UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

JAN 15 2010

PROCUREMENT MEMORANDUM 2010-04

ACTION

MEMORANDUM FOR: **BUREAU PROCUREMENT OFFICIALS**
HEADS OF CONTRACTING OFFICES

FROM: Helen Hurcombe Helen Hurcombe
Senior Procurement Executive
and Director for Acquisition Management

SUBJECT: Revised Legal Review Thresholds

Background
Department Administrative Order (DAO) 208-5, Contracting (Procurement) Review and Approval, dated October 10, 1984, as amended, establishes review and approval requirements applicable to Department of Commerce contractual actions. The Office of Acquisition Management is in the process of updating DAO-208-5 to reflect revise various review and approval thresholds.

Purpose
The purpose of this Procurement Memorandum is to implement new legal review and approval thresholds for contractual actions. This policy shall replace Section 3 Legal Review, of DAO 208-5 in its entirety.

Applicability
This policy applies to all Department of Commerce contractual actions.

Effective Date
This policy is effective upon issuance and will expire upon issuance of revised DAO 208-5.

Required Actions
Contracting authority exercised shall be subject to legal review by the Assistant General Counsel for Finance and Litigation, or designee, prior to execution and/or issuance of the following categories of actions:

a. all solicitations involving a Government estimated amount of $1,000,000 or more where price offered will be the predominant basis for award;

b. all other solicitations in excess of $350,000;

c. all awards against solicitations described under subparagraphs a. and b. above;

d. all noncompetitive awards involving $100,000 or more, including modifications to existing contracts involving the procurement of new or additional requirements, including the exercise of options;

e. all letter contracts and ensuing formal contracts involving $50,000 or more;

f. all settlement agreements involving $100,000 or more which equitably adjust the contract price pursuant to the change clauses or other contract clauses;

g. all actions involving contract reformation or contract claims not included under subparagraph f. above;

h. all notices preliminary to termination for default;

i. all notices of termination and other final decisions;

j. all responses to protests against award made to the Department;

k. all actions expressly requiring legal review pursuant to statute, regulation, Executive policy, or Department of Commerce Orders; and

l. all ratifications of unauthorized commitments;

These requirements for prior legal review do not affect the right and responsibility of contracting officials to submit other actions for legal review or to consult with legal counsel on any contract action regardless of its amount or type, when they deem review or advice desirable.

The Assistant General Counsel for Finance and Litigation has responsibility for representing the Department before the Government Accountability Office (GAO) on protests against award and before the Court of Federal Claims. Contracting Officers shall assist legal counsel in this role. In addition one copy of all protests and responses to those protests must be forwarded to the following office:

U. S. Department of Commerce
Office of Acquisition Management
Attn: Senior Procurement Executive
1401 Constitution Ave. NW
HCHB Room 6422
Washington, DC 20230

If you have any questions regarding this policy, please contact Sherry Dames-Bowman at sdames-bowman@doc.gov or (202) 482-4721.

cc: Acquisition Community
Acquisition Council