OFFICE OF THE UNDER SECRETARY OF DEFENSE
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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

SEP 24 2010

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION & LOGISTICS MANAGEMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING)
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: DoD-Wide Policy for Using the Department of Energy's (DoE's) Work for Others Program (WFO) to Access DoE-Owned Research, Development and Production Facilities through Interagency Agreements (IAs) in Fiscal Year 2011

The Department of Defense Inspector General (DoDIG) recently completed an audit of Department of Defense (DoD) Purchases Made Through the Department of Energy (DoDIG audit Project No. D2009-D000CF-0069-000). The audit was conducted in accordance with the requirements of section 801 of the 2008 National Defense Authorization Act (NDAA) as amended. Although the audit is not final, the DoDIG has provided the Department its findings and recommendations. As a direct result of the audit, and in response to those findings and recommendations, the following policy is imposed, effective October 1, 2010, when entering into Interagency Agreements with the Department of Energy.

Each component will enter into and administer all DoD WFO projects performed at DoE facilities in accordance with existing statutes, regulation and policy consistent with their standards, policies and procedures except as such policies and procedures may be amended by the provisions set forth below, and:

- Ensure that a warranted DoD contracting officer reviews each requirement in excess of $100K designated for performance by the Department of Energy. The warranted contracting officer will, at a minimum, ensure that supporting documents demonstrate that:
    - Sufficient market research has been completed and sufficient documentation exists that demonstrates that the specific DoE location/center is capable of performing the required tasks;
    - The description of the supplies and/or services to be provided are specific, definite and certain;

- Either an Economy Act D&F (FAR 17.5, DFARS 217.5) has been properly executed for the requirement, or, if the Economy Act is not the authority that DoE will be operating under when executing the requirement then the requirements of DFARS 217.7802(b) have been met and that a "Best Interest Determination" has been executed;
- An Interagency Agreement, in the general format prescribed by the Office of Federal Procurement Policy (OFPP) (June 2008) as amended, has been prepared and executed for the requirement.
- An assessment that the proposed cost/price is reasonable has been performed. At a minimum this will include: an independent government cost estimate (IGCE) prepared by DOD; detailed pricing information (proposal prepared by DoE) that has been reviewed by the cognizant DoD technical project manager/Contracting Officer Representative (COR) to ensure the hours and skill mix proposed are reasonable for the task(s) to be accomplished; an assessment that the quantity and type of materials proposed are necessary and reasonable.
- Each Interagency Agreement documents cost/price reasonableness.
- A qualified DoD technical project manager/COR has been identified and appointed, by a warranted contracting officer of the DoD requiring activity, to perform Contracting Officer Representative (COR) functions, including monitoring contractor performance, and reviewing contractor invoices.

You are also reminded that in accordance with FAR 17.502, "Interagency Acquisition Under the Economy Act," the Economy Act may not be used by an agency to circumvent conditions and limitations imposed on the use of funds.

My POC for this is Mr. Michael Canales 703-695-8571 or via e-mail at michael.canales@osd.mil.

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy