



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

June 2012

---

## **Guidelines for Implementing the Commonwealth's Privatization Law**

(Chapter 296 of the Acts of 1993)



# TABLE OF CONTENTS

<b>SECTION 1 - INTRODUCTION</b> .....	<b>1</b>
<b>SECTION 2 – THE WRITTEN STATEMENT OF SERVICES</b> .....	<b>2</b>
A. PERFORMANCE MEASURES .....	2
B. REQUIREMENTS OF THE WRITTEN STATEMENT OF SERVICES .....	3
<b>SECTION 3 – BID AND CONTRACT REQUIREMENTS</b> .....	<b>4</b>
<b>SECTION 4 – THE COST OF CONTRACT PERFORMANCE</b> .....	<b>5</b>
A. CONTRACT PRICE .....	5
B. CONTRACT ADMINISTRATION.....	5
C. TRANSITION COSTS.....	6
D. LOST TAX REVENUE .....	8
E. STATE INCOME TAX .....	8
<b>SECTION 5 – IN-HOUSE COST ESTIMATE</b> .....	<b>9</b>
<i>Step 1 – The Management Study</i> .....	9
<i>Step 2 – Calculating the In-House Cost Estimate</i> .....	9
<i>Step 3 – Calculating the Fully Allocated Costs</i> .....	10
<i>Step 4 – Converting Fully Allocated Costs to Avoidable Costs</i> .....	12
<i>Step 5 – How to Determine Avoidable Indirect Costs</i> .....	14
<b>SECTION 6 – THE COST COMPARISON</b> .....	<b>16</b>
A. COST OF CONTRACT PERFORMANCE.....	16
B. IN-HOUSE PERFORMANCE.....	16
<b>SECTION 7 – OTHER REQUIREMENTS</b> .....	<b>18</b>
A. BIDS BY EMPLOYEE ORGANIZATION.....	18
B. COMPLIANCE WITH RELEVANT STATUTES .....	18
C. QUALITY OF SERVICES .....	19
D. SUBMISSION OF CERTIFICATION TO STATE AUDITOR.....	19
E. NOTIFICATION TO THE OSA OF PRIVATIZATION REQUESTS FOR BIDS.....	20
<b>APPENDIX A (GLOSSARY OF TERMS)</b> .....	<b>21</b>
<b>APPENDIX B (COPY OF LEGISLATION)</b> .....	<b>22</b>
<b>APPENDIX C (FORM 1)</b> .....	<b>26</b>
<b>APPENDIX C (FORM 2)</b> .....	<b>27</b>
<b>APPENDIX C (FORM 2A)</b> .....	<b>28</b>
<b>APPENDIX C (FORM 2B)</b> .....	<b>29</b>
<b>APPENDIX C (FORM 3)</b> .....	<b>30</b>
<b>APPENDIX D</b> .....	<b>31</b>

---

## SECTION 1 - INTRODUCTION

Chapter 296 of the Acts of 1993 -- “the Privatization Law” -- outlines the process that must be followed by agencies and applicable authorities seeking to contract for a service that is presently performed by state or authority employees.<sup>1</sup> The law applies to contracts that have an aggregate value of \$524,091 or more.<sup>2</sup> Pursuant to the Privatization Law, a specific process must be followed to demonstrate and certify to the Office of the State Auditor (OSA) that the total cost to perform the service by contract will be less than the in-house cost and at least of equal quality. The OSA has 30 business days from the receipt of all necessary documentation to approve or reject the agency’s certification. A rejection is final and binding unless withdrawn by the OSA, except that the OSA may subsequently approve a revised certification. The complete text of the law is shown in Appendix B.

The process that the agency must follow includes preparing a detailed written statement of services, estimating the most cost-efficient method of providing those services with agency employees, selecting a contractor through a competitive bidding process, and comparing the in-house cost estimate to the cost of contract performance. Additionally, the agency is responsible for assuring that the private bids and the private contract, if ultimately awarded, contain certain provisions regarding wages, health insurance, the hiring of qualified agency employees, nondiscrimination, and affirmative action.

It is the responsibility of the OSA to determine independently whether the process followed by the agency meets the requirements of the law. This Guide has been prepared to explain the process and prescribe the forms that agencies must use to ensure that decisions to award privatization contracts are based on cost analyses that are complete, accurate, reasonable, and properly documented. The OSA will not accept data submitted by agencies that is not in compliance with, or presented in accordance with, this Guide. The Checklist included as Appendix D lists the data needed by the OSA to make a determination on each proposed privatization contract.

Any questions requiring the use of this Guide should be directed to OSA’s Legal Department at 617-727-6200.

---

<sup>1</sup> Section 53 of Chapter 7 of the General Laws defines agency to mean “an executive office, department, division, board, commission or other office in the executive branch of the government of the commonwealth, the Massachusetts Bay Transportation Authority, the Massachusetts Turnpike Authority, the Massachusetts Port Authority and the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority.” Section 12 of Chapter 25 of the Acts of 2009 amended the definition of agency to include the Department of Transportation.

<sup>2</sup> Pursuant to Section 53 of Chapter 7, the privatization law threshold, set at \$500,000 in 2009, is adjusted as of January 1 each year according to the consumer price index as calculated by the U.S. Bureau of Labor Statistics.

## **SECTION 2 – THE WRITTEN STATEMENT OF SERVICES**

The Privatization Law requires that an agency considering the privatization of service performed by public employees prepare a “specific written statement of the services proposed to be the subject of the privatization contract, including the specific quantity and standard of quality of the subject services.”<sup>3</sup> The agency must solicit competitive bids for the proposed privatization contract based on this written statement.

In drafting the written statement, the agency should analyze the current delivery of the service, with primary emphasis on the mission of the activity and what is needed to deliver the quantity of services at the desired level of quality. Preparing the written statement is necessary because it serves as the basis for the agency’s solicitation of bids, as well as the in-house cost estimate discussed in Section 5. Both the solicited private contract and the agency’s in-house cost estimate must be based on the same written statement of services, *i.e.*, the same scope of work and standards of performance. Therefore, a clear description of the desired quantity and quality of services is critical to the cost comparison required by the law. The written statement of services should be a separate, distinct document that will become part of the request for bids.

### **A. PERFORMANCE MEASURES**

In developing the written statement of services, the agency must rely on performance measures. There are generally five types of performance measures that may be included: quantitative, qualitative, timeliness, effectiveness, and cost.

