



DEPARTMENT OF THE NAVY
THE COMPETITION ADVOCATE GENERAL
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

NOV 23 2009

MEMORANDUM FOR DISTRIBUTION

Subj: Competition in the Department of the Navy Acquisition

Competition is the cornerstone of the Federal acquisition process. The benefits are well established. The President's March 4, 2009 memorandum on Government Contracting (attached) reinforces the importance of striving for an open and competitive process as an overriding obligation to American taxpayers and the need to place greater emphasis on achieving competition in our procurements. In Fiscal Year (FY) 2009, Department of the Navy (DON) competitive obligations totaled \$50 billion or 56 percent of total obligations, a one-percent increase over the FY 2008 achievement of \$51.7 billion or 55 percent of total obligations. The FY 2008 and FY 2007 achievement rates were the same; 55 percent of total obligations. The recent five year average of actual competition achievement is 54.2 percent from FY 2005 through FY 2009.

The Department will continue to emphasize the benefits of competition in the acquisition process and will increase our competitive obligations. Personnel responsible for identifying and developing requirements and those responsible for putting them on contract must be committed to maximum practicable competition. To reinforce the Department of Defense's (DoD) emphasis on competition, a DoD working group developed standard training on current competition policy and guidance, the benefits of competition, and opportunities to increase competition in government acquisitions. The Deputy Assistant Secretary of the Navy, Acquisition and Logistics Management (DASN A&LM) was a key participant in developing the training. The Director, Defense Procurement and Acquisition Policy (DPAP) memorandum of September 14, 2009 (attached) provides information on this training and its availability to the acquisition workforce.

This training is mandatory for DON personnel engaged in the acquisition process including program managers, program executive officers, logistics, and contracting personnel. I encourage Competition Advocates to work with their customers to conduct the training in an environment that allows for real-time discussion. If that is not practicable, the training is available at the Defense Acquisition University (DAU) Distance Learning Center, Continuous Learning Course (CLC) 055, and is available on-line at <http://www.acq.osd.mil/dpap/cpic/cp/docs/training.ppt>.

Subj: Competition in the Department of the Navy Acquisition

Competition Advocates shall report on the training provided and address the percentage of program managers, program executive officers, logistics, and contracting personnel that participated in the training. We will rely on Register-Now for additional information on completion of CLC 055. Submit your initial report by April 30, 2010 to RDAJ&As@navy.mil with the subject of CLC 055 Competition Training. Report continued progress in the annual Competition Report beginning with the FY 2010 Competition Report submission in December 2010.



David F. Baucom
Rear Admiral, SC, U.S. Navy

Attachments:
As stated

Distribution:
Pages 3-4

Subj: Competition in the Department of the Navy Acquisition

Distribution:

AAUSN
BUMED
CMC
CNET
CNIC
CNO
CNR
COMLANTFLT
COMNAVAIRSYSCOM
COMNAVFACENGCOM
COMNAVMETOCOM
COMNAVPERSCOM
COMNAVRESFOR
COMNAVSEASYSYSCOM
COMNAVSECGRU
COMNAVSPECWARCOM
COMNAVSUPSYSCOM
COMPACFLT
COMSC
COMSPAWARSYSCOM
COMUSNAVEUR
DIRSSP
NSMA
ONI
DASN (AIR)
DASN (C4I)
DASN ExP)
DASN (IP)
DASN (M&B)
DASN (SHIPS)
RDA CHENG
OSN OSBP
PEO(A)
PEO(C4I)
PEO(CARRIERS)
PEO(EIS)
PEO(IW)
PEO(JSF)
PEO(LMW)

Subj: Competition in the Department of the Navy Acquisition

PEO(LS)
PEO(SHIPS)
PEO(SPACE SYSTEMS)
PEO(SUB)
PEO(T)
PEO(U&W)

Copy to:
CMC (LB)
MARCORSYSCOM (CT)
MSC (N10)
NAVAIRSYSCOM (2.0)
NAVFACENCOM (ACQ)
NAVICP (02)
NAVSEASYSCOM (02)
NAVSUPSYSCOM 902)
ONR (02)
SPAWARSYSCOM (2.0)
SSP (SPN)
AGC (RDA)

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 4, 2009

Memorandum for the Heads of Executive Departments and Agencies

Subject: Government Contracting

The Federal Government has an overriding obligation to American taxpayers. It should perform its functions efficiently and effectively while ensuring that its actions result in the best value for the taxpayers.

