



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

MAR 3 2009

PROCUREMENT MEMORANDUM 2009-06

ACTION

**MEMORANDUM FOR: BUREAU PROCUREMENT OFFICIALS
HEADS OF CONTRACTING OFFICES**

Signed

FROM: Helen Hurcombe
Senior Procurement Executive
And Director, Office of Acquisition Management

SUBJECT: Revised Acquisition Review Process for Acquisitions
Exceeding \$10 Million but not Classified as a Major
Investment

Purpose

The purpose of this procurement memorandum (PM) is to establish a process to permit the Office of Acquisition Management (OAM) to gain insight into acquisitions being conducted by acquisition offices in the Department of Commerce (DOC); to assess compliance with law, regulation, policy and process applicable to DOC acquisitions; and to identify best practices and areas of concern. The process established in this PM is applicable to those acquisitions whose life-cycle cost exceeds \$10 million but which has not been classified as a "major investment" subject to the Investment Review Board (IRB) process. It also applies to Interagency and Other Special Agreements where funds are being transferred to another agency for execution of an acquisition on behalf of DOC and whose life-cycle value exceeds \$10 million. Further, this PM eliminates the previous OAM practice of conducting Acquisition Review Boards.

Background

In order for OAM to execute its responsibility for acquisition oversight and management in DOC, it is necessary for this office to routinely evaluate acquisitions being processed within the DOC Bureaus. For the past several years, this has been done through Acquisition Review Boards (ARB) held monthly prior to the release of a solicitation for any acquisition exceeding \$10 million. The requirement for ARBs has never been officially established in DOC acquisition policy nor in a Departmental Administrative Order. While providing insight into acquisitions being processed, it was often time-consuming and perceived of, by some, as "non-value-added."

In order to streamline the acquisition process in DOC, and to re-focus the management and oversight responsibilities of OAM, a paper-review process is being established to address those acquisitions which do not meet the definition of a "major investment". The revised process is detailed below. It should be noted that there will be, periodically, a need to have face-to-face meetings to resolve issues identified in the paper review. Further, OAM will implement a broader Acquisition Management Review program which will look more broadly at the

management controls and execution processes established within the Bureaus but which will focus not on specific acquisitions but on execution process.

It is the intent of OAM to re-assess the review processes implemented by OAM on an annual basis and to adjust those processes based on the results of the reviews (paper, major investment review, and acquisition management review).

Applicability

This paper review process is applicable to acquisitions not considered a major investment under DAO 201-45 and which exceed \$10,000,000 (life-cycle cost). This includes both competitive and non-competitive contracts, contracts for supplies, services, and construction/architect-engineer services and task/delivery orders exceeding \$10,000,000 to be issued against Federal Supply Schedule contracts, Government-wide Acquisition Contracts, Multi-Agency Contracts and agency Blanket Purchase Agreements, and Indefinite Delivery/Indefinite Quantity contracts. As well, it includes all modifications (other than exercising options or incremental funding) that increase the value of the current contract by more than \$10,000,000 and Interagency and Other Special Agreements valued at in excess of \$10,000,000 over the life of the agreement (regardless of whether funds are transferred under the basic agreement or not).

Required Actions

1. Prior to release of a solicitation (RFP, RFQ, IFB), the acquisition office is responsible for:
 - Conducting appropriate market research to support a non-set aside/set-aside determination, identify potential sources, and to support determinations of whether a planned acquisition meets the definition of a commercial item or service
 - Conducting appropriate market research to support competitive/other than full and open competition decision (NOTE: A notice of intent to contract on a sole-source basis DOES NOT constitute sufficient market research to support such decision.)
 - Obtaining concurrence on CD-570 (Socio-Economic Decision)
 - In coordination with the program office, developing appropriate Justifications for Other than Full and Open Competition (JOFOC), Acquisition Plan, Statement of Work (SOW), Evaluation Criteria, Award/Incentive Fee/Term Plan
 - Obtaining OGC review/approval of Plan, JOFOC (if appropriate)
 - Completing Bureau level review process and resolving all issues raised as a result of that review process

2. Submit a Bureau-approved acquisition plan, JOFOC, Sections B, C, L and M of the proposed solicitation (Schedule, SOW, proposal/offer instructions and evaluation criteria), and, if applicable, proposed award/incentive fee/term plan to OAM for review/approval. Documents should be submitted concurrently to the Risk Management Division (BFallat@doc.gov and SGreen@doc.gov) and the Director, OAM (HHurcombe@doc.gov). Documents MUST be submitted as Word 2003 (.doc) documents. OAM cannot open Word 07 (.docx) documents.
 - Bureau approval should include sign off from their budget office reflecting that the planned acquisition is consistent with current and future Bureau budget plans

- Acquisition plan should reflect not just what was decided but also what else was considered, why alternatives were not acceptable and why the suggested plan/strategy is most appropriate – based on FACT not opinion or supposition (e.g., strategy to award against Federal Supply Schedule Contract – why, why not some other acquisition strategy; provide details of the decision process that occurred). See Procurement Memorandum 2007-03 and FAR Subpart 7.105 for specific acquisition plan content guidance.
3. OAM will review and provide approval or a request to meet to discuss within 3 business day(s) of receipt. If a meeting is necessary, specific issues will be addressed. The Bureau is responsible for ensuring the correct people attend. This meeting will result in either:
- approval;
 - disapproval; or
 - issues to be resolved

The intent of this revised process is to streamline the process and rely upon the expertise of the BPO to determine the appropriate acquisition strategy to be executed and to enable OAM to execute its responsibilities for management and oversight of the acquisition process in DOC. Successful review is dependent upon the thoroughness of up front actions of the acquisition staff.

Where a specific acquisition is identified as requiring a higher level of scrutiny (based on dollar value, risk and/or visibility), the DOC Acquisition Council shall act as a review board. Bureaus need to, based on their advance acquisition plans, identify all covered acquisitions (e.g., those over \$10,000,000 life-cycle cost) and provide that information to OAM by March 31, 2009, for the remainder of FY 2009 and by June 30, 2009, for FY 2010 acquisitions. To the extent possible, OAM will advise BPOs which of the planned acquisitions will undergo a paper review (standard) or a Council review. As unplanned acquisitions are identified that will meet the \$10,000,000 life-cycle cost threshold, OAM (Director or Deputy Director) will be advised immediately via e-mail or phone so that review plans can be updated and review methodology (paper vs. council review) can be determined.

If you have any questions, please contact Babs Fallat at bfallat@doc.gov or (202)482-3780 or Stephanie Green at sgreen@doc.gov or (202)482-7413.