- Quantitative performance measures indicate how much is processed, produced, and/or expended.
- Qualitative performance measures indicate how well a product is provided or a service is performed.
- Timeliness performance measures indicate when a product or service is completed and/or delivered.
- Effectiveness performance measures indicate the accomplishment of a mission.
- Cost performance measures indicate the total cost of a product or service provided.

---

<sup>3</sup> M.G.L. c. 7, § 54(1).

The agency's written statement of services must be framed in terms of the quality and quantity of the work to be done. The more performance measures used in the written statement, the greater the ability of the agency to monitor the performance.

**B. REQUIREMENTS OF THE WRITTEN STATEMENT OF SERVICES**

In addition to the performance measures and other elements of the written statement of services, the Privatization Law requires that the agency include the following information in the written statement:

For each position in which a bidder will employ any person pursuant to the privatization contract and for which the duties are substantially similar to the duties performed by a regular agency employee or employees, the (written) statement . . . shall include a statement of the minimum wage rate to be paid for said position, which rate shall be the lesser of step one of the grade or classification under which the comparable regular agency employee is paid, or the average private sector wage . . . as determined by the executive office for administration and finance from data collected by the department of employment and training and the division of purchased services. Every bid for a privatization contract and every privatization contract shall include provisions specifically establishing the wage for each such position, which shall not be less than said minimum wage rate as defined above.<sup>4</sup>

As discussed in Section 3 of this Guide, this wage requirement will also be included in the request for bids and should be reflected in the contractor bids.

---

<sup>4</sup> M.G.L. c. 7, § 54(2).

## SECTION 3 – BID AND CONTRACT REQUIREMENTS

The Privatization Law requires the agency to competitively solicit, through the Commonwealth's procurement process, bids from contractors wanting to perform the particular function. The agency's request for bids must be based on the written statement of services prepared pursuant to Section 2 of this Guide. The request for bids should also briefly explain the privatization review process.

In accordance with the Privatization Law, all bids and contracts shall include provisions requiring the contractor to:

- offer positions to qualified regular employees of the agency whose employment is terminated as a result of the privatization contract, and who satisfy the hiring criteria of the contractor;<sup>5</sup>
- comply with a policy of nondiscrimination and equal opportunity for all persons protected by Chapter 151B, and take affirmative steps to provide such equal opportunity for all such persons;<sup>6</sup>
- for employees who work 20 hours or more a week under the contract, provide health insurance to each employee and the employee's spouse and dependent children and pay not less than the current percentage paid by the Commonwealth for health insurance to its employees;<sup>7</sup> and
- pay wages to those hired under the contract that are not less than the minimum wage rate that had been paid for those positions for which the duties are substantially similar to the duties performed by regular agency employees, or the average private sector wage for comparable positions (as determined by the Executive Office of Administration and Finance), whichever is less.<sup>8</sup>

The Privatization Law also allows agency employees to organize and submit a bid to perform the work as a private entity (contractor) with whom the agency can contract, or as a joint venture with other persons with whom the agency can contract. These bids will also be subject to the above provisions and will be considered on the same basis as all other bids.

The cost for the above provisions shall be contained in the contractor's base price submitted to the agency. After designating the successful bid, the agency will then prepare the cost of contract performance, as is discussed in Section 4 of this Guide.

---

<sup>5</sup> M.G.L. c. 7, § 54(3).

<sup>6</sup> M.G.L. c. 7, § 54(3).

<sup>7</sup> M.G.L. c. 7, § 54(2).

<sup>8</sup> M.G.L. c. 7, § 54(2).

## **SECTION 4 – THE COST OF CONTRACT PERFORMANCE**

The Privatization Law states that the agency, upon selecting the successful bidder, must then prepare “a comprehensive written analysis of the contract cost based upon the designated bid, specifically including the costs of transition from public to private operation, of additional unemployment and retirement benefits, if any, and of monitoring and otherwise administering contract performance.”<sup>9</sup>

This section describes these and other categories of cost that would be incurred by the agency when contracting out a service. The attached Form 3 should be used to compute the total cost of contract performance.

### **A. CONTRACT PRICE**

The first category of cost to be included in the cost of contract performance is the contract price. The contract price must be supported by a firm bid, and the bid must be based on the same written statement of services used in preparing the in-house cost estimate. It is recognized that, during subsequent negotiations with the successful bidder, minor changes may be made to the contract terms.

### **B. CONTRACT ADMINISTRATION**

Contract administration costs are the costs incurred by the agency in ensuring that the quantity and quality of a service purchased from a contractor is acceptable, and that the contract is executed in accordance with the contract specifications. It primarily includes the cost of monitoring and evaluating contractor performance and compliance with the terms of the contract (quality assurance), but may also include processing contract payments, negotiating change orders, and monitoring contract operations. If additional costs will not be incurred to perform these functions, contract administration costs should not be included. For example, in cases where the increase in workload can be done by employees already in place, then there may be little or no additional cost.

Agencies should identify and document all direct and indirect costs expected to be incurred for contract administration. The amount will vary depending on the type of service being performed, the size of the contract, the extent of contract monitoring desired, and the extent to which any of the functions would be done by the current workforce without an increase in cost. If cost data based on prior experience is not

---

<sup>9</sup> M.G.L. c. 7, § 54(6).

available to make a reasonable estimate of contract administration costs, the agency may use the guidelines issued by the Federal Office of Management and Budget (OMB).

Circular A-76 Revised, which is issued by the OMB and governs the contracting out of federal commercial activities, has a staffing formula for estimating the cost of contract administration. This formula assumes that the best indicator of contract administration requirements is the number of people who will be needed to administer the contract. The OMB formula, as revised in 2003, is shown below.

**Table 1**  
**CONTRACT ADMINISTRATION REQUIREMENTS CHART**

Staff Requirements	Contract Administration Staff
10 or less	.5
11-20	1
21-50	2
51-75	3
76-100	4
101-120	5
121-150	6
151-200	7
201-250	8
251-300	9
301-350	10
351-450	11
Greater than 450	Use 2.5% of in-house requirements

Use of the above chart is optional, and agencies can, if they able, make their own estimates.

**C. TRANSITION COSTS**

When an agency discontinues an in-house activity and obtains the service by contract, there are usually some costs associated with the transition. One-time costs should be amortized over the life of the contract, and recurring costs should be included for each year of the contract. Some of these costs are discussed below.



