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Washington, DC 20530

MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS
FROM: *James A. Spasato*
James A. Spasato
Procurement Executive
SUBJECT: Competition Under Multiple Award Task and
Delivery Order Contracts

Multiple Award Task and Delivery Order Contracts are proving to be very beneficial and efficient procurement instruments. Continuous competition among contract holders for orders can be highly effective for the purchase of up-to-date technical capability and products quickly and at good prices. A key element in this process is the requirement to give all awardees "fair consideration" for each order.

There are, however, potential problems associated with these contracts. Attached is a recent memorandum from the Office of Management and Budget highlighting their concern that some agencies may be designating contract holders as preferred sources for specific orders even though the order does not otherwise qualify as a sole source action. The concern is that such a designation discourages other contractors from competing and deprives the government of the benefits of innovation and efficiency induced by competition. I agree with that assessment and share their concerns.

Based on a telephone survey conducted by my staff, I do not believe this procedure is practiced or condoned by your organizations. However, to preclude future problems, I ask that you take appropriate steps to formally notify your personnel of this issue and advise them that such practice is prohibited.

Attachment



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

DEPUTY DIRECTOR
FOR MANAGEMENT

APR 21 1998

MEMORANDUM FOR THE PRESIDENT'S MANAGEMENT COUNCIL

FROM:

G. Edward DeSeve *(G. E. D.)*
Acting Deputy Director for Management

SUBJECT:

Competition Under Multiple Award Task and Delivery Order Contracts

During this Administration, the President's Management Council has provided invaluable support for reform of the acquisition process to better serve agency missions and produce more value for taxpayer dollars. We have seen substantial progress in improving agencies' level of acquisition performance. I am now requesting your help to ensure the success of one of the most significant reforms -- the ability to apply competitive forces when awarding task and delivery orders.

Multiple award contracts (MACs), explicitly authorized by the Federal Acquisition Streamlining Act of 1994 (FASA), allow agencies to award multiple contracts covering the same scope of work and then, as needs are identified for specific tasks and products, use streamlined commercial-style procedures to compete the orders among the contract holders. These streamlined procedures, set forth in FAR 16.505, are much more flexible than the requirements imposed by FAR Part 6 when conducting a formal widespread competition. Such continuous competition for orders, can be highly effective in allowing agencies to buy up-to-date technical capability and products quickly and at good prices. Recognizing these benefits, FASA makes MACs the preferred method of task and delivery order contracting. Agencies have made great use of the MAC authority, and MACs that are open for ordering government-wide have become common.

Last fall, in an effort to promote effective use of the MACs across the government, OMB's Office of Federal Procurement Policy (OFPP) worked with a group of program managers for major information technology MACs to sign a compact setting forth principles for managing and administering those contracts. The compact was an important step in focusing on potential issues and best practices for using MACs, but more work is needed to build on this progress. In this regard, the General Accounting Office and the Department of Defense Inspector General recently testified before the Senate Armed Services Committee that agencies too often forego the opportunity to make effective use of competition.

Of immediate concern is the practice of allowing agencies to designate one of the contract holders as the preferred source for a specific order even though the order does not qualify under one of the sole source exceptions in FAR 16.505(b)(2). This practice discourages other contract holders from competing and deprives the government of the benefit of the innovation and efficiency induced by competition. While the FASA authority provides for reasonable exceptions to the competitive award of orders, going beyond those exceptions to designate a preferred source is not a good practice. Accordingly, I am requesting that you investigate whether or not your agency is using this practice and, if so, that you take action to stop its use until the Federal Acquisition Regulatory Council addresses this problem. OFPP is requesting that the FAR Council (see attached), on an expedited basis, promulgate a regulation prohibiting the use of preferred source designations.

I appreciate your cooperation.

Attachment

cc: Agency Senior Procurement Executives
Program Managers Council