Subpart 5137.5 - Management Oversight of Service Contracts

Parent topic: Part 5137 - Service Contracting

5137.503 Agency-head responsibilities.

Army Regulation 70-13, Management and Oversight of Service Contracts, chapter 2, implements the responsibilities set forth in FAR 37.503(a), (b) and (d). See AFARS 5107.5 for implementation of FAR 37.503(c) and DFARS 237.503.

5137.590-1 Definitions.

As used in this section –

“Acquisition of services” means the execution of one or multiple contracts or other instruments committing or obligating funds (e.g., fund transfer, orders under the Federal Supply Schedules or other existing contracts, etc.) to acquire services for a specified requirement.

“Decision authority” means the official with review and approval responsibility as designated and associated with the thresholds at AFARS 5137.590-3.

“Information Technology (IT) services” means the performance of any work related to IT and the operation of IT, including National Security Systems. This includes outsourced IT-based business processes, outsourced information technology and outsourced information functions.

“Service” means the engagement of the time and effort of a contractor whose primary purpose is to perform an identifiable task, or tasks, rather than to furnish an end item of supply.

5137.590-2 Applicability.

(a) Oversight of services acquisition is the shared responsibility of requiring activities, contracting activities, and the Office of the ASA(ALT). See DoDI 5000.74, Defense Acquisition of Services, section 2 for applicability of the instruction and this subpart.

(b) Except as provided in paragraphs (d) and (e) below, and DoDI 5000.74, paragraph 1.1. b, the requirements in this section apply to service acquisitions including any service acquisition determined to be of special interest by the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), the ASA(ALT), the Deputy Assistant Secretary of the Army (Procurement) (DASA(P)), and the Senior Services Manager (SSM).

(c) The requirements in this section also apply to any acquisition of services that is made through

the use of a contract or task order entered into or issued by an agency other than the DoD, unless the non-defense agency has certified in accordance with FAR 17.703(a).

(d) Task orders executed within a service acquisition reviewed pursuant to this subpart do not require a separate acquisition strategy or review, provided the Contracting officer issues the task order consistent with any conditions specified by the acquisition strategy decision authority. A separate acquisition strategy may be executed for complex task orders.

(e) Decision authorities shall retain the ability to respond rapidly to emergencies. Accordingly, the decision authority may approve either verbally or electronically services determined to be an emergency acquisition in accordance with FAR 18.001(a), (b) or (c). This procedure requires a formal notification of intent by the Contracting officer to the decision authority. This procedure also requires the submission of a formal acquisition strategy to the decision authority within 30 days of the notice to proceed.

5137.590-3 Review thresholds.

(a) DoDI 5000.74, Defense Acquisition of Services, dated 5 January 2016 (incorporating change 2, 31 August 2018) sets forth review thresholds for review of Acquisition Strategies. The Army Acquisition Executive (AAE) has delegated the authority for Army Acquisition of Services Categories. See Appendix GG for delegations. Special interest programs may be designated by the USD(AT&L) regardless of the estimated dollar value.

(b) After approval of the acquisition strategy, the acquisition may proceed, and the Contracting officer may release the final solicitation, subject to the separate peer review process outlined in DFARS 201.170 and in AFARS 5101.170, and any other required local reviews.

5137.590-4 Review procedures.

The HCA shall establish procedures for reviews of service acquisitions as delegated. Contracting officers shall forward, through the contracting chain as necessary, service acquisitions meeting the review thresholds identified in Appendix GG to the appropriate approval authority for review and approval prior to issuance of the solicitation. For service acquisitions requiring USD(AT&L), DASA(P) or SSM review and approval, the HCA (or SCO if delegated) will submit the acquisition strategy via the TMT to the Office of the DASA(P), ATTN: Senior Services Manager usarmy.pentagon.hqda-asa-alt.list.saal-p-ssm@mail.mil . At a minimum, the strategy will contain all the information included at AFARS 5137.590-6.

5137.590-5 Reserved.

5137.590-6 Acquisition strategy content.

(a) At a minimum, the acquisition strategy will address the following:

(1) *Requirement.* The outcomes to be satisfied and if such outcomes are performance-based (see FAR subpart 37.6). If not performance-based, obtain the Senior Procurement Executive's approval for acquisitions exceeding the dollar threshold identified at DFARS 237.170-2(a)(2). Address the service acquisition measures of success and how the requirement will be satisfied or was previously satisfied.

(i) Will the requirement be satisfied through the use of a non-DOD contract? If so, indicate whether the appropriate official has approved the acquisition in accordance with the policy and procedures described at AFARS 5117.770.

(ii) Include a discussion of the procurement history.

(iii) Address challenges that drive the mission or acquisition approach.

(iv) Indicate if there is any congressional interest in the requirement.

(v) Discuss opportunities for strategic sourcing.

(vi) All acquisitions of IT services, regardless of dollar value, are subject to the Clinger-Cohen Act: 40 U.S.C. 11101 et seq. Discuss the specific applicability and implications of the Clinger-Cohen Act.

