

OFFICE OF MANAGEMENT AND BUDGET

ACQUISITION ADVISORY PANEL BYLAWS AND OPERATING PROCEDURES

Section I. Purpose

The Purpose of the Office of Management and Budget (OMB) Acquisition Advisory Panel (the Panel) is to provide independent advice and recommendations to OMB regarding selected aspects of government acquisition to comply with Section 1423 of the National Defense Authorization Act for Fiscal Year 2004. Specifically, the Panel will review Federal laws, regulations, and governmentwide policies regarding: the use of commercial practices; performance-based contracting; performance of acquisition functions across agency lines of responsibility; and governmentwide contracts. The Panel will review such promulgations with a view toward: protecting the best interests of the Government; ensuring financial and ethical integrity of Federal acquisitions; and promoting the effective, efficient and fair award and administration of Federal contracts.

Section II. Authority

The authority of the Panel is derived from Section 1423 of the National Defense Authorization Act for Fiscal Year 2004. The Panel is subject to the Federal Advisory Committee Act (FACA), as outlined in its Charter, filed with Congress on October 1, 2004.

Section III. Membership Selection and Appointment

The OMB Administrator for Federal Procurement Policy (Administrator) appoints Panel members for such terms as may be appropriate for accomplishing the Panel's mission. The Panel shall consist of at least nine recognized experts in acquisition law and Government acquisition policy, and reflect the diverse experiences in the public and private sectors and academia. The Administrator will appoint a Chairman and a Designated Federal Officer (DFO) for the Panel. Members of the Panel will include special government employees, representatives, or regular government employees, as appropriate.

Membership includes the responsibility to attend Panel meetings personally. OMB reserves the authority to replace any member who is unable to fully participate in the Panel's meetings. Alternate members will not be permitted to represent those individuals appointed by OMB without prior written agreement.

Section IV. Meeting Procedures

The Panel will meet as required. Meetings will be called by the DFO in consultation with the Chairman according to the following considerations:

A. Agenda

The DFO will approve the agenda for all meetings. OMB will provide administrative support to the Panel and will distribute the agenda to the members prior to each meeting as well as publish notices of the meetings in the Federal Register. Any Panel member may submit items for the agenda to the DFO or Chairman. Non-members, including members of the public, may also suggest items.

B. Minutes and Records

The DFO will prepare minutes of each meeting and will distribute copies to Panel members. Minutes of open meetings will be available to the public upon request. Minutes of closed meetings will also be available to the public upon request, subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure of the Freedom of Information Act. The minutes will include a record of the persons present (including the names of Panel members, staff, and members of the public from whom written or oral presentations were made) and a complete and accurate description of the matters discussed and conclusions reached, and copies of all reports received, issued or approved by the Panel.

All documents, reports, or other materials prepared by, or for, the Panel constitute official Government records and will be maintained according to OMB policies and procedures.

C. Open Meetings

Unless otherwise determined in advance, all meetings of the Panel will be open to the public; members of the public may attend any such meeting or portion of such meeting. Members of the public may also offer comments at such open meetings, in the manner published in the Federal Register notice which announces the meeting.

All materials brought before, or presented to, the Panel during the conduct of an open meeting, including the minutes of the proceedings of an open meeting, will be available to the public for review or copying at the time of the scheduled meeting.

D. Closed meetings

Meetings of the Panel will be closed only in limited circumstances and in accordance with applicable law. In addition, requests for closed meetings must be approved by OMB General Counsel in sufficient time to enable notice in the Federal Register at least 15 calendar days in advance of the session.

Where the DFO has determined in advance that discussions during a Panel meeting will involve matters about which public disclosure would be harmful to the interests of the Government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the Government in the Sunshine Act, will be published in the Federal Register. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting

matters inappropriate for public disclosure arise during discussions, the Chairman will order such discussion to cease and will reschedule it for closed session. Notices of closed meetings will be published in the Federal Register at least 15 calendar days in advance.

Section V. Voting

When a decision or recommendation of the Panel is required, the Chairman will request a motion for a vote. Any member, including the Chairman, may make a motion for a vote. No second after a proper motion will be required to bring any issue to vote. The Panel shall agree on the number of members required for a quorum.

Section VI: Role of Panel Officials

Chairman. The Chairman works with the DFO to establish priorities, identify issues which must be addressed, determine the level and types of staff and administrative support required, and serves as the focal point for the Panel's membership. In addition, the Chairman is responsible for certifying the accuracy of minutes developed by the Panel to document its meetings.

DFO. The DFO serves as the Government's agents for all matters related to the Panel's activities. By law, the DFO: (1) must approve or call the meetings of the Panel; (2) must approve agendas; (3) must attend all meetings; (4) may adjourn the meetings; and (5) may Chair meetings of the Panel when so authorized by the Administrator.

The DFO is responsible for providing adequate staff support to the Panel, including: (1) notifying members of the time and place for each meeting; (2) maintaining records of all meetings, including subgroup of working group activities, as required by law; (3) maintaining the roll; (4) preparing the minutes of all meetings of the Panel's deliberations, including subgroup and working group meetings; (5) attending to official correspondence; (6) maintaining official Panel records and filing all papers and submissions prepared for or by the Panel, including those items generated by subgroups and working groups; (7) acting as the Panel's agent to collect, validate and pay all vouchers for pre-approved expenditures (however, see Section VII below); and (8) preparing and handling all reports, including those required by FACA.

Committee Management Officer (CMO). The CMO will carry out all responsibilities delegated by the Director of OMB. The CMO will ensure appropriate recording occurs. Records to be kept by the CMO include, but are not limited to: (1) charter membership and documentation; (2) annual comprehensive review; (3) agency guidelines; and (4) closed meeting determinations.

Section VII: Expenses and Reimbursement

No funds were appropriated to operate the Panel. Accordingly, the services of the Panel members and agency staff will be voluntary and without reimbursement, including any travel or per diem costs.