

**Class Acquisition Plan  
Contract Detention Services**

**Office of the Federal Detention Trustee**

**Introduction:** In accordance with Federal Acquisition Regulation (FAR) 7.105, the following Acquisition Plan (Plan) shall apply for all competitive acquisitions for secure detention services. These acquisitions will be conducted under formal source selection procedures with the Source Selection Official (SSO) having responsibility for the acquisition in accordance with FAR 15.300. This Plan shall facilitate the accomplishment of the acquisition objective and identify those milestones within the routine procurement process. This Plan may be amended to reflect unique circumstances applicable to specific procurement.

**Background and Objectives:**

***Statement of Need*** - The need for secure detention services contractual services will be determined in accordance with Policy Directive 04-0002, Acquisition of Non-Federal Detention Services, Office of the Federal Detention Trustee.

***Applicable Conditions*** - Conditions requiring these types of services have generally been urgent in nature however, past experience has always permitted for full and open competition.

***Price*** - Price will play a role in the acquisition of these services albeit as a trade off with the level of services. Price will be evaluated by combining the maximum offered amount exclusive of any award-fee for the base period and all option years. Where contracts are priced on a monthly operating price (MOP) basis with an associated fixed incremental unit price (FIUP) application, the MOP and FIUP will be combined for a total price. In an effort to obtain the maximum fair and reasonable price to the Government, consideration will be given to duration of base and option periods. Contracts for these services will be performance-based and to that end contain both incentives and disincentives.

***Capability or Performance*** - Contractors will be evaluated based upon their ability to be successful at performing requirements of the Government. Additionally, the contractors will be required to obtain and maintain compliance with appropriate national standards (e.g., Department of Justice National Detention Standards, American Correctional Association (ACA) Standards for Adult Local Detention Facilities (ALDF), and Standards Supplement, Standards for Health Services in Jails, latest edition, National Commission on Correctional Health Care (NCCHC)). Based on need and consistency, contractors will be required to follow certain Department of Justice policies and procedures while still maintaining performance-based services.

***Delivery or Performance-period Requirements*** - Generally, these types of services are needed to satisfy long-term goals. When establishing performance dates, consideration is given to: urgency; industry practices; contractor time needed to comply with contract requirements; nature and complexity of the project; construction seasons; and budgetary requirements. In the majority of instances, full and open competition is required. In the event other than full open competition is required, the appropriate justifications shall be provided.

***Trade-offs*** - For these services, the Office of the Federal Detention Trustee (OFDT) is committed to best-value procurement procedures. Each Source Selection Plan (SSP) shall independently identify the particular factors and order of importance to be applied to the instant procurement. Trade-offs may be made between: cost and technical approach; technical approach and facility; price and facility; and other factors as required with any combination. It is anticipated that the past performance and experience factor will remain at a significant importance level.

***Risks*** - Risks are expected to be minimal. These contracts are firm-fixed price and ability to perform rests with the contractor. The goal of the acquisition is to contract for comprehensive detention services that satisfy the needs of the OFDT. Attempts to mitigate performance risks may be met by incorporating decisional rules or liquidated damages factors. Use of incentives and disincentives can also mitigate performance risk. Efforts to reduce risks are encompassed in the Statement of Work (SOW) and other contract terms and conditions. These types of services are routinely performed by contractors primarily for state and local governments but not necessarily for the federal government and risks are expected to be manageable.

***Acquisition Streamlining*** - Any number of streamlining initiatives may be used for acquiring these types of services. Draft solicitations, pre-solicitation conferences, one-on-one industry interchange meetings, attendance and discussions at industry events, market research, etc. are some of the many actions that could occur to streamline the acquisition.

### **Plan of Action**

***Sources*** - The corrections industry is unique in that the competitive arena is very condensed. In 2001, two firms held 75% of the global market versus 13 firms with 25% of the global market. Due to the complexity of the services required and the high-dollar value of these types of contracts, there are doubtfully few small, small-disadvantaged or women-owned small business concerns who would perform these types of comprehensive services as a prime contractor. The Standard Industrial Code for this industry defines a small business at \$5M per annum, an amount which operators of contracts of this magnitude and complexity would rarely fall under. The successful contractor is required to submit a subcontracting plan which outline and support socio-economic goals for small businesses. Market research is done a continual basis whether

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there is an active procurement or not. OFDT will continually perform outreach efforts to locate and identify potential sources for secure detention services. Some of these initiatives may involve: attendance at industry meetings or conventions; communication with industry representatives; interchange meetings; and encouraging able sources to compete for contracts.

**Competition** - Competition will be sought by performing comprehensive market research, and by having open communication with industry. Industry interchange meetings may be held to discuss initiatives whether they are merely proposed or firm Government commitments. Other than full and open competition is not anticipated and in the event this is necessary all steps will be taken to encourage competition to the maximum extent possible. Subcontract competition will be encouraged in accordance with meeting the intent of performance-based contracting. It is not anticipated that barriers will exist that prevent competition for subcontracting opportunities.