### ***1. Unemployment and Retirement Benefits:***

For those employees whose jobs will be terminated and become unemployed or retire because of the discontinued in-house operation, the cost of unemployment and retirement benefits, if any, should be included in the cost of contract performance. When it is known who will retire, compute the Commonwealth's share of retirement costs for the performance period of the contract. When it is known who will become unemployed, compute the Commonwealth's share of the unemployment compensation costs for the average benefit period, as provided by the Division of Unemployment Assistance.

When the employee attrition figure is not known, use the best estimate available from prior experience on the number of employees who retire or become unemployed as a result of conversion.

### ***2. Other Transition Costs:***

- a. If the transition is expected to result in one-time labor-related costs such as severance pay, outplacement services, or retraining expenses, compute and include these expenses in the cost of contract performance. When it is not known, an estimate may be made.
- b. If the transition requires an agency to take certain actions that would not be necessary if the activity continued in-house, include these costs in the cost of contract performance. For example, there may be costs associated with terminating a lease or with disposing of materials that are no longer needed.
- c. If any agency facilities or equipment are to be used by the contractor, (which were not used under the in-house function), the cost of contract performance should be increased by the estimated rental value of the facilities or equipment.

### ***3. Gain or Loss on Disposal of Assets:***

A decision to contract out a function may eliminate the need for all or some of the assets for that function. The disposal value of these assets should be included in the cost of contract performance. The estimated disposal value, minus the estimated costs of disposal, would be treated as a gain and would reduce the cost of contract performance.

### ***4. Other Revenue:***

Any other revenues that would be realized as a result of contracting out should be included and would reduce the cost of contract performance.

## **5. Savings:**

Any savings that would be realized as a result of contracting out should be included and would reduce the cost of contract performance. One example might be the redeploying of trained employees, thus avoiding the need to train new employees.

### **D. LOST TAX REVENUE**

The Privatization Law provides that “If the designated bidder proposes to perform any or all of the contract outside the boundaries of the commonwealth, said contract costs shall be increased by the amount of income tax revenue, if any, which will be lost to the commonwealth by the corresponding elimination of agency employees, as determined by the department of revenue to the extent that it is able to do so.”<sup>10</sup>

Include the amount of lost tax revenue, as determined by the Department of Revenue, as part of the cost of contract performance.

### **E. STATE INCOME TAX**

Since contract performance may provide the contractor with income subject to state tax, an estimated amount of such taxes would be an appropriate dedication from the net cost to the Commonwealth, unless the contractor is a tax-exempt organization.

---

<sup>10</sup> M.G.L. c. 7, § 54(6).

## **SECTION 5 – IN-HOUSE COST ESTIMATE**

After the written statement of services has been developed, the estimated cost to provide a service in-house with agency employees must be prepared. The Privatization Law provides that:

The agency shall prepare a comprehensive written estimate of the costs of regular agency employees' providing the subject services in the most cost-efficient manner. The estimate shall include all direct and indirect costs of regular agency employees' providing the subject services, including but not limited to pension, insurance and other employee benefit costs . . . Such estimate shall remain confidential until after the final day for the agency to receive sealed bids for the privatization contract.<sup>11</sup>

The steps to be followed in this process are set forth below. The process begins with a management study of the in-house organization that is presently providing the service to determine the most cost-efficient manner of providing the service. This is followed by several steps that involve calculating the cost estimate to provide that service with agency employees. The cost estimate must be based on the same written statement of services used in the request for bids, and on the most cost-efficient method of providing the service.

### **Step 1 – The Management Study**

The management study should analyze the current workforce, materials, equipment, facilities, and procedures for providing the service. Because the management study and the written statement of services are closely related, they may be performed concurrently. This study is an analytical evaluation of the in-house organization to determine whether changes in the service delivery, could feasibly be made, that would result in a more efficient and effective in-house operation.

Pursuant to the Privatization Law, the agency must document to the OSA the analysis process that the agency engaged in, the changes that could be made to provide the service in a more cost-efficient manner or to improve the service delivery, and the fiscal impact of these changes on the in-house cost.

### **Step 2 – Calculating the In-House Cost Estimate**

Once the management study has been completed, the agency can prepare the in-house cost estimate. The following general instructions should be considered in preparing the in-house cost estimate.

---

<sup>11</sup> M.G.L. c. 7 § 54(4)

1. The OSA suggests that agencies begin with the current operating budget. Because operating budgets are based upon expenditures, it may be necessary to convert some expenditures to expenses when preparing the in-house cost estimate. For example, it may be necessary to convert the amount for capital expenditures in the operating budget to an amount for depreciation.
2. Because budgets are sometimes organized in a different manner than the accounting system, agencies should exercise care in reviewing the function to ensure that all costs of the function are captured, regardless of where the cost is budgeted. Agencies are expected to use reasonable and accepted accounting practices in accumulating and developing costs.
3. The in-house cost estimate will be based upon the agency's determination of the most cost-efficient method of performing the function identified. This may require modification of any historical or budget information used in the analysis that is based upon an existing method of operation. The revised method of operation should be clearly defined in sufficient detail to allow for the adoption of the revised operation.
4. The in-house cost estimate will be based on the "fully allocated cost" (direct and/or indirect costs) which will then be converted to the "avoidable cost" of the function (*i.e.*, costs that would be avoided if the function is contracted out).
5. The in-house cost estimate must be prepared on Forms 2, 2A, and 2B in Appendix C, and must be supported by proper documentation. Each line item must be cross-referenced and indexed. The preparer must sign and date the form, which must then be approved by the agency head.
6. The in-house cost estimate should be prepared for the same period of time that the proposed contract shall run for, and should consider such items as economic trends and anticipated changes in operation. Historical periods may be included with the in-house cost estimate.
7. All known or anticipated increases in costs should be considered.

### **Step 3 – Calculating the Fully Allocated Costs**

The cost of performing the work in-house includes all direct costs that are attributable to the function under study, as well as the indirect costs, or overhead, that support the function. This is referred to as the "fully allocated cost."

All costs should be included in the calculation of the fully allocated cost, regardless of whether or not the costs would be saved (*i.e.*, avoidable) if the function was performed by the private sector. The list below discusses the major cost components but it is not all-inclusive. The agency is responsible for capturing all applicable costs.

