

[REDACTED]

From: [REDACTED] [REDACTED]@pec.com]
Sent: Tuesday, October 21, 2003 3:12 PM
To: [REDACTED]
Cc: [REDACTED]@dhs.gov'; [REDACTED]; [REDACTED]@dhs.gov'
Subject: Meeting minutes and FBO draft

[REDACTED],

attached are the minutes to last week's meeting and the draft FBO [REDACTED] mentioned in today's meeting. We're preparing a draft agenda for next week's trip and will send tomorrow.

[REDACTED]
PEC Solutions, Inc
[REDACTED]@pec.com
703-[REDACTED]



Location: CIS HQ, 20 Massachusetts, Washington, DC

Attendees:

[REDACTED]	Ethics	[REDACTED]
Dave Childs	DHS/CPO/CSO	[REDACTED]
[REDACTED]	PEC Solutions	703-[REDACTED]
[REDACTED]	PEC Solutions	703-[REDACTED]
[REDACTED]	Procurement	[REDACTED]
[REDACTED]	Procurement	[REDACTED]
[REDACTED]	HR	[REDACTED]
[REDACTED]	VSC-ATO	802-[REDACTED]
[REDACTED]	HQ OPS	202-[REDACTED]
[REDACTED]	HQ COU	[REDACTED]
Mike Aytes	CIS	[REDACTED]
[REDACTED]	CIS	[REDACTED]
[REDACTED]	Grant Thornton	[REDACTED]
[REDACTED]	Booz Allen	703-[REDACTED]
[REDACTED]	CIS	212-[REDACTED]
[REDACTED]	CIS	212-[REDACTED]

Mike Aytes discussed the schedule as of this date:

- FedBizOpps out end of October
- Draft PWS issued at end of November
- Final PWS issued in January
- Tentative award date: May 2004

The FedBizOpps (FBO) announcement has not been made. The PWS Team Lead has not been designated yet. Official designations of team members will be done prior to the announcement. Letters of designation will occur within next couple of days. Confidentiality Agreements will be distributed on the day of FBO announcement. Ideal time for FBO announcement is end of October, several weeks prior to disclosure of PWS draft.

Background information provided by Dave Childs. OMB needed information on how to track studies. 15% goal was set. Quarterly OMB review with agencies on A-76 study "goals" will be conducted to discuss each agency's progress and is included in federal budget. In turn, they're reviewed at the cabinet level. DHS is currently conducting a quarterly or a bi-annual review. Pressure exists by the administration to conduct studies. Cabinet requests studies to be completed by elections in November.

DHS will provide evaluation criteria (green/yellow/red light); CIS will receive green light since it has started the study.



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DHS will be meeting with all A-76 POCs. PMA states stoplight will go out simultaneously with Management Directive.

FY04 INVENTORY

Justifications for Code “A” and inherently government functions are required. DHS will issue a management directive: “DHS Draft Performance of Commercial Activities” that includes challenges for FAIR inventories handled by agencies and appeals handled by DHS. It will give direction on what is to be in the inventory based on OMB guidance. Inventory will be automated by function.

There will be criteria to get to “green” for the agency. It will initially be based on 2003 inventory and will continue to 2004 inventory. Inventory process will conduct an analysis of every job to determine what is inherently governmental for 2004.

In the inventory for DHS – 49% (of 135,000 FTEs) is Reason Code B and majority is TSA (baggage screening). IIOs in FY04 – Reason Code C.

PRELIMINARY PLANNING

Do not perform workload by person.

There should be two years of basic agency data with no specific actions done for this study.

Any data collected before FedBizOpps is public information. CIS should schedule site visit to allow contractors to count workload and PWS team may want to do the same thing.

Baseline costs are those costs before the MEO for people, material, and assets.

COMPETITION OFFICIALS

Competitive Sourcing Officer (CSO) for DHS is Dave Childs. Mike Aytes is CSO for CIS.

MEO team leader is backup to make decisions.

Contracting Officer (CO) makes decisions on solicitation issues.