Since 2001, spending on Government contracts has more than doubled, reaching over \$500 billion in 2008. During this same period, there has been a significant increase in the dollars awarded without full and open competition and an increase in the dollars obligated through cost-reimbursement contracts. Between fiscal years 2000 and 2008, for example, dollars obligated under cost-reimbursement contracts nearly doubled, from \$71 billion in 2000 to \$135 billion in 2008. Reversing these trends away from full and open competition and toward cost-reimbursement contracts could result in savings of billions of dollars each year for the American taxpayer.

Excessive reliance by executive agencies on sole-source contracts (or contracts with a limited number of sources) and cost-reimbursement contracts creates a risk that taxpayer funds will be spent on contracts that are wasteful, inefficient, subject to misuse, or otherwise not well designed to serve the needs of the Federal Government or the interests of the American taxpayer. Reports by agency Inspectors General, the Government Accountability Office (GAO), and other independent reviewing bodies have shown that noncompetitive and cost-reimbursement contracts have been misused, resulting in wasted taxpayer resources, poor contractor performance, and inadequate accountability for results.

When awarding Government contracts, the Federal Government must strive for an open and competitive process. However, executive agencies must have the flexibility to tailor contracts to carry out their missions and achieve the policy goals of the Government. In certain exigent circumstances, agencies may need to consider whether a competitive process will not accomplish the agency's mission. In such cases, the agency must ensure that the risks associated with noncompetitive contracts are minimized.

Moreover, it is essential that the Federal Government have the capacity to carry out robust and thorough management and oversight of its contracts in order to achieve programmatic goals, avoid significant overcharges, and curb wasteful spending. A GAO study last year of 95 major defense acquisitions projects found cost overruns of 26 percent, totaling \$295 billion over the life of the projects. Improved contract oversight could reduce such sums significantly.

Government outsourcing for services also raises special concerns. For decades, the Federal Government has relied on the private sector for necessary commercial services used by the Government, such as transportation, food, and maintenance. Office of Management and Budget Circular A-76, first issued in 1966, was based on the reasonable premise that while inherently governmental activities should be performed by Government employees, taxpayers may receive more value for their dollars if non-inherently governmental activities that can be provided commercially are subject to the forces of competition.

However, the line between inherently governmental activities that should not be outsourced and commercial activities that may be subject to private sector competition has been blurred and inadequately defined. As a result, contractors may be performing inherently governmental functions. Agencies and departments must operate under clear rules prescribing when outsourcing is and is not appropriate.

It is the policy of the Federal Government that executive agencies shall not engage in noncompetitive contracts except in those circumstances where their use can be fully justified and where appropriate safeguards have been put in place to protect the taxpayer. In addition, there shall be a preference for fixed-price type contracts. Cost-reimbursement contracts shall be used only when circumstances do not allow the agency to define its requirements sufficiently to allow for a fixed-price type contract. Moreover, the Federal Government shall ensure that taxpayer dollars are not spent on contracts that are wasteful, inefficient, subject to misuse, or otherwise not well designed to serve the Federal Government's needs and to manage the risk associated with the goods and services being procured. The Federal Government must have sufficient capacity to manage and oversee the contracting process from start to finish, so as to ensure that taxpayer funds are spent wisely and are not subject to excessive risk. Finally, the Federal Government must ensure that those functions that are inherently governmental in nature are performed by executive agencies and are not outsourced.

I hereby direct the Director of the Office of Management and Budget (OMB), in collaboration with the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Administrator of General Services, the Director of the Office of Personnel Management, and the heads of such other agencies as the Director of OMB determines to be appropriate, and with the participation of appropriate management councils and program management officials, to develop and issue by July 1, 2009, Government-wide guidance to assist agencies in reviewing, and creating processes for ongoing review of, existing contracts in order to identify contracts that are wasteful, inefficient, or not otherwise likely to meet the agency's needs, and to formulate appropriate corrective action in a timely manner. Such corrective action may include modifying or canceling such contracts in a manner and to the extent consistent with applicable laws, regulations, and policy.

