

# ***Headquarters U.S. Air Force***

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*Integrity - Service - Excellence*

## **Proper Use of Schedule and Multiple Award Contracts**



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- Fair Opportunity--FAR & DFARS Requirements
- Issues and Problems
- Challenges
- Current FAR & DFARS Cases



## *Fair Opportunity – MAC*

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- **Multiple Award Contracts for Services**
- **FAR requires “fair opportunity to be considered” for each MAC holder when we issue an order, unless waived for one of 4 specific reasons**
- **DFARS requires “competition” for orders over \$100K unless waived in writing (same 4 reasons)**
  - **“Competition” means**
    - **giving notice of the proposed order to each MAC contractor that offers the required services, then –**
    - **giving all that respond to the notice an opportunity to make an offer and be fairly considered**



# *Fair Opportunity – MAC*

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- **FAR 16.505(b) – MAC Orders**
  - Provide each awardee “fair opportunity to be considered”
  - CO “need not contact” each awardee
  - Exceptions: urgent need; only one awardee capable; logical follow-on order; satisfy a minimum guarantee
- **DFARS 216.505-70 – MAC Orders**
  - Applies to orders issued by DoD AND non-DoD agencies on behalf of DoD
  - All orders for services over \$100,000 on competitive basis, unless waived
  - Competitive basis:
  - Fair notice of intent to make purchase, with description of the work, to all MAC contractors offering required services;
  - All contractors responding to notice have fair opportunity to submit an offer and have that offer fairly considered



# *Fair Opportunity - FSS*

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- **FAR 8.404 – FSS Orders**
  - Review catalog/pricelist of at least three schedule contractors
  - Place orders with contractor that can provide “best value”
  - May establish BPAs
- **DFARS 208.404-70 – FSS Orders for Services above \$100,000**
  - Each order shall be placed on a competitive basis, unless waived
  - Competitive basis:
    - “Fair notice of intent to make purchase, including description of work and basis for selection, to --
    - (1) as many schedule contractors as practicable...to ensure offers from at least three contractors” that can do the work; three offers are received, and all offers received are fairly considered; OR
    - (2) all contractors offering the required services; affords all contractors responding to the notice an opportunity to submit an offer and have that offer fairly considered



# *Issues and Problems*

- **Fair Opportunity procedures being followed in DoD?**
- **Approval levels for waivers are needed**
- **Orders placed by non-DoD agencies (MIPRs)**
  - **DoD's fair opportunity procedures being followed?**
  - **Administrative fees**
- **FSS orders**
  - **Terms and conditions – include DFARS**
  - **Use of BPAs**



- Follow the correct Fair Opportunity procedures
- Higher approval levels for waivers
- Control orders placed by non-DoD agencies
- Review and control MIPRs
  - AF “pilot” team
  - Potential OSD policy
- FSS orders
  - Terms and conditions – HOW include DFARS?
  - Use BPAs when there is a business case
- Write your own contracts, sometimes!



# *Current FAR & DFARS Cases*

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- **1999- 603: Federal Supply Schedules & BPAs**
  - Incorporate policies for services orders
  - Expand procedures for establishing BPAs
- **2002-D024: Approval of Service Ks & Task Orders**
  - High-level approvals for acquisition of services through another agency's contract or order
- **2003-D097: Limitation on Contract Period for Task and Delivery Order Contracts**
  - Section 843 – 5 year limit on total period of a task or delivery order contract
- **2004-001: Acquisition of A&E Services**
  - Places restrictions on A&E orders through MAC/FSS