

Competitive Sourcing



Policy and Procedure for Letters of Obligation (LOO)

U.S. Department of Transportation

Assistant Secretary for Administration

Competitive Sourcing Policy for LOO's

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SCOPE

This procedure for implementation of MEO Letters of Obligation (LOO) shall apply to all Operating Agencies in the U.S. Department of Transportation.

PURPOSE

The LOO serves as a formal written agreement between the Contracting Officer (CO) who executed the competitive sourcing competition under the OMB Circular A76, dated 23 May 2003, and the Inherently Governmental Official designated to sign on behalf of the MEO business unit (e.g., the Agency Tender Official (ATO) or Functional Team Official). The LOO is an enforcing agreement between the Agency and the MEO unit. The LOO is issued when an A-76 competition Performance Decision selects the MEO as the service provider (SP) based on the outcome of the A76 competition or cost comparison. It shall usually be issued within one to two weeks after final decision, unless a protest over the CO's decision holds up its issuance pending resolution of the protest. The LOO serves basically the same exact purpose as a contract award does when made to a commercial service provider.

CONTENT AND FORMAT

The LOO is a cover document of not more than 2 pages in length to be attached to either the signed SF26, SF33, or SF1449 and Section B (Pricing Schedule), with sections C through J of the original solicitation, having section I incorporated by reference as part of the Uniform Contract Format (UCF).

The LOO outlines the duties and responsibilities for performing the work as described in the solicitation and the accepted technical proposal or bid in response to the solicitation (IFB or RFP). It also includes the above sections of the UCF, but more importantly points to Section C (the Performance Work Statement (PWS) and the Quality Assurance Surveillance Plan (QASP) along with incorporated parts of the Agency Tender's technical proposal which will be crucial to performance outcomes.

EXECUTION AND ADMINISTRATION

The LOO shall be prepared and executed by the CO. It is jointly signed by the CO and the appointed LOO signing official, just the same as if it were a commercial contract is signed by the CO and the company official having authority to sign on behalf of the firm.

In selecting the individual who should sign the LOO, (typically the ATO), however, it can be head of the Residual Organization, which typically includes the COTR and Quality Assurance Evaluators (QAEs) who monitor service provider performance on behalf of the Agency, it could also be an individual one or two supervisory levels higher selected from the organization. The advantage of selecting and then designating a high organizationally placed individual to sign and be responsible for the LOO, would be the expected responsiveness to the LOO's monitoring/reporting

and performance requirements. However, the disadvantage of designating an individual that is placed too-high in an organization is that the activity could be a smaller part of the entire scope of the individual's responsibilities, as higher-level individuals often have a large span of responsibilities.

For a service provider at a single location, the signer of the LOO will likely (but not necessarily) be a manager for that location who is inherently governmental. For a service provider at multiple-locations, there will likely be an office in the Department's headquarters from which it will be logical to designate the individual to sign the LOO.

The CO, along with his/her appointed COTR and Quality Assurance Evaluator (QAE) personnel are responsible for monitor all service performance on behalf o the Agency, by documenting, reporting and administering the contract as required under the terms and conditions of the LOO, the COTR appointment letter, and as prescribed in the Federal Acquisition Regulations. All parties are expected to comply with all contract (LOO) terms and conditions just like any other contract an agency has in place. Samples of LOO documents for Streamlined Non-MEO, Streamlined MEO and Standard Studies are listed beginning at page 5.

SAMPLE LOO (STREAMLINED NON-MEO)

MEMORANDUM FOR: (NAME OF OFFICIAL), Agency Tender Official, (NAME OF AGENCY)

FROM: (NAME), Contracting Officer, Office of the Secretary for Transportation

Subject: Letter of Obligation (LOO) for (NAME OF FUNCTION), (AGENCY NAME)

The Office of Secretary for Transportation (OST) has made its final decision for the **Streamlined non-MEO competition** involving selected (NAMED) function(s) at the (Named Agency). You are hereby informed the Government activity has been selected to continue to perform this activity. The Office of Management and Budget (OMB) Circular A-76 (Revised) requires the issuance of a Letter of Obligation (LOO) authorizing the performance by the Government if a cost comparison demonstrates more cost effective performance by the Government over industry at current market prices or similar contracts in place. This LOO specifies the Government's performance obligations as specified in the Basic Performance Work Statement (PWS), along with the Agency Tender's in-house offer dated (Date of Tender) (Attached). The LOO requires *continuance* of the "as-is" function by Government personnel at the current budget baseline indicated in the comparison; in accordance with the PWS, if one was developed and, at the current authorized staffing levels (and no more) as reflected in your "as-is" Agency Tender unless change is approved through discussion with the CSO and properly executed by the CO. You have been identified by Name, Title, as an official responsible for performance of the in-house offer. As such, you are obligated to meet the following requirements and:

