

furnished to further support the likelihood that severance pay will exceed the two percent level.

e. Comparable employment is not limited to an offer of a job with equal pay. It must also include the offer of substantially equal leave, life insurance, health, and retirement benefits. In almost all instances in which the contractor makes an employment offer, experience shows that the offer does not constitute comparable employment. FOA will not deny severance pay on the basis of comparable job offers without HQUSACE approval. If questions exist on the comparability of the offer, all pertinent information will be submitted through channels to CDR USACE (CEPE-ZA) WASH DC 20314-1000 for a determination.

f. An employee will be responsible for the repayment of any severance pay overpayments occurring as the result of failure to terminate such payments when entitlement ends. To eliminate overpayments of severance pay, the Personnel Office hiring an employee in receipt of severance pay will immediately notify the paying agency of the hire. The notification should be by telephone and confirmed at a later date by providing the paying agency with a copy of the appointment SF 50 (Notification of Personnel Action).

g. When an in-house activity is converted to contract, the Personnel Office will supply the Contracting Officer, within three workdays of the contract start date, a list of separated employees who are entitled to receive severance pay. The contractor will be required by the terms of the contract to provide the names of former employees on the list who accept positions with the contractor during the 90 days after the conversion to contractor performance. This notification is to occur within five days of the date the person goes to work for the contractor. The Personnel Office should ensure employees entitled to severance pay are advised, at the time of separation, that it is in their best interest to notify the paying agency of any reemployment that might affect their entitlement.

Section X. Final Decisions

3-53. Economic Effects Analysis.

a. If the initial decision in a CA study is to convert to contract and more than 75 military and civilian employees will be directly affected (their jobs contracted out), the FOA must prepare an Economic Effects Analysis for inclusion with the Final Decision Report (paragraph 3-55).

CERM-MC includes the results of this analysis in the final decision notification to Congress. The analysis is conducted to comply with statutory reporting requirements which the USACE has agreed to abide by; it does not affect the decision to convert to contract performance.

b. The analysis uses the Economic Impact Forecast System (EIFS) at the Construction Engineering Research Laboratory (CERL), U.S. Army Corps of Engineers, Champaign, IL, to predict the economic effects on the local community of the net change in local employment and Government expenditures caused by conversion to contract. The analysis requires the actual contract price as an input data element; it cannot be made before the initial decision. FOA will not make an economic effects analysis in anticipation of a contract decision.

c. Data entered in the EIFS should be developed from the best available estimates of the effect of conversion on employment and expenditures. Normally, the effects of conversion on the civilian economy will be very small because decreases in Government employment and direct expenditures are offset by contract employment and expenditures. In some cases, where most Government employees are placed in other jobs in the area and additional people are hired by the contractor, the economic effects of conversion may be positive.

d. Appendix H contains instructions for the preparation of the Economic Effects Analysis.

3-54. Effects of Commercial Activities Study on USACE Resources.

a. The FOA will complete ENG Form 4841-R, Effect of CA Study on FOA Funds (RCS CSCOA-96), and ENG Form 4842-R, Effect of CA Study on FOA Manpower (RCS CSCOA-96) to document the effects of the CA study decision, whether in-house or contract, on programed funds and manpower. These forms will be submitted through channels as enclosures to the Final Decision Report (see paragraph 3-55).

b. The requested data will meet both funding and manpower information requirements of the manpower programming and budget cycle. They also provide an accounting of spaces/workyears studied and allow for any reapplication of spaces/workyears by the FOA, HQUSACE, or HQDA, as appropriate.

c. Instructions for completing these two forms are contained in Appendix F.

3-55. Final Decisions.

a. The FOA will submit the Final Decision Report (RCS CSCOA-113), Figure 3-3, with enclosures requesting approval to implement the initial decision where a complete CA study was performed. The FOA will submit the Final Decision Report for Direct Award to Contract Actions (RCS CSCOA-129), Figure 3-4, with enclosures through channels requesting approval to implement an initial contract decision where the simplified cost comparison was performed and approval from the appropriate authority was received for the direct conversion (see paragraph 3-3).

b. In either case the final decision documentation will be submitted after the appeals board has issued final decisions on all appeals and issues raised during the appeals process, and after all protests have been resolved.