Human Resource Advisor (HRA) works with MEO Team and certifies number of FTEs as implementable. Not much labor relations involved. Scope of RIF may be negotiable. Source Selection Authority (SSA) not adversely affected.

Procurement Sensitivity – after FedBizOpps, need a briefing with employees to inform them to not speak to others about PWS process, MEO, etc.

STANDARD COMPETITION (SOURCE SELECTION PROCESS)

Sealed Bid Acquisition is not appropriate if over 25 FTEs.

Tradeoff - could award contract that adversely affects government employees at higher cost. Potential exists for award without government bid.

STANDARD COMPETITION (PERFORMANCE DECISION)

If government bid is deficient (based on SSB evaluation), CO has to talk to DHS to see what it would take to fix deficiency.



No Independent Review Official (IRO) required, but could get someone to review Agency Tender (MEO) before it goes to SSEB.

In issuing the Letter of Obligation to the MEO Official, attach solicitation (Quality Control Plan, Phase-In Plan)

FAR33.103 used in new circular – agency process before GAO – debriefing, hearing, communications. No provision for appeal process like the old circular. Wants to do minimum but still be IAW GAO.

POST COMPETITION ACCOUNTABILITY FOR STREAMLINED AND STANDARD COMPETITIONS

Letter of Obligation can have mods and costs need to be tracked. If pay raise occurs, mod the difference in cost.

Keep past performance information for recompetition.

Has Quality Assurance Inspection plan – could terminate for failure to perform. ATO has to track costs with budget and with MEO offer.

Agency Tender is 100% releasable post decision. Right of First Refusal – HR has responsibility to implement RoFR. CO has responsibility to enforce RoFR.

According to Mike Aytes, changes to timeline will be dealt with as they occur. We're not focused on 12 months from announcement to complete the process. Deadline stems from decisions made this summer; currently June 2004 is deadline.

Dave Childs - Official view holds that study has been going on for 2 years and money was already expended.

FIREWALLS – GAO JONES HILL DECISION

Firewall goes up when decision-making goes into effect at PWS stage (post FBO announcement.)

Union has been invited to participate in MEO and person has been appointed to serve on team. Another Union representative will be part of PWS team. No negotiations will occur during this time as they are only team members. Until FedBizOpps announcement, will be little looser on who participates in process.

Jones-Hill Decision. Basis of GAO decision - PWS and MEO teams were collocated. GAO said there was a perceived conflict of interest. Resulting decision – it is necessary to separate the teams. Government is prohibited from writing solicitation and also bidding on it. Once decisions are being made, it becomes procurement at FBO announcement. DHS possesses statutory authority and Mike is writing guidance to unions on limitations and restrictions.

SSB can include CIS employees as long as they're not affected by the outcome of the A76 process. Contractors can be on the SS board.



PWS team can conduct studies to determine standards before the FBO announcement and can evaluate level of effort by category. Performance evaluation can be determined. If firewall is crossed, government could potentially be eliminated from competition.

CIS will be conducting multiple studies for IIOs, but exact number has yet to be determined.

Procurement official on the team makes decisions and can be penalized (fired, jailed, fined) if information is given to others without “need to know”. A procurement official doesn’t have Right of First Refusal (FoFR.)

No other contract supports this function alone – IT support provided to all field offices. No need to bundle any contracts; however, can bundle contracts without SBA approval.

CIS needs to provide Ethics Training for PWS Team and MEO Team before they sign confidentiality agreements.

Contract term can go up to 10-year procurement. CIS will use 5 years (1 base year plus 4 options.)

FAR Part 15: Contracting by Negotiation

Cost/Technology Trade-Off not really allowable. Circular conflicts. If cost/technical trade-off is used, DHS needs a briefing on how evaluation will be conducted.

Need to clearly indicate the nature of the contract in the FBO announcement.

Agency Tender must prepare a bid per CLIN. ATO can bid a higher number of staff if necessary. Must be responsive to requirements.

