

"Scott G. Morton" <capitolhill.dc@verizon.net>
12/19/2002 07:02:53 PM

Please respond to Scott Morton <smorton@usgs.gov>

Record Type: Record

To: David C. Childs A-76comments/OMB/EOP@EOP
cc: Helen Bradwell-Lynch <Helen_Bradwell-Lynch@ios.doi.gov>
Subject: Comments from U.S. Geological Survey, Department of Interior

As requested, comments are provided both attached and in the body of this e-mail.

U.S. Geological Survey

Department of Interior

Draft Office of Management and Budget Circular A-76 (Dated 11.14.02)

Comments and Recommendations

General Comments

Competitiveness – To accomplish an effective competitive environment, access to information and consistent processes and guidelines must be applied to all parties wherever practicable. OMB has made good strides in this revision to accomplish that parity. However, in several cases, restrictions on the management and direction of the process ultimately result in placing the public sector at a disadvantage. Key concerns highlighted below include the revised timeframes, limitations on MEO subcontracting and Right of First Refusal provisions for members of various teams. All of these provisions impede the ability of employees in affected positions to develop successful competitive proposals.

Interservice Support Agreements – Many organizations rely on the use of a wide range of reimbursable agreements to effectively manage their mission requirements. Implementation of the new guidelines will dramatically impact the ability of many to accomplish its requirements in a timely manner, especially during the next few years of transition, and will likely ultimately lead to significant duplication of effort across the Federal Government. Some specific issues not addressed in the Circular include:

An ISSA activity is defined as one that is performed on a ‘fee for service’ basis. Does ‘fee for service’ imply a ‘catalog’ of services and associated fees? Costs for many activities performed are not developed in this manner.

Which organization determines if a particular function is ‘commercial’ and what if there are conflicts in interpretation? If the customer organization determines a function is inherently

governmental (which is the apparent implication) and transfers funds to another, does the performing organization have the ability to designate the function 'commercial' and contract for that service?

Delegation - In large organizations, significant delegations should be expected. USGS will be recommending to the Department of Interior that all delegable 4e Official functions be delegated to the Bureau level. Direct management of the multitude of studies occurring across the Department would be unreasonable for one Departmental official.

Specific Comments

In the Form – Reference: Reference Title [Comment Topic]

Attachment B, B.2: Contracting Officer [Designation of an Acquisition Advisor] - An Acquisition Advisor should be created to maintain consistency with the other 'Designations and Responsibilities' outlined. Contracting Officers, by nature of the function they perform for each study, will necessarily have to be different people for different studies. An agency conducting any significant number of studies would be unable to designate *A* Contracting Officer responsible for all of them. Recommend leaving the Contracting Officer designation, but indicating this is a study-by-study designation.

Attachment B, B.3.a: Employee and Labor Relations Requirements [Public Announcements] – Announcements appearing in FedBizOpps are normally the responsibility of the Contracting Officer. Coordination is certainly reasonable and USGS recommends the language be re-worded to indicate the HRA is responsible for assuring these announcements are made through the Contracting Officer.

Attachment B, C.1.b.(1): Designation and Responsibilities of Competition Officials [Supervisory Relationship] – Delegation of significant functions of the 4e Official will likely be made, where permitted. Though guidance from the 4e Official could require performance evaluations to include appropriate factors, the wording of the paragraph implies that a supervisory relationship would always exist between the 4e Official and each of the Competition Officials. USGS does not consider this likely in most cases.

Attachment B, C.1.b.(3): Timeframes [Timeframes] – No substantial experience of any Federal entity indicates that accomplishment of a study within 12 months of announcement is reasonable, even for the Department of Defense (DoD), having significant experience. Civilian agencies (and their employees) are being placed at a severe disadvantage by shortening the allowable timeframes. USGS recommends using, as a minimum, demonstrated experience from the DoD.

Attachment B, C.2.a.(4): Source Selection Provisions [Quality Based Selection Procedures] – Some functions that may be studied using the A-76 process are governed in the Federal Acquisition Regulation by Quality Based Selection (QBS) procedures. QBS and A-76 procedures are incompatible. As FAR-governed agencies are required to comply with QBS procedures where they apply, which approach shall be used?

Attachment B, C.2.a.(13): Solicitation Exceptions for the Agency Tender [Reference Error] – No reference exists for C.6.b. (2) or C.6.d. (2).

Attachment B, C.3.a.(4): Most Efficient Organization (MEO) [Using Existing Contract Vehicles] – Limitation of offers from an MEO only to ‘existing’ contracts seems contradictory to the notion that maximum competitive opportunity should be afforded to all parties in the process. MEO’s should have flexibility to utilize the private sector and can rely on the Acquisition Advisor for assistance/guidance in understanding applicable rules and restrictions. There appears to be no benefit served by limiting the MEO to ‘existing’ contracts only.

Attachment B, C.4.a.(3).c.2.b: Phase Two [Receipt of Proposals] – Separate technical and cost proposal submissions phases should not be required. USGS agrees that *evaluations* should be in separate phases, but both proposals are more efficiently requested at the same time. In addition, if complying with FAR bid submission regulations, would a late cost proposal make the entire proposal submitted by the offeror late?

Attachment B, C.5.a.(2): Public Reimbursable Source [Issuance of ISSA] Suggest the language be changed to “... the head of the requiring organization shall coordinate issuance of an ISSA in accordance with Agency procedures, with ...” An HRO official will not have sole authority to issue ISSA’s in some organizations.

Attachment B, C.5.a.(4): Requirements for the Letter of Obligation and ISSA [Reference Error] – No reference exists for C.7.b.(2).

Attachment B, C.5.b.(2): Agency or Public Reimbursable Source Decision [Issuance of Options] Suggest the language be changed to “... the head of the requiring organization shall coordinate exercise of option years.” An HRO official will not have sole authority to extend ISSA’s in some organizations.

Attachment B, D.2.a (2): Right of First Refusal [Right of First Refusal] – Denying Right of First Refusal to PWS (and MEO and SSEB) team members effectively accomplishes: (1) assuring the most talented, knowledgeable individuals performing that function will NOT be involved in the competitive process, and (2) requires agencies to create less than optimum team structures that will place drafting and decision-making with unaffected individuals who likely have significantly less understanding of the function involved. Both situations will reduce overall employee competitiveness.

USGS Point of Contact:

Scott G. Morton
Chair, Competitive Sourcing Team
(703) 648-7373
smorton@usgs.gov