



U.S. Department of Justice

JUL 15 2008

Washington, D.C. 20530

MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS

FROM: Michael H. Allen 
Senior Procurement Executive

SUBJECT: Procurement Guidance Document (PGD) 08-10
Improving the Management and Use of Interagency Acquisitions

Attached is a memorandum dated June 6, 2008 from the Administrator, Office of Federal Procurement Policy (OFPP) distributing a guidance document entitled Interagency Acquisitions to help agencies achieve the greatest value possible from interagency acquisitions. OFPP believes agencies lack clear lines of responsibility between the agency with the requirement (requesting agency) and the agency which provides acquisition support and awards contracts on their behalf (servicing agency). This has contributed to inadequate planning, inconsistent use of competition, weak contract management, and concerns regarding financial controls.

The guidance requires the requesting agency and the servicing agency to assign specific roles for each agency and a checklist is provided as an appendix. It also requires the use of "best interest determinations" and requires an Interagency Agreement for all interagency acquisitions where one agency is providing procurement assistance to another agency.

A summary of the OFPP guidance is also attached. The full 70 page document can be accessed on OFPP's website at www.whitehouse.gov/omb/procurement/index.html and under the OFPP Policy heading click on "memoranda".

The implementation schedule is included in the attached summary beginning with the use of best interest determinations by October 1, 2008 when making decisions to use interagency acquisitions.

Please distribute this PGD as appropriate in your organization. The OFPP memorandum was sent to Chief Acquisition Officers and Senior Procurement Executives with copies to Chief Financial Officers, Chief Information Officers, Performance Improvement Officers and to the Acting Controller, Office of Federal Financial Management.

If you have any questions concerning this PGD please call Larry Silvis on (202) 616-3754.

Attachments



OFFICE OF FEDERAL
PROCUREMENT POLICY

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

June 6, 2008

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES

FROM:

Paul A. Denett
Administrator

SUBJECT:

Improving the Management and Use of Interagency Acquisitions

Interagency acquisitions offer important benefits to federal agencies, including economies and efficiencies and the ability to leverage resources. The attached guidance is intended to help agencies achieve the greatest value possible from interagency acquisitions.

Effective management and use of interagency acquisitions is a shared responsibility, especially for assisted acquisitions. Lack of clear lines of responsibility between agencies with requirements (requesting agencies) and the agencies which provide acquisition support and award contracts on their behalf (servicing agencies) has contributed to inadequate planning, inconsistent use of competition, weak contract management, and concerns regarding financial controls.

This document provides guidance to help agencies (1) make sound business decisions to support the use of interagency acquisitions and (2) strengthen the management of assisted acquisitions. Particular emphasis is placed on helping requesting agencies and servicing agencies manage their shared fiduciary responsibilities in assisted acquisitions. The guidance includes a checklist of roles for each responsibility in the acquisition lifecycle and a model interagency agreement to reinforce sound contracting and fiscal practices. The guidance reflects comments provided by Chief Acquisition Officers, Senior Procurement Executives, and Chief Financial Officers. The document was also shared with other interested stakeholders, including the Chief Information Officers and the Government Accountability Office (GAO), and reflects comments received from those parties as well.

Beginning on October 1, 2008, and thereafter, agencies shall ensure that decisions to use interagency acquisitions are supported by best interest determinations, as described in the attached guidance. Agencies shall further ensure that new interagency agreements for assisted acquisitions entered on or after November 3, 2008, contain the elements enumerated in Appendix 2 or follow the model agreement in Appendix 3. Agencies shall use the checklist at Appendix 1 to facilitate the clear identification of roles and responsibilities. Agencies shall also consider modifying existing long-term interagency agreements for assisted acquisitions in accordance with this guidance, as appropriate and practicable.

Providing for the sound management and use of interagency acquisitions is a key step for realizing the intended efficiencies of interagency contracts. Improving the governance structure for creating and renewing these vehicles is equally important, especially for multi-agency contracts. We have made important strides to leverage the government's vast buying power under the *Federal Strategic Sourcing Initiative (FSSI)* and to identify suitable executive agents that can manage government-wide acquisition contracts (GWACs) on behalf of customers across government. We must build on these efforts in order to maximize the contribution of interagency contracts to mission success. I intend to work with members of the Chief Acquisition Officers Council, including its Strategic Sourcing Working Group, to design a business case review process similar to that currently used for the designation of executive agents for GWACs and to define the structure required to support such a process.

Please have your acquisition officials work with program managers, contracting officers technical representatives, finance officers, information technology officers, legal staff and others involved in your agency's interagency acquisitions to ensure the effective implementation of this guidance and compliance with its requirements. Questions may be referred to Mathew Blum at (202) 395-4953 or mblum@omb.eop.gov.

Thank you for your attention to this important subject.

Attachment

cc: Chief Financial Officers
Chief Information Officers
Performance Improvement Officers
Danny Werfel, Acting Controller, Office of Federal Financial Management

Summary of OFPP's Guidance on the Use and Management of Interagency Acquisitions

Background

The Administrator, Office of Federal Procurement Policy (OFPP), issued a memorandum dated June 6, 2008 distributing a guidance document entitled *Interagency Acquisitions* to help agencies achieve the greatest value possible from interagency acquisitions. OFPP believes agencies lack clear lines of responsibility between the agency with the requirement (requesting agency) and the agency which provides acquisition support and awards contracts on their behalf (servicing agency). This has contributed to *inadequate planning, inconsistent use of competition, weak contract management, and concerns regarding financial controls.*

Interagency acquisitions are commonly conducted through indefinite delivery vehicles (IDVs) such as *task and delivery order contracts*. The IDVs used most frequently to support interagency acquisitions are Multiple Award Schedules (MASs), Government-wide Acquisition Contracts (AWACs), and Multi-Agency Contracts (MACs).