**Source Selection Procedures** - An SSP shall be submitted for each acquisition prior to release of any RFP. The SSP will be tailored to the instant acquisition and outline those areas that will apply to the instant procurement. The SSP shall identify the evaluation factors and their relative importance. It shall also identify the timing for submission and evaluation of proposals. The acquisition of these services shall be under formal source selection procedures with the Assistant Federal Detention Trustee for Detention Management and Inspections designated as the SSO. Each SSP shall identify the relationship of the evaluation factors to include the importance of cost relative to all other non-cost factors.

**Contracting Considerations** - These contracts will be competitively negotiated contracts for any reasonable duration. Contracts will be firm-fixed price and may contain an award-fee provision. Contracts may be priced on a monthly operating cost with a fixed incremental unit price (to be applied when the average daily population exceeds a percentage determined by the SSO) or on a per diem basis.

**Budgeting and Funding** - Each SSP will identify the source of the budget. Due to the significant value of these contracts, initial budgets will be established at the agency Budget Development level via the appropriations process. In addition, due to the significant procurement lead and contract start-up times, procurement actions will be initiated prior to the fiscal year in which funds will be chargeable. Contracting Officers are expected to incorporate all necessary FAR clauses and provisions to ensure contracts conditioned upon availability of funds are properly entered into. The SSP will have attached a Conditional upon Appropriation Memorandum. Prior to contract award, the Contracting Officer shall obtain a Statement of Funds Availability for the maximum annual obligation (e.g. monthly operation price + fixed-incremental unit price + award-fee). Post award, the designated Contracting Officer shall be responsible for obtaining all necessary funding documents applicable to the contract.

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***Product or Service Description*** - Contracts will be performance-based for secure detention services with various programs/services appropriate for the population and may be performed in either Government- or contractor-owned facilities.

***Priorities, allocations and allotments*** - N/A. These contracts are not for national defense programs.

***Contractor versus Government Performance*** - OMB Circular A-76 is not appropriate for these contracts as the displacement of federal employees is not anticipated.

***Inherently Governmental Functions*** - By virtue of the previous Congressional funding of these types of contracts, a determination has been made that contracts for detention services are not inherently governmental (i.e., so intimately related to the public interest as to mandate performance by Government employees).

***Management Information Requirements*** - The Government will use oversight staff to monitor contract performance. The number and level of Government staff in the oversight effort will be determined by the respective Project Manager assigned to the contract. The Government will be responsible for quality assurance with the contractor responsible for quality control. The contractor will be required to prepare, maintain and implement a comprehensive quality control plan which shall ensure contract compliance.

***Make or Buy*** - N/A. Under performance-based requirements, the contractor is responsible for performing the services required and retains all the risk in performing the services. This however, will not release the contractor from meeting subcontracting plans and procedures.

***Test and Evaluation*** - N/A. These contracts are not for major systems.

***Logistics Considerations*** - The successful contractor is responsible for: controlling the quality of the services; tendering to the Government services that conform to contract requirements; and ensuring a sound, acceptable and comprehensive quality control system is in place. The Government is responsible for ensuring that the contractor complies with, at a minimum, these requirements and for applying a quality assurance program to ensure services are provided in accordance with the contract. A system of incentives (award fees) and disincentives (deductions) may be used to ensure quality services are provided. The selection and appointment of contract oversight staff that are sufficiently trained to manage and oversee contract administration functions will be made in accordance with established DOJ policy.

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***Government-Furnished Property*** - All property, unless otherwise noted in the applicable SOW, will be expected to be provided by the contractor.

***Government-Furnished Information*** - The successful contractor will have access to mandated DOJ policies via publically available sources or other means. Other information requested by the contractor will be provided on a case-by-case basis.

***Environmental and Energy Conservation Objectives*** - Prospective offerors and the eventual successful contractor will be required to comply with the National Environmental Policy Act of 1969, as amended (NEPA).

***Security Considerations*** - While classified matters are not expected to be dealt with, some security issues have been addressed in the SOW as they relate to working with detainees and access to Government computer systems.

***Contract Administration*** - In accordance with the contract's terms and conditions, within a specified period of time, contract administrators shall convene a management assessment with the contractor to detail plans for both the quality control and quality assurance plans.

***Other Considerations*** - The Assistant Federal Detention Trustee for Detention Management and Inspections in conjunction with the United States Marshals Service (USMS), and USMS Immigration and Customs Enforcement (ICE), determines the need for privately operated secure detention services. If a need exists, the Assistant Federal Detention Trustee (AFDT) for Detention Management and Inspections will identify: (1) Location of the services; (2) Number of detention beds needed; (3) Security level of the facility; and (4) Type of detainees to be housed.

***Milestones for the Acquisition Cycle*** - The attached baseline establishes the length of time required for each step of the acquisition process.

(Attachments)

**Office of the Federal Detention Trustee  
Acquisition of Detention Services**

**Statement of Need From ICE or USMS:**  
Location of the services;  
Number of detention beds needed;  
Security level of the facility;  
Type of detainees to be housed; and  
Funding Documentation.