1. Continue to perform services as required by the PWS, if one was developed.
2. Perform services at the quality and timeliness standards specified in #1, or in accordance with current agency guidelines, and continue performance.
3. Perform in accordance with the current levels of the organization (number of employees, series, and grades) as cost compared by the CO which resulted in a final decision.
4. Comply with all current regulations, procedures, and instructions pertaining to the functions. It is the responsibility of the ATO and functional managers to ensure that budget, staffing and performance output data are properly collected and reported annual as required...The incumbent activity should set up a system to collect these costs and report them annually to the Associate Director of Competitive Sourcing (M60) which would reflect cost growth.
5. Notify the CO of any changed conditions that would warrant material changes in this LOO, including changes in workload or material requirements (increases or decreases).

Please sign and return this LOO to the Contracting Officer (CO) agreeing to the stated terms. If you have any issues in connection with the LOO, contact the CO-OST for clarification. You must inform the CO of: (1) an alternate for your position, (2) any change in your status in relationship to the incumbent activity offer and (3) any replacement or co-official that is appointed.

Acknowledged and Accepted by: _____

(NAME OF ATO or Functional Official)

SAMPLE LOO (STREAMLINED WITH MEO)

MEMORANDUM FOR: (NAME OF OFFICIAL), Agency Tender Official, (NAME OF AGENCY)

FROM: (NAME), Contracting Officer, Office of the Secretary for Transportation

Subject: Letter of Obligation (LOO) for (NAME OF FUNCTION), (AGENCY NAME)

The Office of Secretary for Transportation (OST) has made its final decision for the **Streamlined - MEO competition** involving selected (NAMED) function(s) at the (Named Agency). You are hereby informed the Government activity reviewed, and for which a Most Efficient Organization (MEO) was developed has been selected to perform this function under the new MEO staffing, Performance Work Statement (PWS), Performance Requirements Summary (PRS) and Quality Quality Control Plan (QCP) developed for this functional activity. The Office of Management and Budget (OMB) Circular A-76 (Revised) requires the issuance of a Letter of Obligation (LOO) authorizing the performance by the Government MEO if a cost comparison demonstrates more cost effective performance by the Government MEO over that of industry at current market prices or similar contracts is cheaper. This LOO specifies the Government's performance obligations as specified in the PWS, PRS, and QCP submitted as part of the Agency Tender's in-house offer dated (**Date of Tender**) (Attached). The LOO requires your agency to operate the function by Government personnel in accordance with the budget planned for the MEO performance of the PWS, as prescribed in the PWS as reviewed by the COTR in accordance with the MEO Quality Control Plan, and at the newly authorized MEO staffing levels as indicated in your Agency Tender unless a change is authorized by the CSO and executed by the Contracting Officer through a modification to the LOO.

You have been identified by Name, Title, as an official responsible for performance of the in-house offer. As such, you are obligated to meet the following requirements:

1. Perform services as required by the PWS.
2. Perform services to the minimum standards, as indicated for each required task, which meets the Acceptable Quality Level (AQL) in the PRS.
3. The incumbent activity is obligated to performance the LOO in accordance with the MEO staffing (FTE, series, and grade level) authorized.
4. The MEO operating under the LOO shall comply with all regulations, procedures, and instructions pertaining to the functions in the PWS. It is the responsibility of the ATO and functional managers to ensure that budget, staffing and performance output data are collected, maintained and reported annual as required.. The Functional Manager of the MEO activity should set up a system to collect these costs and report them annually to the Associate Director of Competitive Sourcing (M60) for submission in accordance with the Circular's Post Competition Reporting to OMB.
5. The incumbent activity is obligated to notify the Contracting Officer of any changed conditions that may result or necessitate changes in this LOO, including changes in staffing, workload, or material. (Note: changes can only be made to the LOO after discussion and approval with the CSO, and bilateral agreement with the CO and MEO functional manager.

Please sign and return this LOO to the Contracting Officer (CO) agreeing to the stated terms. If you have any issues in connection with the LOO, contact the CO-OST for clarification. You must inform the CO of: (1) an alternate for your position, (2) any change in your status i n relationship to the incumbent activity offer and (3) any replacement or co-official that is appointed.