Authority for Interagency Acquisitions

The Economy Act, 31 U.S.C. 1535, provides general authority to undertake interagency acquisitions that is available to agencies when more specific statutory authority does not exist. An increasing number of interagency acquisitions are falling outside the Economy Act. MAS is governed by Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251) and Title 40 U.S.C. 501, Services for Executive Agencies. GWACs are authorized by section 5112(e) of the Clinger-Cohen Act (40 U.S.C. 11302(e)).

Types of Interagency Acquisitions

There are 2 types of interagency acquisitions: Direct Acquisitions and Assisted Acquisitions.

Direct Acquisitions - In a direct acquisition the requesting agency places an order directly against the servicing agency's IDV. The servicing agency manages the IDV but does not participate in the placement of an order. Direct acquisitions require a "best interest determination" which addresses the suitability of the vehicle, the value of using the vehicle, and the requesting agency's ability to use the vehicle effectively. This determination will be signed by the contracting officer or a designated official. Requesting agencies must be prepared to take on the various responsibilities in the acquisition life cycle from acquisition planning and contract execution to contract administration.

Agencies may presume that direct acquisitions made by qualified individuals are in the best interest of the government if the vehicle was established under the Federal Strategic Sourcing Initiative, the SmartBuy Program, the Federal Supply Schedules Program, or a GWAC. However, documentation in the contract file should still establish that the acquisition vehicle is suitable for the agency's needs. This information could be documented as part of the agency's planning documents. A formal Determination and Finding (D&F) or Justification and Approval (J&A) is **not** required.

Assisted Acquisitions - Before requesting the assistance of a servicing agency, the requesting agency should make a “best interest determination” that acquisition assistance is needed (e.g., expertise or acquisition resources are not readily available within the agency) and a servicing agency can provide the assistance required.

Factors to consider in selecting a servicing agency are:

- the servicing agency’s authority, experience, and expertise.
- the servicing agency’s ability to comply with the requesting agency’s laws and policies.
- customer satisfaction with the servicing agency’s past performance, and
- *reasonableness of the servicing agency’s fees.*

If the assisted acquisition is subject to the Economy Act, a warranted contracting officer or other designated official must approve a D&F (See FAR Subpart 17.5). For assisted acquisitions outside the Economy Act, agencies shall ensure that the individuals who establish the need for assistance and select a servicing agency have the necessary expertise to make these business decisions.

Additional Requirements

Agencies shall take the following steps to ensure the acquisition office within the requesting agency is appropriately involved in these decisions:

- Interagency acquisitions over \$200,000 - the program office shall provide notice of a planned interagency acquisition to the head of the acquisition office within the requesting agency. The notice shall include a brief description of the product or service, estimated dollar amount, and the name of the external acquisition organization that will provide acquisition assistance. The notice shall be sent by electronic mail with return receipt to provide a record for management reviews and audits. Before the request is sent to the outside servicing acquisition office, the notifier shall allow its internal acquisition office one week to respond to the notice.
- Interagency acquisitions over \$500,000 - The notifier from the requesting office shall take the same steps as described for the interagency acquisitions over \$200,000, except that instead of simply requesting a response from the in-house acquisition office, the notifier shall seek its concurrence and allow one week for response. Non-concurrences shall be presented to the requesting agency’s Senior Procurement Executive and resolved within one week of the non-concurrence.

Agencies shall not split requirements to avoid carrying out the responsibilities described above. However, they may address multiple orders in one notice if the underlying needs are related, especially if they are of a repetitive nature.

Interagency Agreements

All assisted acquisitions must have Interagency Agreements (IAs). Requesting and servicing agencies need to develop clear and complete IAs that:

- establish general terms and conditions to govern the relationship between the agencies, including each party's role in carrying out responsibilities in the acquisition life cycle (Part A), and
- provide information required to demonstrate a bona fide need and authorize the transfer and obligation of funds (Part B).

Part A, General Terms and Conditions, may cover a single assisted acquisition but will more typically serve as an umbrella document to cover multiple assisted acquisitions. Part A should be maintained by both the requesting agency and the servicing agency in the offices that signed the document and be made available to officials within the agency who may be involved in executing Part B.

All IAs must have clearly enumerated terms and conditions, requirements information, and funding information. However, the level of detail will vary based on the breadth of acquisition assistance to be provided (e.g., the period over which assistance will be provided, the number of offices requiring assistance) as well as the complexity and dollar value of the requesting agency's individual requirements.

Appendixes

To help in preparing any of the above documentation, OFPP has offered the following:

- Appendix 1. Checklist of Roles and Responsibilities in Assisted Acquisitions, page 14
- Appendix 2. Elements of an IA for an Assisted Acquisition, page 32
- Appendix 3. Model IA for an Assisted Acquisition, page 37
- Appendix 4. Example of a Completed IA, page 47

Implementation Dates

Beginning on October 1, 2008, agencies shall ensure that decisions to use interagency acquisitions are supported by best interest determinations. Agencies shall further ensure that new interagency agreements for assisted acquisitions entered on or after November 3, 2008, contain the elements enumerated in Appendix 2 or follow the model agreement in Appendix 3. Agencies shall also consider modifying existing long-term IAs for assisted acquisitions in accordance with the guidance, as appropriate and practicable.