



Prospective Acquisition Changes at the Missile Defense Agency

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Current Issues and Concerns

- **Developmental Baseline Reviews**
- **Organizational Conflict of Interest (OCI)**
- **Contractor “Fee on Fee” Proposals**
- **Competitive Proposals – “Non-Exclusive Teaming”**
- **Rebate Clause for Quality Mishaps**
- **Small Business Utilization**



Developmental Baseline Reviews

- **Component of the MDA Acquisition Oversight Process**
- **Enables a management construct that establishes internal configuration controlled baselines that allow for better program execution**
- **Requires MDA Director and Lead Service Acquisition Executive collaboration**
- **Early lead Service participation enhances life-cycle management process**
- **Six MDA baselines: technical, resource, schedule, contract, operational and test baselines**
- **Incorporates key GAO recommendations and satisfies Congressional oversight**
- **Baselines provide a solid management methodology enabling increased insight and transparency for Services, OSD and Congress**



Organizational Conflict of Interest (OCI)

- **Longstanding problem at MDA, but little action had been taken**
- **New MDA OCI policy in 2008-2009; originally for MiDAESS**
 - **Cannot be prime contractor on both a Development as well as Advisory and Assistance Services (A&AS) contract at same time if the nature of the A&AS contract would conflict per FAR 9.5**
 - **Failure to comply disqualified contractor from bidding on MiDAESS**
 - **Can perform as subcontractor on MiDAESS provided that performance does not conflict with any development effort contractor is performing**
 - **Limited mitigation available on a case by case basis**
- **New policy more conservative than previous**
 - **Ability to submit mitigation plans more limited**
 - **Intended to drive industry behavior, provide more confidence to MDA**
- **More attention in legislation (Weapon System Reform Act), but OSD is still in process of generating current OCI policy**



Contractor “Fee on Fee” Proposals

- **Occurs when a prime contractor’s proposal has multiple tiers of subcontractors; each subcontractor’s fee is included as part of the cost base of the next higher tier subcontractor**
- **Prime Contractor’s “cost base” thus includes multiple times when fee is charged on a base which already includes fee**
- **Result is that fee is charged on fee multiple times**
- **Fee is provided based on the value added input of the prime or lower tier subcontractor**
- **There is no value added provided by fee itself**
 - **It is not a product**
 - **It is not a service**
 - **It is of no value to the Government**
- **Total amount can be significant in large dollar proposals**



Competitive Proposals – “Non-Exclusive Teaming”

- **Not a new concept, clauses are often put into RFPs**
- **MDA has many competitive acquisitions ongoing or planned for the future**
- **Want to maximize and enhance competition**
- **Respect desires of industry to form strong teams, but MDA can't afford to have any particular source that may be tantamount to a sole source “wrapped up”**
- **Strategies include oral policy dissemination at Industry Days, and inclusion of clauses in RFPs**
- **Expect industry to respond if policy is misguided**



Rebate Clause for Quality Mishaps

- **MDA has suffered significant “process escapes” that have caused major cost and schedule delays on major programs**
 - Frequently the contractor has failed to follow its own best practices
 - But unless the contract is FFP, the costs are typically allowable
- **MDA senior leadership intends to use all alternatives available**
 - Award Fee (if applicable)
 - CPARS or other past performance evaluations
- **Currently researching ability to make costs of process escapes unallowable; no equitable adjustment of any kind to contract**



Small Business Utilization

- **A large part of MDA's supporting industrial base is resident in the Small Business community**
 - **>30% of our acquisition \$'s end up with Small Businesses**
 - **Small Businesses represented in all segment of MDA marketplace (System Development and Production; A&AS; Infrastructure Support)**
 - **MDA has 4th largest SBIR/STTR Programs in DoD**
- **MDA Director has placed great emphasis on maintaining the health of that industrial base**
 - **MDA Director for Small Business Programs a voting member on all Acquisition Strategy Panels/Boards**
 - **Small Business Utilization a source selection factor on competitive procurements**
 - **Award Fee evaluation criteria on all award fee contracts**
 - **Close monitoring of Large Business Prime contractor Small Business subcontracting performance**