
**Remarks:\***

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**Step 5:** Post-decision implementation and management.

**Risk:** The final decision will not be implemented.

**Control Objective:** Implementation and management of the final decision.

**Control Technique:** Implement and manage final decision.

**Test Question:**

1. Have MEOs been implemented and operating as proposed and costed? **(Region, Operations Division)**

**Response:** YES \_\_\_ NO \_\_\_ NA \_\_\_  
**Remarks:\***

**Management Control Review Checklist**  
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2. Are justifications for changes to the MEOs documented?  
**(HQ DeCA/RM)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

3. Have transition plans been followed for contract decisions? **(Region, Operations Division)**

**Response:** YES\_\_ NO\_\_ NA\_\_

**Remarks:\***

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\*Explain rationale for YES responses or provide cross-references where rationale can be found. For NO responses, cross-reference to where corrective action plans can be found. If response is NA, explain rationale.

**Management Control Review Checklist**  
**(Page 8 of 8 Pages)**

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I attest that the above-listed management controls provide reasonable assurance that DeCA resources are adequately safeguarded. I am satisfied that if the above controls are fully operational, the management controls for this subtask throughout DeCA are adequate.

Director, Resource Management  
FUNCTIONAL PROPONENT

I have reviewed this subtask within my organization and have supplemented the prescribed management control review checklist when warranted by unique environmental circumstances. The controls prescribed in this checklist, as amended, are in place and operational for my organization (except for the weaknesses described in the attached plan, which includes schedules for correcting the weaknesses).

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ASSESSABLE UNIT MANAGER  
(Signature)

**COMMISSARY DATA SHEET**

During the process for acquisition of follow-on services under a new contract, there is a need to know some specific information about the manner in which services are currently performed at the store level. Historically, the following information has been shown to be essential for the successful completion of analysis of the contractors proposal, and/or formal negotiations. Request that you complete the following questions as accurately as possible, and provide the completed form (3 pages) along with the other required documents (PWS, PR&C, and IGE) as one complete acquisition package:

SECTION I:

REGION \_\_\_\_\_

STORE LOCATION \_\_\_\_\_

SERVICES TO BE CONTRACTED (check as appropriate):

- Shelf Stocking
- Custodial
- Other (specify) \_\_\_\_\_  
(Receiving/Storage/Holding (former warehouse), etc.)

SERVICES CURRENTLY PERFORMED BY (check as appropriate):

In-House:

- Shelf Stocking
- Custodial
- Receiving/Storage/Holding (former warehouse)

Contract:

- Shelf Stocking
- Custodial
- Receiving/Storage/Holding (former warehouse)

If currently by contract, please identify the following:

Contractor Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_

- Award Information (if known)  Small-Business Set-Aside  
 8(a) Set-Aside  
 NISH

SECTION II:

a. Please list the average number of man-hours and average number of cases per day/night required to complete the following tasks covered in the contract. Please provide the requested information whether the current services are performed in-house or by contractor.

	<u>Total Man-hours</u>	<u>No. of Cases</u>
Sorting FDS	—	—
Determining Replenishment Requirements (How many PDEDs are used)	—	—
Handling Partial Cases	—	—
Display Building	—	—
Receiving/Storage/Holding Area Functions (Former Warehousing)		
Off-loading	—	—
Preparing for in-checking by Government	—	—
Storing	—	—
Pulling	—	—
Mini Com/Valu Mart	—	—

b. Please list the average number of man-hours per day/night and/or square footage required to complete the following tasks covered in the current contract. Please provide the requested information whether the current services are performed in-house or by contractor.

	<u>Total Man-hours</u>	<u>Square Footage</u>
Cleaning Meat Market	—	—
Cleaning Receiving/Storage/Holding Area (Former Warehouse)	—	—
Cleaning Produce Processing/Storage Area (Other than Floor Area)	—	—
Cleaning Produce Display Area	—	—
Cleaning Frozen and Chilled Food Storage Area (Other than	—	—

Floor Care)		
Cleaning Freezer/Chiller Boxes	___	___
Cleaning Dairy	___	___
Cleaning Fresh Meat/ Seafood Area	___	___
Cleaning Deli	___	___
Cleaning Under Gondolas	___	___
Mini Com/Valu Mart (Floor Care)	___	___
Inventory Preparation	___	

c. The number of waste baskets:

Large	___
Medium	___
Small	___

d. During peak workloads, what are the additional man-hours required per day; i.e., 4 hrs/day for 3 people = 12? \_\_\_\_\_

e. What is the approximate number of carts and/or baskets of misplaced/unpurchased merchandise per night? \_\_\_\_\_

How many man-hours are required to complete? \_\_\_\_\_

f. How often are seasonal decorations required to be installed? \_\_\_\_\_

How many man-hours are required to complete them? \_\_\_\_\_

g. If sorting FDS items is a part of this PWS and schedule is not included at TE-6, please provide schedule for FDS deliveries and number of deliveries.

h. Are there any special shelf-stocking, and/or custodial, and/or other tasks which are peculiar to your facility? If so, please identify.

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