If decision is made that offeror (ATO) is deficient, must be reviewed by DHS.

FAR 33.103: Protests, Disputes and Appeals

ATO/competitive bids open to public post decision. Appeal process: CIS CO will organize hearing. [REDACTED] will identify process/procedures.

Right of First Refusal – Contractor, if selected, makes slots available for those government employees who qualify for the position.

Deductions earned (MEO/other) and documented when non-performance occurs. No monetary deduction if it’s the MEO; but could be documented to determine default.

If ATO wins, maintains records for Past Performance.

Van Holland Amendment is reverting to old OMB Circular A-76. May happen.



No industry standards exist for IIOs

- How is performance evaluated today?
- Range of performance – public information
- Specific standard – procurement sensitive
- Performance-based PWS
- Incentives/decencentives

MEO/Vendor: in old A-76 guidance it was assumed 65% of award fee was earned and was costed against the contractor.

Quality Control/Requirements should be defined in PWS

ETHICS

A more formal presentation for PWS team members, SSEB Board members and MEO members should be scheduled and presented by ethics office..

WEBSITE

CIS website is functional. Purpose of the intranet site is to convey basic information to workforce and provide easy access to OPM site. Contains Frequently Asked Questions (FAQs) and Ethics link. Booz Allen will provide support for website maintenance. Draft and Final PWS will be posted on Intranet. [REDACTED], ATO, will distribute MEO updates.

AFTERNOON SESSION

Initial activities logs prepared by workforce will be provided to MEO ATO.

Functional analysis will lead to recommendations on count studies – have offices start counting workload.

CO must track contract modifications if actual costs deviate from budget lines. Service Contract Act (SCA)

BASELINE COSTS

Need baseline cost – Mike Aytes had [REDACTED] do it – he'll have it reviewed, changes made if necessary, and will compile it.

[REDACTED], CIS, will be providing Modular Costs/Budget. People, material, assets – DHS does not have specific guidance on collecting this data.

Every contractor may bid more resources and higher cost than what's being used now.



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Study group looked at “long lines” and had some conclusions. [REDACTED] will obtain copy of information. One find was - Employees were going out before office opens and assisting customers. Forms analysis was also done.

Need to distinguish documents for Bidder’s Library versus Procurement Sensitive.

Bidder’s library: will be set up by [REDACTED] and [REDACTED] with Procurement. Mike Aytes would prefer an electronic library. AON needs to ask for electronic copies/websites when onsite.

Next site visit: week after next – California. [REDACTED] is getting it organized.

Mike Aytes got feedback from Vermont trip. Initial A-76 presentation ([REDACTED]) could have been more focused. Conversation was more on re-engineering, not on task logs. Did they leave anything out? Look at how AON is presenting questions. Can ask, “What can be put into a requirement? What’s not backed up by regulations/directives?”

Have 4 weeks to accumulate information/data.

Next week Mike Aytes will review timeline and may try to add more time but need to fit in time for analysis.

May need to send out advance information before Kickoff to participants to inform them of agenda.

Possible Milestones on Intranet:

- FBO announcement
- Draft PWS
- Final PWS
- Tentative award date

Mike Aytes will draft up something for Union.

Need to make determination on 6 positions (CPP) at Port of Entry.

Union is under the assumption of multiple negotiations taking place. There won’t be negotiations and need to inform them so. Also, not going to compete as in the past.

Mike Aytes says [REDACTED] will designate a PWS Team Lead.

COMMUNICATIONS

Booz Allen is maintaining website and will do “intercom task” separate from MEO task. They will also do program management office support, responses to FAQs and congressional inquiries. Need corporate focus on communications.





CIS A-76 STUDY
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Logistics being handled by team leads who will have ownership of resources. Mike Aytes needs budget from Leads.

██████████ wants update every month: ongoing actions, issues

Mike Aytes asking for written general counsel conclusion: what adjudication task are inherently governmental?

██████████ will meet with HR to discuss their role in process; unclear on whether they understand the importance.

End of Meeting.