

## QUESTIONS FOR REVIEW OF SERVICE CONTRACT REQUIREMENTS

The following is a series of questions to help agencies analyze and review requirements for service contracts.

## A. Inherently Governmental Functions

If the response to either of the following questions is affirmative, the contract requirement is for an inherently Governmental function that must be performed by Government officials:

- (1) Is the requirement for a function that is listed in or closely resembles a function listed in Appendix A of OFPP Policy Letter 92-1, Inherently Governmental Functions?
- (2) If not, is the requirement for an inherently Governmental function based on an analysis of the totality of the circumstances discussed in section 7(b) of Policy Letter 92-1?

## B. Cost Effectiveness

If the response to any of the following questions is affirmative, the agency may not have a valid requirement or not be obtaining the requirement in the most cost effective manner:

- (1) Is the statement of work so broadly written that it does not support the need for a specific service?
- (2) Is the statement of work so broadly written that it does not permit adequate evaluation of contractor versus in-house cost and performance?
- (3) Is the choice of contract type, quality assurance plan, competition strategy, or other related acquisition strategies and procedures in the acquisition plan inappropriate to ensure good contractor performance to meet the user's needs?
- (4) If a cost reimbursement contract is contemplated, is the acquisition plan inadequate to address the proper type of cost reimbursement to ensure that the contractor will have the incentive to control costs under the contract?
- (5) Is the acquisition plan inadequate to address the cost effectiveness of using contractor support (either long-term or short-term) versus in-house performance?

- (6) Is the cost estimate, or other supporting cost information, inadequate to prevent the contracting office from effectively determining cost reasonableness?
- (7) Is the statement of work inadequate to describe the requirement in terms of "what" is to be performed as opposed to "how" the work is to be accomplished?
- (8) Is the acquisition plan inadequate to ensure that there is proper consideration given to "quality" and "best value?"

#### C. Control

If the response to any of the following questions is affirmative, there may be a control problem:

- (1) Are there insufficient resources to evaluate contractor performance when the statement of work requires the contractor to provide advice, analysis and evaluation, opinions, alternatives, or recommendations that could significantly influence agency policy development or decision-making.
- (2) Is the quality assurance plan too general to monitor adequately contractor performance?
- (3) Is the statement of work so broadly written that it does not specify a contract deliverable or require progress reporting on contractor performance?
- (4) Is there concern that the agency lacks the expertise to evaluate independently the contractor's approach, methodology, results, options, conclusions, or recommendations?
- (5) Is the requirement for a function or service listed in Appendix B of OFPP Policy Letter 92-1, or similar to a function or service on that list, such that greater management scrutiny is required of the contract terms and the manner of its performance?

#### D. Conflicts of Interests

If the response to any of the following questions is affirmative, there may be a conflict of interest:

- (1) Can the potential offeror perform under the contract in such a way as to influence the award of future contracts to that contractor?

- (2) If the requirement is for support services (such as system engineering or technical direction), were any of the potential offerors involved in developing the system design specifications or in the production of the system?
- (3) Has the potential offeror participated in earlier work involving the same program or activity that is the subject of the present contract?
- (4) Will the contractor be evaluating a competitor's work?
- (5) Does the contract allow the contractor to accept products or activities on behalf of the Government?
- (6) Will the work, under this contract, put the contractor in a position to influence Government decision-making, e.g., developing regulations, that will affect the contractor's current or future business?
- (7) Will the work under this contract affect the interests of the contractor's other clients?
- (8) Are any of the potential offerors, or their personnel who will perform the contract, former agency officials who -- while employed by the agency -- personally and substantially participated in (a) the development of the requirement for, or (b) the procurement of these services within the past two years?

#### E. Competition

If the response to any of the following questions is affirmative, competition may be unnecessarily limited:

- (1) Is the statement of work narrowly defined with overly restrictive specifications or performance standards?
- (2) Is the contract formulated in such a way as to create a continuous and dependent arrangement with the same contractor?
- (3) Is the use of an indefinite quantity or term contract arrangement inappropriate to obtain the required services?
- (4) Will the requirement be obtained through the use of other than full and open competition?