## **1. Direct Costs**

Direct costs are those cost items that only benefit, and thus are totally (100%) chargeable to accomplishing, the function. As budgets are sometimes organized in a different manner than the accounting system, the agency should exercise care in reviewing the entire budget for the direct costs of the function regardless of where the costs are budgeted. Examples of direct costs include:

- a. Personnel Costs – Personnel wages will include direct personnel costs for accomplishing the function as set forth in the written statement of services. The in-house cost estimate should include the position title of the personnel used to perform the function and the percentage of the person's time attributable to the function. The attached Personnel Cost Worksheet (Form 2B) should be used to calculate personnel costs.
- b. Fringe Benefits – These include retirement programs, health and life insurance payments, and other payroll costs. If actual costs are readily available, agencies should include that amount. If not, standard percentages may be used to calculate fringe-benefit costs. Care should be exercised, however, to ensure that the results are reasonable for the function being analyzed. If the standard percentages do not yield reasonable results, the agency should document the method used and the reasons for change.
- c. Materials and Supplies – This category includes all materials and supplies used to perform the function as required in the written statement of services and outlined in the management study.
- d. Other Direct Costs – Other direct costs that are 100% attributable to the function, such as equipment depreciation and utilities, should be considered. Many costs may be allocated on a defined, reasonable unit of measure based upon consumption.
  - (1) Depreciation – Under the concept of the conversion of expenditures to expenses, equipment costs must be allocated over the period of benefit to reflect consumption of resources. Therefore, the expenditures for capital outlays should be excluded. The in-house cost estimate should include an amount for annual depreciation. Depreciation should be calculated by dividing the depreciable basis by the estimated useful life of the asset. Depreciable basis is defined as acquisition cost plus transportation and installation costs. Depreciate only those assets used for the in-house function that are not provided to the contractor.
  - (2) Rent – The cost of renting or leasing equipment or facilities used in performing the function should be included in the in-house cost estimate.
  - (3) Maintenance and Repair – The direct costs incurred to keep facilities and equipment in working condition should be considered.
  - (4) Utilities – This category should include fuel, electricity, telephones, and water and sewer costs directly incurred in performing the function. If an allocation method is used to cost utilities, the method must be reasonable.
  - (5) Insurance – Potential costs from casualty losses and liability claims are normally covered by insurance in the private sector. The Commonwealth is primarily self-insured and pays for

- each loss incurred. Compute estimated insurance costs by using the OMB Circular A-76 Revised as a guide. (However, if the Commonwealth remains liable for any of these particular losses, no cost for insurance would be included.)
- a. Casualty Losses – Multiply the net book value of the Commonwealth’s equipment by .0005.
  - b. Liability Losses – Multiply the personnel costs by .0007.
- (6) Other Costs – Other specifically attributable direct costs might include training costs, travel expenses, uniforms, housing allowances, parking, and purchased services.

## **2. Indirect Costs**

Indirect costs will generally consist of three types: departmental, executive office, and central services. Departmental indirect costs are those administrative personnel and supporting costs (including fringe benefits) incurred by the department on behalf of its programs that cannot be identified with specific programs. Executive office indirect costs are those costs incurred by the executive office on behalf of all of the departments under its responsibility. Central service costs are those costs incurred by supporting functions and activities, such as the comptroller’s office, personnel administration, employee relations, etc., that benefit all departments.

The Statewide Cost Allocation Plan developed by the State Comptroller's Office should be consulted because it may already have determined the central services and executive office costs for each department. The Departmental Allocation Plan, if available, should also be consulted for the indirect costs of the department.

Once they have been determined, these three indirect cost amounts should be allocated to the function under study. There are several standard methods used in cost accounting to allocate indirect costs. The three most common methods are “personnel costs,” “total direct costs,” and the “step down” method.

## **Step 4 – Converting Fully Allocated Costs to Avoidable Costs**

The use of fully allocated costs is generally inappropriate in estimating the savings to be realized by contracting out a service that is currently being conducted in-house. The amount of money that is likely to be saved is not simply the difference between fully allocated in-house costs and the total cost of contract performance. This is because contracting out does not generally result in a dollar-for-dollar reduction in governmental overhead costs. For example, although contracting out may result in decreasing the workload of service departments such as personnel, finance, and facilities management, the workload reductions may be too small to have any significant effect on the costs of maintaining these departments. When determining the potential cost savings associated with the contracting out of a service, the

appropriate in-house costs to use in the comparison are the avoidable costs. Computing the fully allocated cost is still necessary because this is the starting point for determining the avoidable costs.

Avoidable costs are defined as the net amount of expense that would be eliminated by the agency if the function identified was not performed by the agency. The avoidable cost is therefore the figure that will be used by the agency and the OSA when assessing the likely cost savings achievable through contracting out.

Determining which in-house costs are avoidable is not a simple task. While it is obvious that virtually all direct costs will be avoidable, determining what portion of indirect costs are avoidable is a matter of professional judgment and depends largely on three factors:

- A. how efficiently resources are reallocated;
- B. the time period in which resource allocation will occur; and
- C. the extent of the privatization effort.

#### **A. RESOURCE REALLOCATION**

The decision to discontinue a particular function should result in some reduction or reallocation of resources in the areas that indirectly supported that function (*e.g.*, personnel, procurement, accounting). Therefore, some of these overhead costs will be “avoided” to the degree that the agency is able to reallocate or reduce resources in these areas.

#### **B. TIME PERIOD**

There are many costs that cannot be avoided in the short term but may be avoidable in the long term. For example, contracting out of a service may leave an agency holding a lease for more capacity than is necessary; however, the cost is not avoidable until the agency can decline to renew the lease. Similarly, there may be instances in which contracting out leaves an agency overstaffed but legally obligated not to lay off workers. In the short term, this represents unavoidable cost, but, in the long term, staff levels could be reduced to efficient levels through attrition. Costs that would be avoidable in the long term should be included only for those time periods in which they would be realized.

#### **C. EXTENT OF PRIVATIZATION**

The reduction in overhead costs is directly related to the size of the service that is being contracted out. The larger the service in comparison to the overall size of the agency, the more the overhead costs that can

be reduced. Similarly, if other services that use the same overhead support function are also contracted out, a higher portion of overhead costs will likely be avoided. Generally, the greater proportion of a service contracted out, the greater potential reduction in overhead costs.