I further direct the Director of OMB, in collaboration with the aforementioned officials and councils, and with input from the public, to develop and issue by September 30, 2009, Government-wide guidance to:

- (1) govern the appropriate use and oversight of sole-source and other types of noncompetitive contracts and to maximize the use of full and open competition and other competitive procurement processes;

(2) govern the appropriate use and oversight of all contract types, in full consideration of the agency's needs, and to minimize risk and maximize the value of Government contracts generally, consistent with the regulations to be promulgated pursuant to section 864 of Public Law 110-417;

(3) assist agencies in assessing the capacity and ability of the Federal acquisition workforce to develop, manage, and oversee acquisitions appropriately; and

(4) clarify when governmental outsourcing for services is and is not appropriate, consistent with section 321 of Public Law 110-417 (31 U.S.C. 501 note).

Executive departments and agencies shall carry out the provisions of this memorandum to the extent permitted by law. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of OMB is hereby authorized and directed to publish this memorandum in the *Federal Register*.

BARACK OBAMA

###



OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

SEP 14 2009

MEMORANDUM FOR SEE DISTRIBUTION

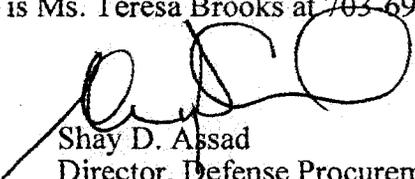
SUBJECT: Competition in Department of Defense Acquisition

Competition is the cornerstone of our acquisition process and the benefits are well established. The President's Memorandum on Government Contracting dated March 4, 2009, reinforces the importance of striving for an open and competitive process as an overriding obligation to American taxpayers and the need to place greater emphasis on achieving competition in our procurements. In Fiscal Year 2008, Department of Defense (DoD) competitive obligations totaled \$252 billion, a record 64 percent of DoD obligations. While this is better than DoD's ten year average of 61 percent, we must continue to emphasize the importance of competition and take appropriate action to overcome barriers and reach our competitive obligations goals in the years to come.

Meeting this goal requires a commitment to competition from personnel throughout the acquisition process, from identifying and developing requirements to putting them on contract. To facilitate this effort, a working group of representatives from various DoD components developed a standardized competition training tool to educate and focus all DoD agencies on current competition policy and guidance, reiterate the importance and benefits of competition, and highlight opportunities to increase competition in government acquisitions. The training tool is structured to emphasize key concepts with links to in-depth material for those desiring a more thorough understanding of policy and procedures. Additionally, it will both educate and motivate acquisition professionals and their technical experts to do their part in ensuring the competitive process is maintained, sustained, and nurtured. I am confident that the Department will benefit from this training and enable us to continue to fulfill our commitment to the American taxpayers. The training is available at: <http://www.acq.osd.mil/dpap/cpic/cp/docs/training.ppt>.

I ask Defense components to reinvigorate and expand the role of the competition advocate(s) and reinforce the importance of competition to everyone involved in the acquisition process, including the requirements community. To the maximum extent practicable, competition advocates are encouraged to take the lead to ensure this training is delivered in an environment that provides the greatest opportunity for real-time dialogue and discussion. An additional resource to gain access to this training material can be found on the Defense Acquisition University (DAU) Distance Learning Center as Continuous Learning Module (CLM) 055.

My point of contact for this initiative is Ms. Teresa Brooks at 703-697-6710 or Teresa.brooks@osd.mil.


Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

DISTRIBUTION LIST:

SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMANDER, UNITED STATES TRANSPORTATION COMMAND
DEPUTY UNDER SECRETARY OF DEFENSE (LOGISTICS
AND MATERIAL READINESS)
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, ACQUISITION AND RESOURCE ANALYSIS
DIRECTOR, DEFENSE PROCUREMENT AND
ACQUISITION POLICY
DIRECTOR, PORTFOLIO MANAGEMENT
DIRECTOR, SMALL BUSINESS PROGRAMS
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES