EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

May 31, 2007

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES

FROM: Paul A. Denett
Administrator

SUBJECT: Enhancing Competition in Federal Acquisition

Competition is the cornerstone of our acquisition system. The benefits of competition are well established. Competition saves money for the taxpayer, improves contractor performance, curbs fraud, and promotes accountability for results. The acquisition workforce has a number of tools to facilitate the efficient and effective use of competition. I am concerned that we are not taking full advantage of these tools, especially in the placement of task and delivery orders under indefinite-delivery vehicles. The purpose of this memorandum is to request your help and leadership in reinforcing the use of competition and related practices for achieving a competitive environment.

Data from the Federal Procurement Data System (FPDS) shows that the overall percentage of dollars competed has remained relatively constant since FY 1990 (see Attachment 1). However, agency reviews, reviews by the Government Accountability Office (GAO), and audits by the Inspectors General have found that the government frequently misses opportunities to take full advantage of competition when placing orders. Inadequate planning, insufficient market research, and poor coordination among program and acquisition offices lead to ill-defined requirements, lack of head-to-head competition for task-specific solutions and pricing, and the absence of meaningful performance standards to measure results. Many of these weaknesses were cited in the report by the Acquisition Advisory Panel, established under the Services Acquisition Reform Act (the "SARA Panel").

The lack of meaningful competition for orders has taken on increased significance in recent years with the growth of obligations through task and delivery orders. Although preliminary analysis suggests new contracts are down, FPDS shows that agency expenditures through orders under contracts have grown significantly, from approximately 14 percent of total dollars obligated in FY 1990 to about 52 percent of total dollars obligated in FY 2005 (see Attachment 2). A substantial amount of these obligations have been made through modifications.

We must reinvigorate the role of the competition advocate. As you know, the Office of Federal Procurement Policy Act requires each agency to designate a competition advocate to promote competition and challenge barriers to competition in agency acquisitions. The competition advocate's responsibilities, which are described in FAR Subpart 6.5, include preparing an annual report. To ensure that we are getting the best value for the taxpayer, I ask

that you work closely with your competition advocate to evaluate the overall strength of your agency's competition practices. In particular, the advocate should review the level of competition at your agency (see Attachment 3) and develop plans and goals for maximizing competition. Several questions are provided at Attachment 4 to help the advocate identify if your agency's practices are conducive to competition. Your competition advocate should provide a written report to you with appropriate analysis, including a trend analysis, and recommendations. The report should be completed by December 20, 2007, and annually thereafter. A copy of the first annual report should be provided to the Office of Federal Procurement Policy (OFPP).

In addition, I will be asking the Federal Acquisition Regulatory Council (FAR Council) to strengthen competition policies in the Federal Acquisition Regulation (FAR), including associated transparency and management practices. Some proposals include:

- Requiring that annual reviews by the competition advocate be provided in writing to both the Chief Acquisition Officer (CAO) and Senior Procurement Executive and specifically address the quality of planning, executing, and managing task and delivery orders over $1 million;

- Limiting the length of contracts awarded noncompetitively under urgent and compelling circumstances to the minimum contract period necessary to meet requirements, and no longer than one year unless approved by the head of the contracting activity;

- Providing notice in FedBizOpps of awards of sole source orders;

- Strengthening competition rules for the Multiple Award Schedules (MAS) to generally ensure the receipt of three proposals and for other multiple award contracts to ensure fair notice is being provided to contract holders; and

- Identifying evaluation factors and significant subfactors for large task and delivery orders that have statements of work to support meaningful comparison and discrimination between and among competing proposals.

OFPP will also ask the General Services Administration (GSA) to centralize market research information related to products and services acquisitions and make it available for government-wide use. The SARA Panel included many of these recommendations in its report.

Finally, OFPP has requested that GSA develop new standard FPDS reports on contract actions. These efforts complement agency actions to verify and validate the accuracy of data entered in FPDS (see OFPP Memorandum to CAOs dated March 9, 2007). FPDS collects data on different types of actions, such as new contracts, new task and delivery orders, and modifications to contracts. The implications for competition and workload vary depending on the type of action. For example, a new contract action may have significant implications for competition and workload, whereas the issuance of a modification to change the contractor's address has no bearing on competition and the substantive workload of the contracting officer. The new standard reports will more clearly differentiate types of actions, which will enable better trend analysis of competed contract actions and a clearer understanding of the relative impact of recent years' activity on our acquisition workforce.

We must work together to maximize the meaningful use of competition and achieve the best return on investment possible for our taxpayers. The initiatives described in this memorandum will require additional effort by our workforce. However, with your continued help, we will be well positioned to meet this challenge. According to statistics compiled by the Office of Personnel Management, the number of contract specialists in the 1102 series has grown from approximately 26,600 to 27,900 between 2001 and 2006. In the last three years alone, we have added more than 1,000 contract specialists. Civilian agencies' responses to the 2007 contracting workforce competencies survey (see OFPP Memorandum to CAOs dated March 7, 2007), and the Department of Defense's competency modeling, will facilitate the timely closure of remaining skills and competency gaps, including those associated with planning and conducting competitions.

Please ensure broad dissemination of this memorandum among agency personnel who have responsibilities for the effective planning, execution, and management of your acquisitions. Questions may be referred to Pat Corrigan at (202) 395-6805 or pcorrigan@omb.eop.gov or to Mathew Blum at (202) 395-4953 or mblum@omb.eop.gov.

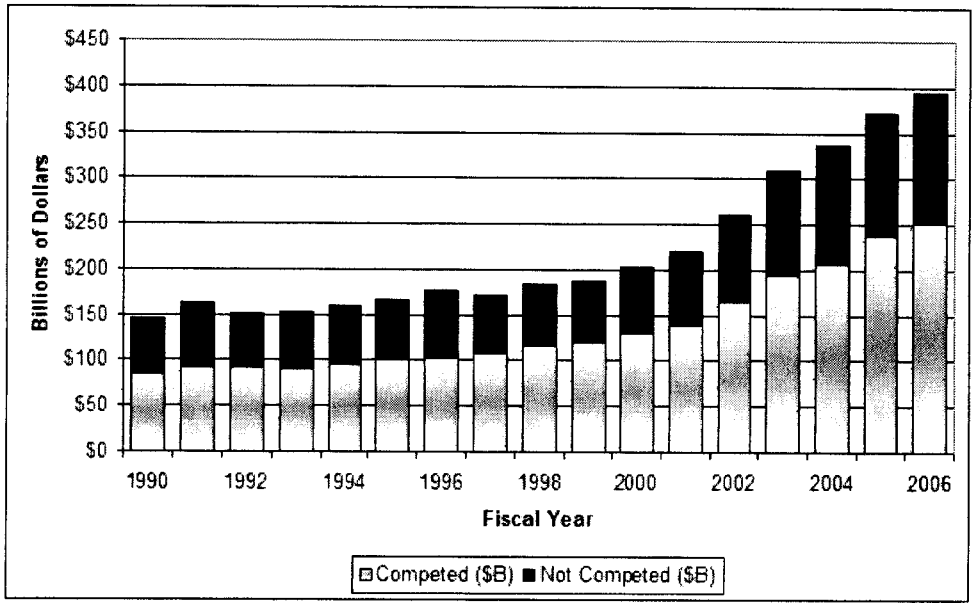
Thank you for your attention to this important matter.

Attachments

Attachment 1

Dollars Competed and Dollars Not Competed*
FYs 1990-2006

Trend Line



* Figures on the chart above and table below include dollars obligated on actions that are not available for competition, such as awards made to a mandatory source. These obligations represent a small portion of the total dollars obligated.

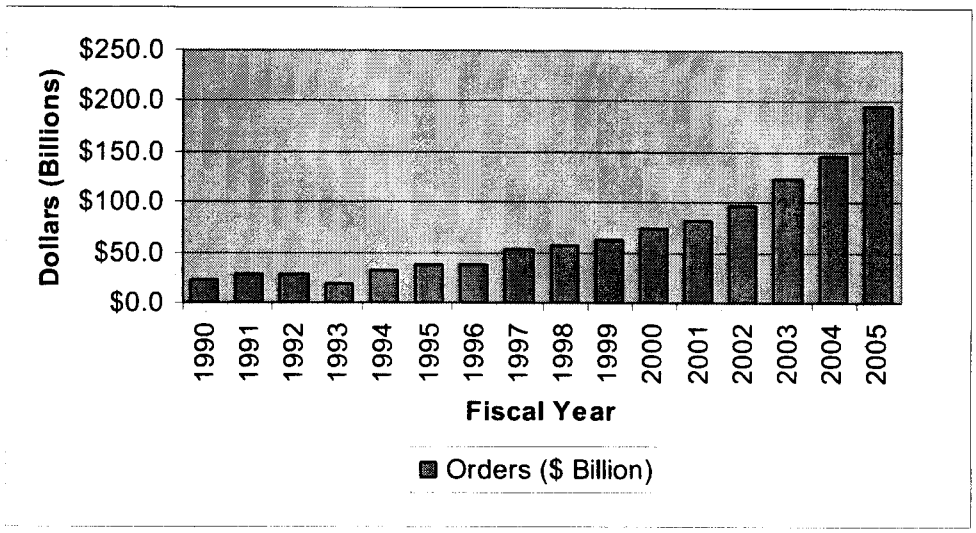
Year-by-Year

Fiscal Year	Competition Base (in billions)	Competed (in billions)	Percentage of Dollars Competed
1990	$147	$85	58
1991	$164	$93	57
1992	$151	$92	60
1993	$153	$91	60
1994	$160	$96	60
1995	$167	$102	61
1996	$178	$103	58
1997	$172	$108	63
1998	$184	$116	63
1999	$188	$120	64
2000	$204	$130	64
2001	$221	$139	63
2002	$261	$165	63
2003	$310	$195	63
2004	$338	$207	61
2005	$372	$238	64
2006	$394	$253	64

Source: FPDS (as of 2/5/07)

Attachment 2

Agency Expenditures through Task and Delivery Orders Under Existing Contracts



Source: FPDS (as of 4/19/07). Reflects dollars obligated under task and delivery order contracts.