### **Step 5 – How to Determine Avoidable Indirect Costs**

Computing the avoidable indirect costs can be done in two stages. First, determine if at least one position would be eliminated in the supervisory work center above the service that is being contracted out. Then determine if at least one position would be eliminated in any of the other agency or department activities that provide definable support to the service. If no positions would be eliminated, then the avoidable indirect costs are zero. If positions would be eliminated, compute personnel costs and other costs solely in support of positions to be eliminated, such as material and supply costs and other costs that are attributable to the positions to be eliminated.

Computing the avoidable executive office and central service costs is done in a similar manner. First, list all those activities external to the agency that provide general and administrative support that are essential to the service. This would be the activities of the executive office that oversees the agency and the central services. For each of these activities determine whether at least one position would be eliminated. If none would be eliminated, the indirect cost is zero. If positions could be eliminated, compute personnel costs and other costs solely in support of those positions that would be eliminated, *e.g.*, material and supply costs and other specifically attributable costs, if any.

The avoidable costs that would be realized must be documented by the agency. The attached Form 2 should be used to convert fully allocated costs to avoidable costs.

### **PROPOSED AMENDMENTS BY EMPLOYEE ORGANIZATIONS**

Pursuant to Section 54 of the Privatization Law, an employee organization that represents the affected members may, at any time before the final day for the agency to receive sealed bids, propose amendments to any relevant collective bargaining agreement to which it is a party. These collective bargaining amendments shall take effect only if they are necessary to reduce the in-house cost estimate below the cost of contract performance during the cost comparison stage discussed in Section 6 of this Guide. Any concession made under the Section shall be in the form of a “side agreement” between the organization that represents the affected employees and the agency. Any such “side agreement” shall be binding on the affected employees.



## **EMPLOYEE BIDS TO PROVIDE THE SERVICES IN-HOUSE**

The Privatization Law also allows bids to be made by employee groups who wish to continue to perform the work in-house as agency employees. Employee bids shall be prepared in accordance with the cost principles of this Section of the Guide in the same manner as an in-house cost estimate, and the bid amount must include all of the agency's avoidable costs. Form 2 should be used for the purpose.

Adequate resources are expected to be provided by the agency to assist the agency employees to organize and submit their bid. In this regard, to prepare a bid there must be close cooperation between the agency and the employee group to ensure that all the agency's avoidable costs are included in the employees' bid amount. This is important because there will be avoidable costs that an employee group may not know about or have no control over. The agency is in the position to provide this information for the employee bid.

## **SECTION 6 – THE COST COMPARISON**

After the cost of contract performance and the in-house cost estimate have been determined, they must be compared to determine whether privatization would provide any potential cost savings. Form 1 should be used for this purpose. If there are potential cost savings, the Privatization Law provides for the head of the agency and the Secretary of the Executive Office of Administration and Finance to certify that the cost of contract performance will be less than the avoidable costs of the in-house cost estimate. If there are no potential cost savings, the work will continue to be performed in-house with agency employees.

### **A. COST OF CONTRACT PERFORMANCE**

For agencies to justify awarding a privatization contract, there should be a cost savings with no reduction in the quality or level of service. The Privatization Law does not provide a threshold savings amount, the law simply requires that the cost of contract performance be less than the in-house cost estimate, and that the proposed contract otherwise be in the public interest.

The agency should consider all factors specified in the law, as well as costs, in deciding whether to award a privatization contract.

### **B. IN-HOUSE PERFORMANCE**

Under the law, the work would be done in-house if (1) the agency in-house cost estimate is less costly than the cost of contract performance, or (2) a bid by agency employees, prepared in accordance with this Guide, is the successful bid. Each of these scenarios is discussed below.

#### ***1. Agency In-House Cost Estimate:***

If the work is retained in-house because it would be less costly than the cost of contract performance, the agency would be expected to perform the work at the quantity and quality levels outlined in the written statement of services and within the in-house cost estimate. Should the agency fail to do so, it may issue another request for bids or, to the extent allowable under the procurement laws, reopen negotiations with the vendor who would have been the successful bidder under the earlier request for bids. Whether the agency issues a new request for bids or reopens negotiations with a former vendor or employee organization, the agency must notify the OSA.

## ***2. Successful Employee Bid:***

If the work is to be retained in-house because an employee bid (which includes agency avoidable costs) is successful, the agency and the employee group will execute a memorandum of understanding that sets forth the requirements and obligations of both parties. The memorandum of understanding may include provisions for termination should the employee group fail to perform at the quality and quantity levels outlined in the written statement of services and within the bid amount. If the contract is terminated, the agency may then issue another request for bids or, to the extent allowable under the procurement laws, reopen negotiations with the vendor who was the next successful bidder under the earlier request for bids. Whether the agency issues a new request for bids or reopens negotiations with a former vendor or employee organization, the agency must notify the OSA.

## SECTION 7 – OTHER REQUIREMENTS

### **A. BIDS BY EMPLOYEE ORGANIZATION**

The Privatization Law requires the agency seeking to privatize a service to provide adequate resources to the affected employee organization for the purpose of submitting a bid to provide the service. Specifically, the law provides:

After consulting any relevant employee organization, the agency shall provide adequate resources for the purpose of encouraging and assisting present agency employees to organize and submit a bid to provide the subject services. In determining what resources are adequate for this purposes, the agency shall refer to an existing collective bargaining agreement of a similar employee organization whose members perform the subject services, if available, which agreement provides similar resources in the same or other agencies; provided, that if no such collective bargaining agreement exists, the agency shall refer to any existing collective bargaining agreements providing such resources, and shall provide such resources at the minimum level of assistance provided in said agreements.<sup>12</sup>

This provision requires an agency to provide adequate resources to any relevant employee organization or group of employees that wishes to organize and submit a bid either as: (a) agency employees who wish to retain the work in-house; (b) a separate entity with whom the agency can contract; or (c) a joint venture with other persons with whom the agency can contract.

The law requires that any employee bid be considered on the same basis as all other bids. This means that the employee organization will have the same statutory protection and remedies that are available to other bidders and will be subject to the same provisions and requirements of other bidders.

The OSA requires that the agency demonstrate its efforts to meet the intent of the above provisions. Employee organizations that do not receive adequate resources as defined above would be expected to notify the OSA prior to the closing of the acceptance of the bids. In the event of differing opinions, the OSA will determine whether adequate resources were made available to the organization in conformity with the requirements of the law.