**Office of the Federal Detention Trustee**  
**Assistant Federal Detention Trustee for Detention Management and Inspections**

**Office of the Federal Detention Trustee**  
**Assistant Federal Detention Trustee for Detention Space Acquisition and Contracts**

**Office of the Federal Detention Trustee**

**Contract or IGA Statement of Work, Evaluation Criteria, Source Selection Plan**  
Detention Management Specialist

**Source Selection Evaluation Board Membership**  
ICE Officials  
USMS Officials  
OFDT Officials

**Request for Proposal or IGA Development, NEPA Requirements, Milestones**  
Contracting Officer

**Solicitation For Services**

- Technical
- Past Performance
- Environment
- Price

**Evaluation Report**

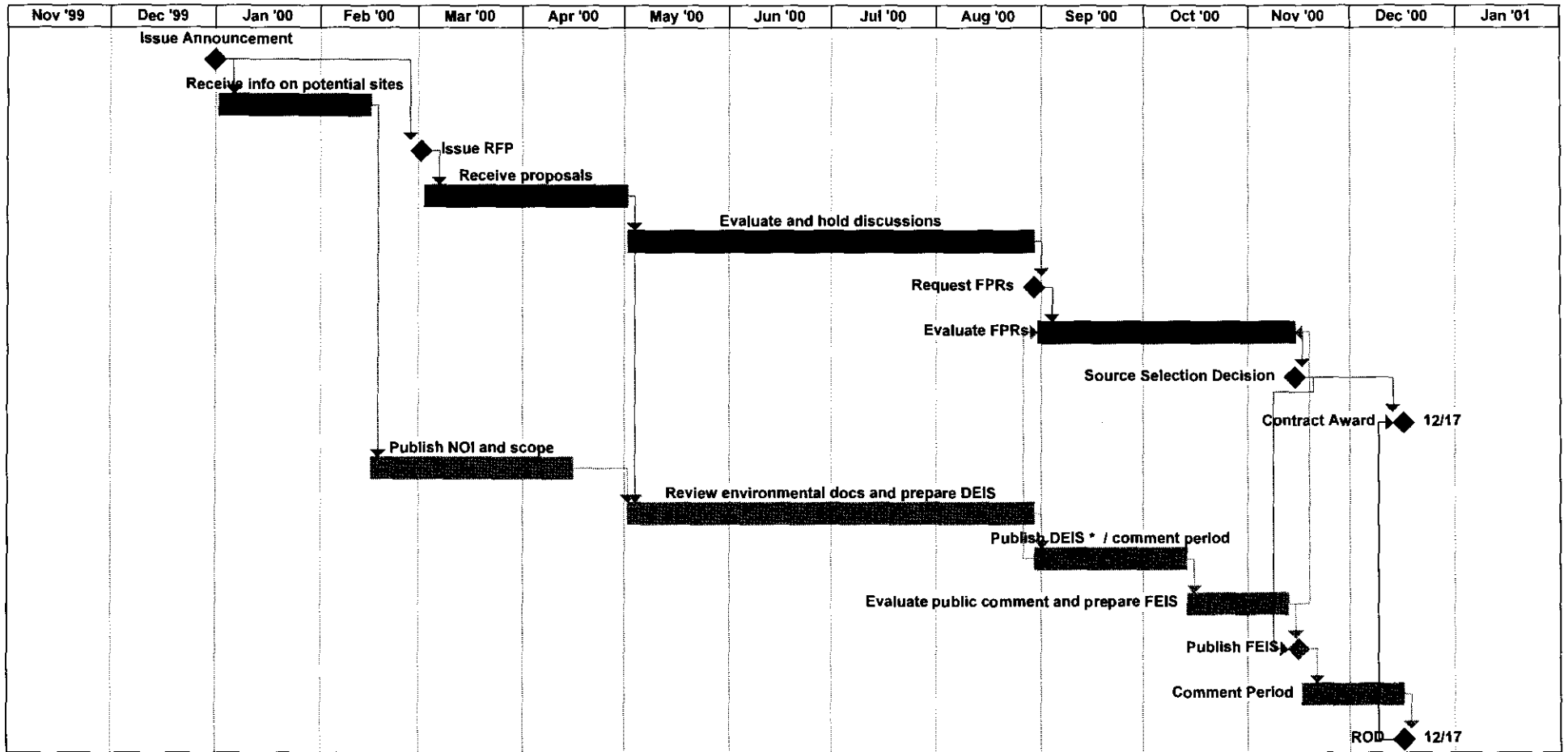
**Source Selection Advisory Council**  
ICE Official  
USMS Official  
AFDT - Acquisition and Contracts

**Evaluation Report and Award Recommendation**

**Source Selection Official**  
AFDT - Management and Inspections  
Source Selection Decision

**Contract or IGA Award**  
Contracting Officer

Baseline for the Acquisition of Contract Detention Facilities



\* This action will expose the Competitive Range. In addition, the DEIS will not contain a preferred alternative.