c. CERM-MC uses the final decision documents for Congressional notification and clearance to end the CA study. Final decision documents must be received at HQUSACE not later than 30 working days before the desired final decision implementation date--the date desired to cancel the solicitation, award the contract, or provide authority to proceed on the conditioned award.

d. If the final decision is to convert to contract, HQUSACE will coordinate any required notifications to Congress and subsequently issue clearance to convert. Upon receipt of this clearance, the Contracting Officer will proceed to conduct actions necessary to complete the award. RIF notices may not be issued until the Contracting Officer has awarded a firm contract or authorized the contractor to proceed on a conditioned award contract.

e. If the final decision is to remain in-house, HQUSACE will issue clearance after all required notifications are made. Upon receipt of clearance, the KO will cancel the solicitation or the conditioned award contract. The activity will begin reorganization into the structure and staffing MEO recommended by the management study not later than 30 days after cancellation and complete the change within six months of cancellation. RIF notices required to reorganize will be issued concurrent with the cancellation.

f. Alterations to the organization, position structure, and staffing of the reorganized activity (MEO) require HQUSACE approval. A possible rationale is the occurrence of significant changes (unanticipated at the time of the management study) to the functions and workloads in the PWS. The reorganized activity will operate under the performance standards established by the PWS and solicitation package just as a contractor would have been expected to do. The performance standards will be modified when any approved changes in functions or workloads occur after the initial reorganization.

3-56. Treatment of Spaces Associated with CA Studies.

a. Authorizations for military personnel will be deleted from the TDA or other manpower manning document in the FY after CA study final decision. If the final decision is to retain the activity in-house, the authorizations for military personnel and the borrowed military manyears used in the activity will be replaced by civilian authorizations as required. Adjustments will be reported according to paragraph 3-54 and Appendix F for both in-house and contract decisions. (Disposition of military personnel during the CA study is covered in paragraph 3-30.)

b. Civilian authorizations in activities under CA study will not normally be deleted from the TDA or other manpower manning document until the CA study decision is final. Adjustment of civilian authorizations to the performance level of the Government's in-house cost estimate will be based on the data submitted in the Final Decision Report (paragraph 3-55). This will occur through normal budget and manpower processes.

c. HQUSACE policy on CA studies funded purely with civil works funds is to initially allow divisions and separate FOA to retain any savings as a result of a CA study or direct conversion to contract action. However, the total workload, manpower requirements, and manpower allocations from OMB will be reviewed during the subsequent normal manpower allocation process, and will be retained only if justified.

d. HQDA policy on reclaiming spaces in mixed and purely DOD funded CA studies varies. Refer these questions to CDR USACE (CERM-MC) WASH DC 20314-1000 for the latest policy guidance.

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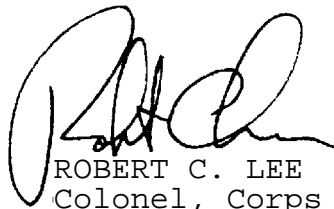
3-57. Contract Administration Functions. Contract administration is discussed, among other places, in Subchapter G of the FAR, Contract Management. It includes Parts 42 through 51. See AR 5-20 dated 20 October 1986, paragraphs 3-3a and 4-17 for guidance on DOD funded activities. As each option year of the contract is exercised, the Contracting Officer will advise the CA Program Manager of the annual contract costs of each CA being performed under contract for the previous year.

3-58. Commercial Activities Study After Action Evaluations.

a. On the one-year anniversary date of the final decision to convert to contract performance or to cancel the solicitation and retain the function in-house, FOA will review the operation and submit the Commercial Activities Study After Action Report (RCS exempt: AR 335-15, paragraph 2-e(7)), Figure 3-7. This report will be submitted through channels to CDR USACE (CERM-MC) WASH DC 20314-1000.

b. Other evaluations conducted of DOD funded CAs, either mixed or pure, are described in AR 5-20 dated 20 October 1986, paragraph 4-28c(4).

FOR THE COMMANDER:



ROBERT C. LEE
Colonel, Corps of Engineers
Chief of Staff

8 Appendices

- APP A - References
- APP B - Excluded Governmental Functions, Excepted and Exempted Activities
- APP C - Description of General Functional Area (GFA) Codes
- APP D - Tables, Figures and Forms
- APP E - Cost Comparison Procedures
- APP F - Resources Impacts
- APP G - Procedures for Preparing the USACE Commercial Activities Inventory (Reserved)
- APP H - Economic Effects Analysis