### **B. COMPLIANCE WITH RELEVANT STATUTES**

The Privatization Law requires that the head of the agency and the Secretary of the Executive Office of Administration and Finance certify that:

---

<sup>12</sup> M.G.L. c. 7, § 54(5).

The designated bidder and its supervisory employees, while in the employ of said designated bidder, have no adjudicated record of substantial or repeated willful noncompliance with any relevant federal or state regulatory statute including, but not limited to, statutes concerning labor relations, occupational safety and health, nondiscrimination and affirmative action, environmental protection and conflicts of interest . . . .<sup>13</sup>

The agency should demonstrate its efforts to determine that the designated bidder and its supervisory employees have no adjudicated record of substantial or repeated willful noncompliance with relevant statutes.

### **C. QUALITY OF SERVICES**

The Privatization Law requires that the head of the agency and the Secretary of the Executive Office of Administration and Finance certify that:

The quality of the services to be provided by the designated bidder is likely to satisfy the quality requirements of [the written statement of services] and to equal or exceed the quality of services which could be provided by regular agency employees. . . .<sup>14</sup>

The agency should demonstrate its efforts to meet the intent of this provision and describe the process to be used to monitor the quality of the services provided by the contractor.

### **D. SUBMISSION OF CERTIFICATION TO STATE AUDITOR**

The Privatization Law requires the head of the agency and the Secretary of the Executive Office of Administration and Finance to certify in writing to the OSA regarding five specific provisions of the law and to submit a copy of the written statement of services, the proposed privatization contract, and the in-house cost estimate, along with the certification, to the OSA.

The agency should also submit to the OSA: (1) a summary of all of the bids received for the contract; (2) the criteria and rating system used to select the designated bidder; (3) the cost forms (Appendix C) completed in accordance with this Guide, along with the supporting documentation; and (4) the management study.

---

<sup>13</sup> M.G.L. c. 7, § 54(7)(iv).

<sup>14</sup> M.G.L. c. 7, § 54(7)(i).

**E. NOTIFICATION TO THE OSA OF PRIVATIZATION REQUESTS FOR BIDS**

At the time the agency issues a request for bids for a privatization contract, the agency shall notify the OSA of the state service that the agency may contract out. This notice is to allow the OSA to plan administratively for certification requests that may be forwarded to the OSA in the near future. The agency is not required to provide any other materials at this stage and retains complete discretion to stop or amend its plan at anytime. The Checklist included as Appendix D lists all of the data that will eventually be required by the OSA to make a determination on each proposed privatization contract.

## APPENDIX A (Glossary of terms)

### Glossary of Terms

<b>Avoidable Costs:</b>	The net amount of expense that would be eliminated by the agency if the function identified was not performed by the agency.
<b>Cost Accounting:</b>	The method of accounting that captures the elements of cost to provide a function.
<b>Cost Analysis:</b>	The complete process of performing the management study of a function, determining the in-house cost, estimating the purchase cost, and comparing the costs.
<b>Cost Comparison:</b>	A comparison of the total cost to the agency for purchasing a service with the costs that would not be incurred (avoidable cost) if the service were purchased.
<b>Cost of Contract Performance:</b>	This term represents all costs associated with purchasing a service from the private sector, including the contract administration cost, contract cost, and any unavoidable agency costs.
<b>Direct Costs:</b>	Cost that can be directly attributed to a function and that bear a direct relationship to the function.
<b>Expenditures:</b>	Acquisition of goods and services with current resources, regardless of the period of benefit.
<b>Expenses:</b>	Utilization of goods and services acquired for the benefit of current period.
<b>Fully Allocated Cost:</b>	The sum of all of the direct costs that are attributable to performing the function in-house and the indirect costs (agency overhead) that support the function.
<b>Indirect Costs:</b>	A cost that is not readily identifiable to a function but supports that function.
<b>In-House Cost Estimate:</b>	Agency report (Form 2 and supporting documentation) that contains the agency's computations of the probable cost to the agency to produce a desired quality and quantity of service using agency resources in the most efficient method available to the agency.
<b>Management Study:</b>	An analytical evaluation of an organization or a function by an agency to determine whether the job can be accomplished more economically.
<b>Unavoidable Costs:</b>	Costs that will remain at the agency regardless of the method of service delivery.
<b>Written Statement of Services:</b>	A clear written statement of the required services, the performance standards, the acceptable levels of quality, and the workloads associated with the services.

## APPENDIX B (Copy of legislation)

### The Privatization Law – M.G.L. c. 7, §§ 52, 53, 54, 55

Section 52. The general court hereby finds and declares that using private contractors to provide public services formerly provided by state employees does not always promote the public interest. To ensure that citizens of the commonwealth receive high quality public services at low cost, with due regard for the taxpayers of the commonwealth and the needs of public and private workers, the general court finds it necessary to regulate such privatization contracts in accordance with sections fifty-three to fifty-five, inclusive. The general court does not intend to restrict the use of community facilities to provide care for clients of state agencies, if any privatization contract relating to such facilities otherwise complies with the provisions of said sections fifty-three to fifty-five, inclusive.

Section 53. As used in sections fifty-two to fifty-five, inclusive, the following words shall have the following meanings:--

"Agency", an executive office, department, division, board, commission or other office or officer in the executive branch of the government of the commonwealth, the Massachusetts Bay Transportation Authority, the Massachusetts Turnpike Authority, the Massachusetts Port Authority and the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.

"Business day", any calendar day excluding Saturdays, Sundays, and legal holidays.

"Dependent", the spouse and children of an employee if such persons would qualify for dependent status under the Internal Revenue Code or for whom a support order has been or could be granted under chapter two hundred and eight, two hundred and nine, or two hundred and nine C.

"Privatization contract", an agreement or combination or series of agreements by which a non-governmental person or entity agrees with an agency to provide services, valued at \$500,000, but as of January 1 each year, the amount shall increase to reflect increases in the consumer price index calculated by the United States Bureau of Labor Statistics for all urban consumers nationally during the most recent 12 month period for which data are available or more, which are substantially similar to and in lieu of, services theretofore provided, in whole or in part, by regular employees of an agency. Any subsequent agreement, including any agreement resulting from a rebidding of previously privatized service, or any agreement renewing or extending a privatization contract, shall not be considered a privatization contract. A contract for information technology services shall not be considered a privatization contract if an employee organization recognized under chapter 150E, as the exclusive representative of an affected employee, as determined by the secretary of administration and finance, agrees to the terms of the contract in writing. An agreement solely to provide legal, management consulting, planning, engineering or design services shall not be considered a privatization contract.

