

Defense Acquisition Regulations Council
Attention: Ms. Susan L. Schneider
OUSD (AT&L)DP(DAR), IMD 3C132
3062 Defense Pentagon
Washington, D.C. 20301-3062

Subject: DFARS Case 2001-D017; Competition Requirements for Purchase of Services
under Multiple Award Contracts

Northrop Grumman Corporation appreciates the opportunity to comment on the proposed rule. Our comments are listed in order of concern and importance, which are (a) Clarity, (b) competitive procedures (c) blanket purchase agreements (BPAs), and; (d) definition of services.

Clarity – The rule as written lacks clarity of purpose, intent and specific desired outcomes. We suggest that the rule be written in a format that:

- (1) Addresses the desired outcome and objective: i.e. ensuring appropriate levels of competition in streamlined contracting through GSA Schedules;
- (2) Identifies metrics that will be used to determine if the outcomes are being achieved and objectives are being met: i.e. see Competitive Procedures below as proposed by the Coalition for Government Procurement;
- (3) Provides a plan for surveillance that would include the requirement for Departments to be able periodically to demonstrate compliance through documentation that would include:
 - a. % of cases where 3 or more bids were obtained;
 - b. documentation (written determination) that would show rationale where minimum of 3 bids were not obtained; and
 - c. % of cases where minimum of 3 bids were not received and documentation of rationale for selection (written determination) was not done.

The format for multiple award contracts could be laid out in a similar format

Competitive Procedures – We consider the proposed language unclear, and endorse the recommendation made by the Coalition for Government Procurement. The Coalition proposed the alternative for DFAR 208.404-70(c)(2)(ii):

“When making purchases from GSA Multiple Award Schedule contracts, department buyers shall:

- 1 Make reasonable effort to obtain three qualified proposals from schedule contractors, OR
- 2 Make a written determination that additional qualified contractors were asked for proposals and did not submit them.
- 3 If neither steps 1 or 2 above can be met, the contracting officer shall provide fair notice to potential offerors to submit an offer and have it fairly considered

4 In the cases of numbers 1 or 2, contracting officers may proceed with the procurement.”

Further, Northrop Grumman concurs with the comments made by Mr. Thomas C. Meyer, U.S. Army Tank-Automotive & Armaments Command. The currently proposed language is inconsistent with the FAR’s definition of competition.

BPAs - It is doubtful that the government and contractor communities will be in a position to determine fixed prices for orders prior to award of a BPA. Additionally, time-and-material orders under a single BPA are prohibited. We endorse SAIC’s proposed revision to DFAR 208.404-70(d)(2)(i): “For a single-award BPA, provide an estimate of the total value of the BPA and establish firm-fixed discounted rates with the contractor representing the best value to the government based on the services identified in the statement of work; or”.

Definition of Services - The proposed rule is unclear on which services are covered. A suggested definition is: “Services mean professional services including, but not limited to systems integration, business management consulting, and professional engineering. This definition does not include those services, which are ancillary or incidental to the purchase of products. Examples of ancillary or incidental services would be product installation and maintenance.”

Thank you for the opportunity to comment on implementation of this important legislation and the rules that will flow from it.

Sincerely,

NORTHROP GRUMMAN CORPORATION

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