(vii) Describe the use of Category Management procedures when planning for this acquisition. Category Management is the business practice of buying common goods and services using an enterprise approach to reduce redundancies, increase efficiencies and drive savings from Government acquisition programs. All Category Management guidance/terminology is explained in Memorandum 19-13, dated 20 March 2019, titled, Category Management: Making Smarter Use of Common Contract Solutions and Practices. The Army implemented Category Management in a memorandum released on 06 February 2020, titled Category Management Implementation and Execution.

(a) Discuss review of existing Spend Under Management (SUM) contracts and how the command analyzed specific requirement in context of all forecasted contract requirements within the command/enterprise.

(b) If a SUM contract was not utilized, provide rationale for utilizing a Tier 0 contract.

(2) *Risk Management.* Provide an assessment of current and potential technical, cost, schedule and performance risks, the level of stated risks, and a risk mitigation plan.

(3) *Competition.* Explain how the acquisition will provide for full and open competition. If other than full and open competition applies to the acquisition, explain why and include a citation of the statutory authority that allows for other than full and open competition. Address plans for competition for any foreseeable follow-on acquisitions.

(i) Describe the nature and extent of the market research that the Government acquisition team conducted. This should, at a minimum, address the identification of small business sources capable of performing the services and discuss how this information impacted the acquisition strategy for both prime and subcontracting opportunities.

(ii) Is this a consolidated requirement? If so, indicate whether appropriate official has approved the consolidation (see AFARS 5107.170-3(a)(3)).

(4) *Socio-Economic Implications*. Address how the new acquisition will support the achievements of

small business goals and targets. Address how the new acquisition will support any other socio-economic program and/or required-source program, such as AbilityOne.

(i) If this is a bundled requirement, include the benefit analysis as prescribed in the DoD Benefit Analysis Guidebook located at: http://www.acq.osd.mil/osbp/docs/benefits_analysis_guidebook.pdf.

(ii) Indicate whether the Small Business Administration procurement center representative has concurred on the DD Form 2579.

(iii) Include a discussion of subcontracting potential and goals.

(5) *Business Arrangements.* Address how the acquisition will be funded, the type of business arrangements anticipated (e.g., single contract, multiple award task order contract, task orders under existing multiple award contracts, interdepartmental transfers, and interdepartmental purchase requests), the duration of each business arrangement (base period and all option periods), cost estimate for the total planned acquisition, and pricing arrangements (e.g., fixed price, cost reimbursement, time and materials, labor hour, or variations, based on guidance in FAR part 16 and, for commercial services, in FAR part 12). At a minimum, address the following:

(i) Include the total estimated dollar value of the procurement, to include all options.

(ii) Address whether funding is available and the type of funds that will be used.

(iii) Address the contract type and the basis for selection. If the Contracting officer anticipates using a contract type with award fee, include a discussion of the award fee plan, related criteria and evaluation process to include how the award fee evaluation will incorporate attainment of the metrics.

(iv) Assess long-term continuing requirements using cost-type contracts for conversion to fixed price or other lower risk contractual arrangement, especially when the Contracting officer decides to use a cost-type contract after initial analysis indicates that a fixed-price or other low-risk contract instrument may be appropriate.

(v) Discuss the source selection process, including whether it will be formal or informal, proposed evaluation criteria, and the basis for award. If the procurement will use a formal source selection process, do not identify the name of the SSA in the strategy.

(vi) Discuss any waivers or deviations that will be required.

(vii) Discuss contract administration to include the involvement of the Contracting officer’s representative and/or the Defense Contract Management Agency.

(viii) Discuss the existing or planned management approach following contract award to include the tracking procedures or processes used to monitor contract performance. This approach could include, but not be limited to, a quality assurance surveillance plan and written oversight plans and responsibilities.

(ix) Include a milestone schedule which contains key points up to time of award.

(6) *Multi-year contracts.* If the acquisition strategy calls for a multi-year service contract as defined in FAR subpart 17.1 (see also DFARS 217.171) under the authority of 10 U.S.C. 2306c, the acquisition strategy must address the Army’s plans for budgeting for termination liability.

(7) *Leases.* Include a lease-purchase strategy if required by OMB Circular A-94, Section 13.

(8) *Metrics*. Address the cost, the schedule and the performance metrics to include the plan for measuring service acquisition outcomes against requirements. If the acquisition strategy does not include metrics, the Contracting officer must submit the metrics for the decision authority approval prior to execution of any business instrument (e.g., contract, military interdepartmental purchase request (MIPR)) that initiates the acquisition.

5137.590-7 Data collection and reporting.

(a) Data identified in DoDI 5000.74 Enclosure 6 should be collected by the Office of the Senior Service Manager, for all requirements regardless of dollar amount, and reported in the Annual DoD Services Acquisition Report. Data collection will be automated, as it is already captured in the DoD standard procurement data systems.

(b) Post award peer reviews will be done in accordance with AFARS 5101.170(b)(vi) for actions with a total planned dollar value of $250 million or more but less than $1 billion. For actions over $1 billion, reviews will be done in accordance with AFARS 5101.170(a).