Acknowledged and Accepted by: _____
(NAME OF ATO or Functional Official)

SAMPLE LOO (STANDARD COMPETITION)

MEMORANDUM FOR: (NAME OF OFFICIAL), Agency Tender Official, (NAME OF AGENCY)

FROM: (NAME), Contracting Officer, Office of the Secretary for Transportation

Subject: Letter of Obligation (LOO) for (NAME OF FUNCTION), (AGENCY NAME)

The Office of Secretary for Transportation (OST) has made its final decision for the **Standard Competition** involving selected (NAMED) function(s) at the (Named Agency). You are hereby informed the Government activity studied and competed for which a Most Efficient Organization (MEO) was developed along with Performance Work Statement (PWS), Performance Requirements Summary (PRS) and Quality Assurance Surveillance Plan (QASP) was developed and competed under (IFB or RFP Number _____), has been selected to perform this function in accordance with the above documents, and as implemented by incorporation of the Agency Tender, MEO staffing, Quality Control Plan, and Technical Proposal developed for this effort. The Office of Management and Budget (OMB) Circular A-76 (Revised) requires the issuance of a Letter of Obligation (LOO) authorizing the performance by the Government's MEO if a cost comparison demonstrated more cost effective performance over that of industry through a formal FAR based competition. This LOO specifies the Government's absolute performance obligations as specified in the PWS, PRS, Technical Proposal and related QCP submitted.

The LOO requires your agency to operate the competed function by Government personnel in accordance with award contract document at the award amount assigned and indicated on *Schedule B-Services or Supplies and Prices/Costs*. Attached you will find, the contract documented including *Section A*, (e.g., SF26, SF33, SF1449).to be signed by the MEO official and Contracting Officer, *Section B* (containing the contract line item pricing), *Section C* (the PWS document), along with *Sections D through J*, and *Section I* incorporated by reference, as applicable. Also incorporated by reference is the Agency Tender's technical proposal, MEO staffing Plan, QCP, and Transition Plan.

You have been identified by Name, Title, as an official responsible for performance of the in-house offer. As such, you are obligated to meet the following requirements, and:

1. Perform services as required by the PWS and PRS.
2. Perform services to the minimum standards indicated for each required task, which meets the Acceptable Quality Level (AQL) listed in the PRS and Quality Assurance Surveillance Plan (QASP) for the function which will be met through implementation of your technical proposal, MEO staffing plan, and QCP, which will be reviewed by the Contracting Officer's Contracting Officer's Technical Representative (COTR) surveillance and reporting.
3. Performance shall be at the MEO staffing authorized (FTE, series, and grade level).
4. Comply with all regulations, procedures, and instructions pertaining to the functions in the contract (Sections A through J PWS and. It is the responsibility of the ATO and functional managers to ensure that budget, staffing and performance output data are collected, maintained and reported annual as required.. The Functional Manager of the MEO activity should set up a system to collect these costs and report them annually to the Associate Director of Competitive Sourcing (M60) for submission in accordance with the Circular's Post Competition Reporting to OMB.
5. The incumbent activity is obligated to notify the Contracting Officer of any changed conditions that may result or necessitate changes in this LOO, including changes in staffing, workload, or material. (Note: changes can only be made to the LOO after discussion and approval with the CSO, and bilateral agreement with the CO and MEO functional manager.

Please sign and return this LOO along with the to the Contracting Officer (CO) agreeing to the stated terms. If you have any issues in connection with the LOO, contact the CO-OST for clarification. You must inform the CO of: (1) an alternate for your position, (2) any change in your status in relationship to the incumbent activity offer and (3) any replacement or co-official that is appointed.

Acknowledged and Accepted by: _____
(NAME OF ATO or Functional Official)

Notes:

Streamlined Non-MEO Comparisons—simply sign and return the LOO to the CO. If a basic PWS document was created (not required), attach a copy with the signed LOO. Send a courtesy copy to the Office of Competitive Sourcing for their file.

Streamlined MEO Comparisons—simply sign and return the LOO to the CO with the PWS and QASP created (required). Send a courtesy copy to the Office of Competitive Sourcing for their file.

Standard Competitions—sign and return the LOO along with the contract documents (Sections A through J) which cite the IFB/RFP solicitation and contract number assigned by the CO. The CO will maintain a contract file on the LOO contract documents and ensure all post award contract administration is completed in accordance with FAR Part 42. Be sure to send a courtesy copy to the Office of Competitive Sourcing for their file.