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ACQUISITION OPERATING PROCEDURE (AOP)

FROM: Shawn E. Kerkes *Shawn E. Kerkes*
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SUBJECT: AOP No. 8: Preaward and Postaward File Review

FEB 13 2013

◆ **PURPOSE:** The purpose of this Acquisition Operating Procedure (AOP) is to establish a Preaward and Postaward File Review process of pre-solicitation/award and awarded contract file documents. The Preaward and Postaward File Review process will be conducted for selected proposed contract actions outlined in this procedure to ensure the proposed contract actions, when properly executed, will--

- Comply with established acquisition statutes, regulations, policies and procedures;
- Reflect sound business judgment; and
- Be in the best interests of the Government.

This procedure applies to the contracting offices in the Procurement Management Division of Departmental Management, Management Services; and includes the contracting staff at the National Information Technology Center and National Finance Center.

◆ **REVISIONS:** Changes have been made throughout the AOP. This replaces AOP #8, dated February 23, 2012.

◆ **AUTHORITIES:** AGAR Advisory 87A, USDA Federal Procurement Data Quality Plan, dated November 13, 2009; and Departmental Regulation 5000-4, Legal Review of Contractual Actions, dated September 10, 1997.

◆ **FILE REVIEWERS:**

The File Reviewers may consist of:

- Contracting Branch Chiefs
- Contract Specialists;
- Head of the Contracting Activity Designee (HCAD)
- Procurement Analysts; and
- External offices personnel such as the Office of the Small and Disadvantaged Business Utilization; Office of General Counsel; Office of Procurement and Property Management, Procurement Policy Division or other related offices as deemed appropriate by the Contracting Branch Chiefs and/or HCAD.

◆ **PROPOSED CONTRACT ACTIONS TO REVIEW:**

The Preaward File Review applies to solicitations, purchase orders, task and delivery orders, blanket purchase agreements (BPA), BPA calls, contracts, and modifications. The dollar thresholds include contract modifications to exercise option-year contract actions.

PREAWARD FILE REVIEW THRESHOLDS		
<i>Contract Value/Threshold</i>	<i>Review Cycle</i>	<i>Required Review</i>
\$3,000 to \$1,000,000	Periodically (Randomly Selected)	At the Contracting Branch Chief's discretion, IAS requisitions will be designated as "Peer Review" prior to assigning the requisitions to the Contract Specialist.
\$1,000,000 and greater	Daily (100%)	All proposed contract actions reviewed by Contracting Branch Chief and with the discretion to determine other File Reviewers
\$5,000,000 and greater	Daily (100%)	All proposed contract actions reviewed by the Contracting Branch Chief, Senior Procurement Analyst, Chief POD
Modifications to <u>extend</u> the base contract, purchase order, task/delivery order or call (clauses: 52.217-8 & 52.217-9)	Daily (100%)	All actions will be reviewed by the Contracting Branch Chief, Chief POD, and OPPM Deputy Director or OPPM Director

POSTAWARD FILE REVIEW			
<i>Threshold</i>	<i>Review Cycle</i>	<i>Number</i>	<i>Required Review</i>
All Dollar Values	July (Annually, calendar year)	30 to 40 (contracts)	Randomly selected proposed contract actions reported in the Federal Procurement data System - Next Generation (FPDS-NG)

◆ FILE DOCUMENTATION:

1. All supporting and applicable documents (e.g. acquisition strategy, milestones, clearances, Determinations & Findings, Justifications and Approvals, waivers, pre/negotiated memoranda, award memorandum) must be placed in the Preaward file at time of submission for review in accordance with AOP Number (No.) 7, Contract File Checklists.
2. Requirements to Note:
 - The Program Official and Contracting Officer (CO) should sign and date the Acquisition Strategy and procurement milestones.
 - Performance-Based Contracting will be included for eligible services requirements, whenever possible (FAR Subpart 11.101, and FAR Subpart 37.6).
 - If a Federal Business Opportunities notice results in contractor or vendor responses, the CO will include the contractor/vendor responses, CO's draft contractor/vendor reply(s), and the written memorandum on whether the proposed contract action should remain, as a non-competitive or limited competition must be provided to the Contracting Branch Chief.
 - Negotiated procurements over \$650,000 (\$1.5M for construction) should contain subcontracting plan requirements as part of the proposal evaluation criteria, if applicable. Procurements issued against General Services Administration Federal Supply Schedules, Government-wide Acquisition Contracts and Set-Aside for a Small Business concerns are excluded from subcontracting requirements.
3. The Contract Specialist must use the appropriate Contract File Checklists (see AOP No.7, Contract File Checklists)
4. All documents for the Contract File Checklist must contain the current notations, filed, and tabbed sequentially per the Contract File Checklists; otherwise, the file will be returned to the Contract Specialist for correction prior to further review.
5. The Contract Specialist will place the Preaward file documents in the 6-part file folders for Contracts and the pocket/standard file folders for Simplified Acquisition Procedures actions.
6. The Contract Specialist will provide the original File Review Form and Preaward file sequentially to the File Reviewers identified by the Contracting Branch Chief.
7. The File Review Form(s) will become a permanent part of the official contract file.

◆ PREAWARD REVIEW PROCESS:

1. In order to expedite the Preaward File Review, the Contract Specialist must identify, document and resolve contractual problems, including legal concerns during the early stages of procurement planning (prior to Offeror's discussions).
2. Normally, five (5) business days will be allowed to complete the Preaward File Review to enable a thorough and meaningful contract review by a File Reviewers; however, the Contracting Branch Chief will establish, on a case-by-case basis, the due date, for which the Preaward Review is to be completed. The Contract Specialist should plan the milestone schedule accordingly.