Section 54. No agency shall make any privatization contract and no such contract shall be valid unless the agency, in consultation with the executive office for administration and finance, first complies with each of the following requirements:—

- (1) The agency shall prepare a specific written statement of the services proposed to be the subject of the privatization contract, including the specific quantity and standard of quality of the subject services. The agency shall solicit competitive sealed bids for the privatization contracts based upon this statement. The day designated by the agency upon which it will accept these sealed bids shall be the same for any and all parties. This statement shall be a public record, shall be filed in the agency and in the executive office for



administration and finance, and shall be transmitted to the state auditor for review pursuant to section fifty-five. The term of any privatization contract shall not exceed five years. No amendment to a privatization contract shall be valid if it has the purpose or effect of avoiding any requirement of this section.

- (2) For each position in which a bidder will employ any person pursuant to the privatization contract and for which the duties are substantially similar to the duties performed by a regular agency employee or employees, the statement required by paragraph (1) shall include a statement of the minimum wage rate to be paid for said position, which rate shall be the lesser of step one of the grade or classification under which the comparable regular agency employee is paid, or the average private sector wage rate for said position as determined by the executive office for administration and finance from data collected by the division of employment and training and the division of purchased services. Every bid for a privatization contract and every privatization contract shall include provisions specifically establishing the wage rate for each such position, which shall not be less than said minimum wage rate as defined above. Every such bid and contract shall also include provisions for the contractor to pay not less than a percentage, comparable to the percentage paid by the commonwealth for state employees, of the costs of health insurance plans for every employee employed for not less than twenty hours per week pursuant to such contract. Such health insurance plans shall satisfy the requirements of the fifth paragraph of section nine of chapter one hundred and eighteen F, and shall provide coverage to the employee and the employee's spouse and dependent children. Each contractor shall submit quarterly payroll records to the agency, listing the name, address, social security number, hours worked and the hourly wage paid for each employee in the previous quarter. The attorney general may bring a civil action for equitable relief in the superior court to enforce this paragraph or to prevent or remedy the dismissal, demotion or other action prejudicing any employee as a result of a report of a violation of this paragraph.
- (3) Every privatization contract shall contain provisions requiring the contractor to offer available employee positions pursuant to the contract to qualified regular employees of the agency whose state employment is terminated because of the privatization contract and who satisfy the hiring criteria of the contractor. Every such contract shall also contain provisions requiring the contractor to comply with a policy of nondiscrimination and equal opportunity for all persons protected by chapter one hundred and fifty-one B, and to take affirmative steps to provide such equal opportunity for all such persons.
- (4) The agency shall prepare a comprehensive written estimate of the costs of regular agency employees' providing the subject services in the most cost-efficient manner. The estimate shall include all direct and indirect costs of regular agency employees' providing the subject services, including but not limited to, pension, insurance and other employee benefit costs. For the purpose of this estimate, any employee organization may, at any time before the final day for the agency to receive sealed bids pursuant to paragraph (1), propose amendments to any relevant collective bargaining agreement to which it is a party. Any such amendments shall take effect only if necessary to reduce the cost estimate pursuant to this paragraph below the contract cost pursuant to paragraph (6). Such estimate shall remain confidential until after the final day for the agency to receive sealed bids for the privatization contract pursuant to paragraph (1), at which time the estimate shall become a public record, shall be filed in the agency and in the executive office for administration and finance, and shall be transmitted to the state auditor for review pursuant to section fifty-five.
- (5) After consulting any relevant employee organization, the agency shall provide adequate resources for the purpose of encouraging and assisting present agency employees to organize and submit a bid to provide the subject services. In determining what resources are adequate for this purpose, the agency shall refer to an existing collective bargaining agreement of a similar employee organization whose members perform the subject services, if available, which agreement provides similar resources in the same or other agencies; provided, however, that if no such collective bargaining agreement exists, the

agency shall refer to any existing collective bargaining agreements providing such resources, and shall provide such resources at the minimum level of assistance provided in said agreements. The agency shall consider any such employee bid on the same basis as all other bids. An employee bid may be made as a joint venture with other persons. Subclause (h) of clause Twenty-sixth of section seven of chapter four shall apply with respect to all employee bids. Sections four, five and six of chapter two hundred and sixty-eight A shall not apply to the activities of agency employees conducted pursuant to this paragraph.

- (6) After soliciting and receiving bids, the agency shall publicly designate the bidder to which it proposes to award the contract. The agency shall prepare a comprehensive written analysis of the contract cost based upon the designated bid, specifically including the costs of transition from public to private operation, of additional unemployment and retirement benefits, if any, and of monitoring and otherwise administering contract performance. If the designated bidder proposes to perform any or all of the contract outside the boundaries of the commonwealth, said contract cost shall be increased by the amount of income tax revenue, if any, which will be lost to the commonwealth by the corresponding elimination of agency employees, as determined by the department of revenue to the extent that it is able to do so.
- (7) The head of the agency and the commissioner of administration shall each certify in writing to the state auditor, that:
  - (i) he has complied with all provisions of this section and of all other applicable laws;
  - (ii) the quality of the services to be provided by the designated bidder is likely to satisfy the quality requirements of the statement prepared pursuant to paragraph (1), and to equal or exceed the quality of services which could be provided by regular agency employees pursuant to paragraph (4);
  - (iii) the contract cost pursuant to paragraph (6) will be less than the estimated cost pursuant to paragraph (4), taking into account all comparable types of costs;
  - (iv) the designated bidder and its supervisory employees, while in the employ of said designated bidder, have no adjudicated record of substantial or repeated willful noncompliance with any relevant federal or state regulatory statute including, but not limited to, statutes concerning labor relations, occupational safety and health, nondiscrimination and affirmative action, environmental protection and conflicts of interest; and
  - (v) the proposed privatization contract is in the public interest, in that it meets the applicable quality and fiscal standards set forth herein.

A copy of the proposed privatization contract shall accompany the certificate transmitted to the state auditor. No provision of this section shall apply in any circumstance to the extent that the provision is inconsistent with section thirty-nine M of chapter thirty or sections twenty-six to twenty-seven H, inclusive, or sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine.

#### Section 55:

- (a) An agency shall not make any privatization contract and no such contract shall be valid if, within thirty business days after receiving the certificate required by section fifty-four, the state auditor notifies the agency of his objection. Such objection shall be in writing and shall state specifically the state auditor's finding that the agency has failed to comply with one or more requirements of said section fifty-four, including that the state auditor finds incorrect, based on independent review of all the relevant facts, any of the findings required by paragraph (7) of

said section fifty-four. The state auditor may extend the time for such objection for an additional period of 30 business days beyond the original 30 business days by written notice to the submitting agency stating the reason for such extension.

- (b) For the purpose of reviewing the agency's compliance and certificate pursuant to said section fifty-four, the state auditor or his designee may require by summons the attendance and testimony under oath of witnesses and the production of books, papers and other records relating to such review. All provisions of law relative to summonses in civil cases, including the manner of service, the scope and relevance to such review, and the compensation of witnesses who are not state employees, shall apply to such summonses. Such summonses shall be enforced pursuant to section ten of chapter two hundred and thirty-three.
- (c) The state auditor may adopt regulations and prescribe forms to carry out the provisions of this section and section fifty-four.
- (d) The objection of the state auditor pursuant to subsection (a) shall be final and binding on the agency, unless the state auditor thereafter in writing withdraws the objection, stating the specific reasons, based upon a revised certificate by the agency and by the commissioner of administration and upon the state auditor's review thereof.

## APPENDIX C (Form 1)

### Cost Comparison Form

A. In-House Cost Estimate  
(Avoidable Costs from Form 2)

\_\_\_\_\_

B. Contract Performance Costs  
(From Form 3)

\_\_\_\_\_

C. Cost Savings

=====

Cost Comparison Decision:

Approved by:

In-House \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature

Date

Contract \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

A & F

Date

## APPENDIX C (Form 2)

### In-House Cost Estimate

	<u>FULLY ALLOCATED COST</u>				<u>Available Cost</u>
	<u>Period A</u>	<u>Period B</u>	<u>Period C</u>	<u>Total</u>	
Personnel Cost					
Material and Supply Costs					
Other Direct Costs					
Rent					
Depreciation					
Maintenance					
Utilities					
Insurance					
Other Costs					
Indirect Costs					
Departmental					
Executive Office					
Central Services	_____	_____	_____	_____	_____
Total In-House Costs	=====	=====	=====	=====	=====

Prepared By: \_\_\_\_\_  
Signature Title Date

Approved By:  
(Head of Agency) \_\_\_\_\_  
Signature Title Date

## APPENDIX C (Form 2a)

### Summary In-House Cost Estimate

	<u>Current Operating Budget</u>	<u>Adjustments</u>	<u>Revised Total Cost Period A</u>	<u>Adjustments</u>	<u>Revised Total Cost Period B</u>	<u>Adjustments</u>	<u>Revised Total Cost Period C</u>
Direct Cost							
Personnel Wages							
1.							
2.							
Materials & Supplies							
1.							
2.							
Other Direct Costs							
1.							
2.							
Total Direct Costs							
<u>Indirect Costs</u>							
Departmental							
Executive Office							
Central Services							
Total Indirect Costs							
Total Costs							

## APPENDIX C (Form 2b)

### Personnel Cost Worksheet

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
<u>Position Title or Skill</u>	<u>Grade</u>	<u>FTEs Required</u>	<u>Annual Wage</u>	<u>Other Pay</u>	<u>Basic Pay</u>	<u>Fringe Benefits</u>	<u>Personnel Cost</u>

#### Description

- a. **Position Title or Skill:** Example: carpenter, driver, janitor, supervisor, administrative clerk.
- b. **Grade:** Show the grade for each type of position or skill
- c. **FTEs Required:** Show the number of full time equivalent (FTE) positions required for each grade.
- d. **Annual Salary/Wages:** Use current pay rates and multiply the pay rates by the number of FTEs in Column B.
- e. **Other Pay:** Includes pay that will also earn fringe benefits, e.g., night differential pay, premium pay for firefighters and law enforcement officers.
- f. **Basic Pay:** Salary/wages plus other pay (Column D plus Column E).
- g. **Fringe Benefits:** Multiply Column F by the statewide percentage factor for fringe benefits.
- h. **Personnel Cost:** Add Basic Pay (Column F) and Fringe Benefits (Column G) for all positions.

## APPENDIX C (Form 3)

### Contract Performance Costs

	<u>Amount</u>
1. Contract Price	_____
2. Contract Administration	_____
3. Transition Costs	_____
Unemployment benefits	
Retirement benefits	
Other transition costs	
Gain or loss on disposal of assets	
Other revenue (deduct)	
Savings (deduct)	
4. Lost Tax Revenue	_____
5. State Income Tax (Deduct)	_____
Total Contract Costs	=====

	<u>Signature</u>	<u>Title</u>	<u>Date</u>
Prepared By	_____	_____	_____
Approved By (Head of Agency)	_____	_____	_____



## APPENDIX D

### Checklist

This checklist will be used for each agency submission to the OSA under the privatization law. The purpose is to determine whether the submission contains all the documents required by the Guide and needed by OSA to conduct a review.

Indicate if the following documents are included. Comment where appropriate.

<u>Document</u>	<u>X</u>	<u>Comment</u>
1. Certification Signed by Head of Agency and Commissioner of Administration	<input type="checkbox"/>	
2. Written Statement of Services	<input type="checkbox"/>	
3. Proposed Contract	<input type="checkbox"/>	
4. Cost Forms (Indexed)		
1. Cost Comparison	<input type="checkbox"/>	
2. In-House Cost Estimate	<input type="checkbox"/>	
2A. Summary In-House Cost Estimate	<input type="checkbox"/>	
2B. Personnel Cost Worksheet	<input type="checkbox"/>	
3. Contract Performance Costs	<input type="checkbox"/>	
5. Supporting Documentation	<input type="checkbox"/>	
6. Summary of Bids Received	<input type="checkbox"/>	
7. Bid Criteria and Rating System	<input type="checkbox"/>	
8. Management Study	<input type="checkbox"/>	
9. Document that Designated Bidder	<input type="checkbox"/>	
• Has no record of noncompliance with relevant statutes	<input type="checkbox"/>	
• Is likely to satisfy quality requirements	<input type="checkbox"/>	