

The Honorable Robert L. Mallett
Deputy Secretary
Department of Commerce
Washington, DC 20230

Dear Mr. Mallett:

This letter responds to your Department's February 10, 1999 request that OMB designate the Department of Commerce (DOC) as an executive agent for government-wide acquisition of information technology services under its Commerce Information Technology Solutions ("COMMITTS") contract with small and minority owned businesses. Section 5112(e) of the Information Technology Management Reform Act of 1996 ("Clinger-Cohen Act"), 40 U.S.C. 1412(e), authorizes the Director of the Office of Management and Budget (OMB) to designate "one or more heads of executive agencies as executive agent for Government-wide acquisition of information technology."

As explained in your executive agent request supplemental information documents (dated April 6 and 28 and May 6, 1999), COMMITTS has been structured as a small business set-aside multiple award contract (MAC). Your goal is to enable agencies across government to access the services of highly competitive small, small disadvantaged, 8(a), and women-owned small businesses.

As you know, OMB has initiated an effort to evaluate the government's needs for interagency provision of information technology acquisition services and opportunities to make better use of the government's buying power. As part of this effort, we are reviewing approaches which enable agencies to take greater advantage of the services of qualified small businesses under vehicles that have been shaped to support competitive and streamlined interagency acquisition of IT. To support and advance our efforts, we have decided to designate the Secretary of Commerce as an executive agent for the COMMITTS contract subject to the conditions stated in this letter.

As an executive agent, the Secretary is authorized to award and administer task orders under the COMMITTS contract through September 30, 2000 for the government-wide acquisition of information systems engineering, information system security, and systems operations and maintenance services, consistent with the definition of information technology as set forth in Section 5002 of the Clinger-Cohen Act. The COMMITTS contract shall be made available to other executive agencies on a non-mandatory basis. This designation is granted with the understanding that DOC will adhere to and promote the general policies and principles described in Enclosure A in discharging its obligations and responsibilities as an executive agent under the COMMITTS program. Your correspondence of April 28, 1999 confirmed that you will provide all contract holders within a functional area a fair opportunity to be considered for award of each task order thus ensuring that agencies using COMMITTS, including DOC, take full advantage of the benefit of streamlined competition made possible by MACs.

We appreciate your establishment of a formal quality assurance program to emphasize, among other things, the importance of issuing tasks that are as narrow in scope and brief in duration as possible and to assure that meaningful fair opportunity competition is achieved. We also draw your attention to the recently issued OMB memorandum emphasizing the importance of using competition to ensure best value in awarding orders under MACs (see Enclosure B).

This designation is granted with the understanding that DOC will provide to OMB, on a quarterly basis, the information described in Enclosure C. Future OMB executive agent designations will be in accordance with the policies and procedures in effect at the time such designation is requested and will be informed by the quality of COMMITS program performance under this designation. OMB reserves the right to modify data reporting requirements as may be required to inform our review of interagency acquisition of IT.

OMB appreciates DOC-s willingness to be an active participant on the Program Manager's Council. We look forward to working with you and the managers of other multi-agency and government-wide acquisition contracts as we continue to examine the government's common information technology needs and multiple award contracting solutions.

Sincerely,

Jacob J. Lew
Director

Enclosures

cc: Alan Balutis
Robert A. Welch
T.J. Garcia

Enclosure A

Principles for Government-wide Acquisitions of Information Technology

Principle 1. The multiple award contract (MAC) underlying the Government-wide Acquisition Contract (GWAC) will be a model for effective use of competition, financial incentive, and other good contracting principles.

a. Creation of the underlying MAC.

- i. The initial contract must include a SOW, specs, or other description, that reasonably describes the general scope, nature, and purpose of the work to be performed thereunder to enable a prospective offeror to decide whether to submit an offer.
- ii. Public offerors must be permitted to compete along with private offerors to become contract holders, pursuant to the provisions of OMB Circular A-76, so that competition achieves the best deal for the taxpayer.
- iii. The initial contract should include provisions that reflect the government's buying power (e.g., caps on prices for defined tasks, capped hourly rates).

b. Structuring of orders. Performance-based work statements should be used to define tasks in sufficient detail to permit orders to be awarded on a fixed-priced basis to the maximum extent practicable.

c. Ordering processes. Ordering process should:

- i. incorporate a best value approach and use past performance in determining contractors for individual tasks;
- ii. to the maximum extent practicable, and unless a statutory exemption applies, ensure competition for individual, specifically-defined projects that are as narrow in scope and brief in duration as practicable, solve a specific part of an overall mission problem, and deliver a measurable net benefit independent of future tasks or orders;

- iii. ensure that longer term orders, if used, are structured with effective Aoff ramps® to minimize dependence on one contractor;
- iv. when practicable, incentivize offerors to invest resources in performing due diligence by quickly narrowing the scope of the fair opportunity process to leading contenders;
- v. pose no obstacle to requesting agencies= compliance with OMB Circular A-76, as applicable, with special regard to the conversion of work from in-house to GWAC contract performance; and
- vi. be easy to understand and emphasize streamlined, cost effective procedures and electronic processes that minimize customer and contractor costs.

d. Small business participation. The executive agent should, to the maximum extent practicable, structure the MAC so that small businesses (including small disadvantaged and women-owned businesses) can participate at the prime or subcontract levels.

Principle 2. The executive agent must maintain an ongoing, flexible capacity for successfully managing the acquisition of products and/or services within the scope of its designation.

a. Past performance. The executive agent must record and maintain information regarding contractor performance on individual orders and make it available to source selection officials to facilitate maximum practical consideration of past performance in awarding subsequent task orders for the same or similar supplies and/or services.

b. Contract management. The executive agent must establish a contract management structure and employ adequately trained and sized staff to administer and monitor activity under contract to ensure (i) compliance with the terms of the GWAC and the designation and (ii) effective implementation of good contracting practices.

c. Financial management. In accordance with Statement of Federal Financial Accounting Standards (SFFAS) IV: Managerial Cost Accounting Standards and Concepts for the Federal Government with support provided by the Managerial Cost Accounting Standards Guide, the executive agent shall have an accountability structure and financial systems that assure the identification, accounting, and recovery of the fully allocated actual costs.

- i. Projected total revenue and costs. Projected total revenue

generated by the use of the contract shall not exceed projected actual costs. Revenues generated in excess of the agency's actual costs shall be transferred to the Treasury's Miscellaneous Receipts.

- ii. Fee adjustments. Fees should be adjusted so that total revenues do not exceed actual costs.

Enclosure C

COMMITTS Program Contract Activity Report

DOC shall report the following information to the Administrator of the Office of Federal Procurement Policy (OFPP) on a quarterly basis, beginning six months after award of the first COMMITTS contract:

(1) for each customer agency, the cumulative number and total dollar value of task orders awarded (whether by DOC or by the customer agency through delegation), sorted by functional contract area (e.g., information systems engineering support solutions, information system security support solutions, etc.) and type of contract (i.e., firm fixed-price, time and materials, cost-reimbursement fixed or award fee, etc.);

(2) total number and dollar value of task order awards:

- (i) subject to fair opportunity; and
- (ii) not subject to fair opportunity (see FAR 16.505(b)(2)), including the exception cited;

(3) DOC's projected and actual total revenue and costs (both direct and indirect) for managing and administering the COMMITTS program, to include number of FTE administering the contract;

(4) the assessment of customer satisfaction with the government-wide COMMITTS acquisition contracts (using performance measures and benchmarks); and

(5) the total number and cumulative value of task orders issued which do not comply with OFPP Policy Letter 92-1, Service Contracting, and FAR Part 37.6, Performance-Based Contracting.