cc: AQC

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL PROCUREMENT POLICY

January 11, 1999

Darleen A. Druyun
20 JAN 1999

MEMORANDUM FOR AGENCY SENIOR PROCUREMENT EXECUTIVES
AND THE DEPUTY UNDER SECRETARY OF DEFENSE
(ACQUISITION REFORM)

FROM: Deidre A. Lee
Administrator

SUBJECT: Best Practices for Competition Under Multiple Award Task and Delivery Order Contracts

The purpose of this memorandum is to advise you of a change in Chapter 5 of the July 1997 Interim Edition of the *Best Practices for Multiple Award Task and Delivery Order Contracting*. Chapter 5 identifies practices to consider in applying the fair opportunity process in the award of orders under a multiple award contract (MAC). The third paragraph under the subheading "CIO-SP Fair Opportunity for Consideration Process" has been deleted. This paragraph appears on page 36 of the hard copy of the document (attached). The paragraph also is being deleted from the electronic version of the document appearing on ARNet (http://www.ARNet.gov).

The material deleted by this memorandum described the practice of designating a "preferred source" for a specific order under a MAC. This practice deprives the government of the benefits and efficiencies of continuous, streamlined, commercial-style competition made possible by the fair opportunity process, because it discourages other MAC contract holders from competing. For this reason, and in light of the increasing prominence of MACs as a buying tool, OMB's Deputy Director for Management requested the President's Management Council's assistance in ending this practice. Concurrent with his request, my office asked the FAR Council to prohibit the designation of "preferred sources" in the FAR. On September 9, 1998, a change to FAR 16.505(b)(1) was proposed to make clear that agencies shall not use any method of placing orders, such as allocation or designation of any preferred awardee, that would result in fair consideration not being given to all awardees prior to placing each order.

I urge you to take careful note of these actions. I believe they are necessary for ensuring that your agency makes effective use of the competitive pressures that MACs offer.

Over the coming year, I plan to revisit agency practices and experiences with MACs. I look forward to working with you on strengthening your strategic intra- and inter-agency usage of these vehicles.

Should you have any questions regarding this memorandum, please contact Lauren Uher (202-395-4551) or Mathew Blum (202-395-4953) of my staff.

Attachment

Each task order request will include the statement of work, the evaluation factors, the components of the offer to be submitted, the format for submission, and any other relevant instructions to the contractor, including those regarding whether the task order will be awarded with or without discussions.

CIO-SP Fair Opportunity for Consideration Process

The NIH uses a customer-driven best value process in the award of task orders under the CIO-SP multiple award contracts. The customer agency controls the statement of work, the technical and cost evaluation criteria, the technical review, and the solution recommendation. The NIH CO provides guidance on technical and contracting considerations and advice on corrections and problems that occur throughout the task order process. The customer, however, controls the technical and price/cost issues.

Prior to the award of the CIO-SP contracts, all of the contractors and their subcontractors were evaluated and determined to be technically capable of handling all eight task areas identified in the statement of work. When a task order request package (TORP) (which includes the statement of work, evaluation criteria, and independent government cost estimate) is received from the agency, the NIH CO reviews the package for completeness and sends it electronically to all twenty CIO-SP prime contractors. This electronic posting of the complete task order requirement to all contractors is the cornerstone of the fair opportunity process. Both customers and contractors benefit because it keeps the contractors and subcontractors involved in the CIO-SP process, provides the agency with the widest range of competition available, and keeps the procurement lead time to a minimum.

~~Customers are permitted to indicate in the TORP their preferred CIO-SP contractor to satisfy their requirement. This is based on the customer's past history with the contractor and the contractor's technical ability to perform the customer's requirement. The preferred contractor is included in the electronic posting to the other prime contractors. The preferred contractor is not required to submit a proposal for the task order requirement since the customer agency has been working with the contractor and has the preferred contractor's proposal. The non-preferred contractors are free to submit proposals for the specific task order requirement.~~

Most task orders provide from two to five days for proposal submission in either oral or written form. Proposals are submitted directly to the agency, which is responsible for the technical and cost evaluation. At the request of the customer, the NIH will post all necessary amendments to the task requirements, but the customer agency deals directly with the contractors to obtain additional information about the technical or cost proposals. The contractors are not provided any government price/cost information.