Attachment 3

Agency Use of Competition[1]
From Greatest Use to Least Use
FY 2006

Agency [2]	Competition Base[3] (in billions) FY 2006	Dollars Competed[4] (in billions) FY 2006	Percentage Competed FY 2006	Percentage Competed FY 2005 Ranking
1. LABOR	$1.6	$1.4	86	1
2. HEALTH AND HUMAN SERVICES	$12.1	$9.8	81	4
3. ENVIRONMENTAL PROTECTION AGENCY	$1.1	$0.9	80	7
4. AGRICULTURE	$3.5	$2.7	78	2
5. INTERIOR	$4.0	$3.0	75	8
6. TREASURY	$2.1	$1.5	74	8
7. COMMERCE	$1.7	$1.3	73	6
8. ENERGY	$21.8	$15.3	70	8
8. EDUCATION	$1.2	$0.9	70	3
8. GENERAL SERVICES ADMINISTRATION	$7.9	$5.5	70	5
8. JUSTICE	$2.1	$1.4	70	8
12. HOUSING AND URBAN DEVELOPMENT	$1.0	$0.7	69	13
13. DEFENSE	$296.6	$188.1	63	12
14. TRANSPORTATION	$1.1	$0.7	61	16
15. STATE	$4.0	$2.3	58	15
16. VETERANS AFFAIRS	$4.6	$2.3	51	17
17. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION	$13.0	$6.5	50	18
18. HOMELAND SECURITY	$12.5	$6.1	49	14
Total[5]	$392	$250.4	64	64

Source: FPDS (as of 2/7/07)

1. FPDS Standard Competition Report by Agency.
2. Listed agencies have competition base of $1 billion or greater in FY 2006.
3. These figures include dollars obligated on actions that are not available for competition, such as awards made to a mandatory source. These dollars represent a small portion of the total dollars obligated.
4. These figures include dollars obligated on actions coded as full and open competition (including those competed after exclusion of sources), competed under the Simplified Acquisition Threshold, and competitive orders.
5. Total includes expenditures by listed agencies only. Agencies with competition bases less than $1 billion in FY 2006 cumulatively competed 75 percent of their competition base, or $1.8 billion of $2.4 billion.

Attachment 4

Assessment of Competition Practices

The following illustrative questions are designed to assist competition advocates in assessing the quality of competition practices and policies at their agencies. Reviews should give special attention to work awarded through orders, especially orders above $1 million.

As part of their reviews, advocates should evaluate the quality of acquisition planning and contract management practices, as these steps are critical to reaping the benefits of competition. Advocates are encouraged to supplement their reviews with additional considerations, as appropriate.

A. Ensuring sufficient attention to the manner in which acquisitions are planned

1. Are cross-functional teams, including end-users and acquisition officials used to develop project acquisition plans and strategies and requirements documents?

2. Do acquisition plans explain how competition will be sought, promoted, and sustained throughout the course of the acquisition?

3. Do acquisition plans for large requirements consider, as appropriate, the comparative benefits of awarding a new contract versus placing an order under an existing contract?

4. Do program officials expressly concur on requirements documents?

5. Are the market research techniques outlined in FAR 10.002(b)(2) being used, such as:

   a. publishing formal requests for information in appropriate technical or scientific journals or business publications;

   b. querying government and commercial databases that provide information relevant to the acquisition; and

   c. participating in interactive, on-line communication among industry, acquisition, personnel, and customers.

6. Are plans in place to provide maximum practicable opportunities for small businesses both in prime contracting and subcontracting?

7. If acquisition plans anticipate contract bundling, or contract consolidation in the case of the Department of Defense, have written justifications for these actions and appropriate analyses been developed?

B. Using competition in an effective manner

1. Do statements of work, including those in task and delivery orders, have:

   a. sufficient information, stated clearly, so that offerors may make informed business decisions on whether to respond and perform the due diligence necessary to propose the best solutions possible?

   b. clear performance measures and expectations related to quality, responsiveness, timeliness, and cost?

2. Does the agency consider complexity, commerciality, availability, and urgency in establishing offeror response times? Has sufficient time been built into the acquisition schedule to maximize competition and encourage contractors to provide quality proposals that would allow for a best value award based on initial offers?

3. Is the agency taking recent and relevant past performance into account, including quality, timeliness, and cost control? Is the agency using the Past Performance Information Retrieval System?

4. Does the documentation for source selection decisions include the rationale for any tradeoffs made or relied on by the source selection authority, including the benefits associated with additional costs?

5. Are orders under indefinite-delivery vehicles reported to FPDS as non-competitive when competition is not used?

C. Emphasizing sound contract management and oversight

1. Are properly trained contracting officer representatives and contracting officer technical representatives designated for contracts (including indefinite delivery contracts and task orders) before contract performance begins?

2. Does the agency have appropriate processes in place to ensure that proposed modifications are within the scope of the contract or order?

3. Are quality assurance surveillance plans included in the contracts?