3. The Contracting Branch Chief may assign the Preaward File Review to a Contract Specialist on their team for specific proposed contract actions and/or may request review by other Contract Specialists of Departmental Management and/or external offices personnel.
4. The Contracting Specialist may give the original contract file to the Contracting Branch Chief, Senior Procurement Analyst and HCAD for review; however, if external office personnel outside POD will review the contract file, the Contract Specialist must make a copy of the complete contract file for the external officer personnel.
5. The File Reviewers must use the File Review Form (Attachment) to explain comments, and to provide findings and recommendations.
6. The File Reviewers must return the File Review Form and the Preaward file to the Contract Specialist that requested the Preaward File Review.
7. If the Contracting Branch Chief requests a Preaward File Review by other Contracting Branch Chiefs of Departmental Management, the other Contracting Branch Chief will complete the Preaward File Review or may:
 - Assign the Preaward File Review to a Contract Specialist on their team.
 - The Contract Specialist will complete the Preaward File Review and provide the comments, findings and/or recommendations to their Contracting Branch Chief.
 - The Contracting Branch Chief will review and/or discuss the Contract Specialist's comments, findings or recommendations prior to providing the File Review Form and the Preaward file to the Contracting Branch Chief that requested the Preaward File Review.
8. The Contracting Branch Chief will review the File Reviewer's comments and include any additional comments as appropriate, and then provide the File Review Form and Preaward file to the Contract Specialist for action.
9. The Contracting Branch Chief may request a meeting with the Contract Specialist and/or File Reviewer(s) to discuss the comments, findings and recommendations submitted.

◆ **POSTAWARD REVIEW PROCESS:**

1. The Contracting Branch Chiefs, designated Contract Specialists, Procurement Analysts, and/or the HCAD will review a sampling of appropriately 30 to 40 contract actions in FPDS-NG for the calendar year.
2. The Postaward File Reviewers must use the File Review Form (Attachment) to provide comments, findings, and recommendations of the review results.
3. The File Reviewers will submit the File Review Forms to the Procurement Analysts for consolidation to prepare a "Postaward Review Analysis" of the findings and recommendations.
4. The HCAD, Contracting Branch Chiefs and the Procurement Analyst will schedule a meeting to review the results of the "Postaward Review Analysis" to determine the issuance of new or revised procedures, and/or remedial training, as necessary.

◆ **PREAWARD FILE REVIEW - WAIVER REQUEST:**

1. In special situations, the Contracting Branch Chief or HCAD may waive the Preaward File Review process for a specific proposed contract action, when it is determined to be in the best interest of the agency.
2. The Contract Specialist will:
 - Complete the File Review Form.
 - Check the “*Waiver*” box on the File Review form.
 - In the “*File Reviewer’s Comments/Findings*” box on the File Review form, explain the rationale and impacts if the waiver is not granted for the proposed contract action. Attached any other supporting documentation, which may be pertinent.
 - Submit the File Review Form to the Contracting Branch Chief and/or HCAD for review.
3. The Contract Specialist will allow adequate time for a deliberate assessment of all facts by the Contracting Branch Chief and/or HCAD prior to the procurement action being released or awarded.

FILE REVIEW FORM

<p>CONTRACT SPECIALIST/CONTRACTING OFFICER</p> <p><i>Print Name:</i> _____</p> <p><i>Date Submitted:</i> ____/____/____ <i>(Allow up to 5 work days for review; No ASAP requests)</i></p> <p>Est. Contract Award Date: ____/____/____</p> <p>Corrective Actions Completed: ____/____/____</p>	<p>SOLICITATION/CONTRACT NO: _____</p> <p>PROCUREMENT INFORMATION</p> <p><input type="checkbox"/> Pre-Solicitation <input type="checkbox"/> Preaward</p> <p><input type="checkbox"/> Pre-Modification <input type="checkbox"/> Other (Source Selection Plan)</p> <p><input type="checkbox"/> Post Award</p> <p>WAIVER REQUEST</p> <p><input type="checkbox"/> In the Reviewer's Comments/Findings, list or attach facts</p>
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FILE REVIEWER'S COMMENTS/FINDINGS:	CORRECTIVE ACTIONS TAKEN:

FILE REVIEWERS

<p>Senior Contracting Officer</p> <p><i>Print Name:</i> _____</p> <p><i>Signature/Date:</i> _____ / /</p>	<p>Chief, Contracting Branch [] Review N/A</p> <p><i>Print Name:</i> _____</p> <p><i>Signature/Date:</i> _____ / /</p>
<p>Senior Procurement Analyst, POD [] Review N/A</p> <p><i>Print Name:</i> _____</p> <p><i>Signature/Date:</i> _____ / /</p>	<p>Chief, POD [] Review N/A</p> <p><i>Print Name:</i> _____</p> <p><i>Signature/Date:</i> _____ / /</p>
<p>Director / Deputy Director, OPPM [] Review N/A</p> <p><i>Print Name:</i> _____</p> <p><i>Signature/Date:</i> _____ / /</p>	

FILE REVIEW FORM
(Continuation)

CONTRACT SPECIALIST/CONTRACTING OFFICER Print Name: _____	SOLICITATION/CONTRACT NO: _____
FILE REVIEWER'S COMMENTS/FINDINGS:	CORRECTIVE ACTIONS TAKEN: