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U-347-10/AC

30 SEP 2010

MEMORANDUM FOR NGA CONTRACTORS

SUBJECT: Organization Conflict of Interest (OCI)

1. With all the current press and discussion about OCIs, Barry Barlow, Component Acquisition Executive and I decided we should explain NGA's current approach to OCIs. As you know, OCI is not a new topic. It was first addressed in 1963 in the Armed Services Procurement Regulation. The Federal Acquisition Regulation defines OCI as any situation where because of other activities or relationships with other entities: (1) a company is unable or potentially unable to render impartial assistance or advice to the Government, (2) a company's objectivity in performing contract work is or might be otherwise impaired, or (3) a company has an unfair competitive advantage. The FAR further provides that OCIs "may result when factors create an actual or potential conflict of interest on an instant contract, or when the nature of the work to be performed on the instant contract creates an actual or potential conflict of interest on a future acquisition. In the latter case, some restrictions on future activities of the contractor may be required."
2. Overall, we characterize our approach to OCIs at NGA as moderate. We attempt to avoid and mitigate OCIs to the extent practicable, rather than proscriptively eliminating companies from business opportunities. We will only do the latter when necessary to protect the Government's best interests.
3. The first step we took to address OCIs was to identify contract work most closely associated with inherently governmental functions. We segregated that work and included it in one solicitation entitled Resource Decision and Acquisition Support (RDAS). On that particular acquisition, we have a straightforward OCI requirement. If a company has a financial interest in development work performed for NGA at time of award of RDAS, the company will be ineligible for award of an RDAS contract. If a company is awarded an RDAS contract, it will be ineligible to perform development work for NGA as long as it holds an RDAS contract. If a company provides non-developmental support to NGA, an OCI may still exist; however, we will attempt to resolve those situations through mitigation efforts to the extent feasible.

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4. For purposes of the RDAS OCI provision, development work is broadly defined as development studies, prototypes, software development, deployment of new capabilities, and sustainment activities inherent to the normal development process for NSG production or research applications, regardless of whether the work is performed as a prime or subcontractor.

5. We did not formulate the acquisition strategy for RDAS, and its OCI provision, precipitously. Rather, in accordance with FAR 9.504, we considered avoidance, neutralization, and mitigation actions to resolve potential OCIs. Because of the closely inherently governmental nature of the RDAS effort and the interdependencies of that work throughout the NSG enterprise, we believe the approach chosen is necessary to protect the best interests of the Government.

6. We do not anticipate the requirements on RDAS growing significantly because we did a thorough scrub of all requirements before identifying the RDAS level of effort. Likewise, we do not anticipate using similar OCI language in other currently planned acquisitions.

7. Contractors who perform work under the Enterprise Engineering and GeoScout Systems Integration contracts will continue to perform in accordance with their approved mitigation plans and nondisclosure agreements. In the future, we will monitor OCI policy changes and will implement them as they become final. Many companies have asked questions about acquisitions being planned for future fiscal years. We cannot make those determinations at this time.

8. To resolve OCI concerns regarding any contractors who help capture future acquisition requirements, we use a combination of different contractor's employees, FFRDC, and government integrated teams and we require nondisclosure agreements.

9. We know that companies take OCI very seriously and that as issues are identified you will continue to seek NGA guidance. We have identified Edward ("Ned") Maguire, who is NGA's Ombudsman for Procurement Integrity and Task Orders, to assist in resolving OCI issues. Ned meets with companies to discuss the facts of their concerns, coordinates with the Office of General Counsel, the program offices, and the Contracting Officers and then advises me regarding actions. To date, we have formally and informally addressed concerns of potential offerors and contractors who are currently performing on NGA contracts based on the specific facts of their particular situation.

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10. You are encouraged to seek input on any OCI concerns you have regarding NGA acquisitions from the appropriate Contracting Officer. Unresolved issues should be brought to the attention of Ned or me. Ned's telephone number is (301) 227-7405, while mine is (703) 755-5853.

11. While the sensitivity of everyone at NGA has been raised regarding the potential for OCIs, it is important for companies to understand they should rely on the OCI policies of their company and only on NGA Contracting Officers as opposed to anyone else representing NGA.

12. We look forward to continuing to work with you while the policies evolve.

A handwritten signature in black ink, appearing to read "Sharon R. Parish". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

SHARON R. PARISH  
Senior Procurement Executive

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