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NASA Procedural Requirements

NPR 5101.33A
Effective Date: May 19, 2000
Expiration Date: January 08, 2021

COMPLIANCE IS MANDATORY

Procurement Advocacy Programs w/Change 4, Revalidated 1/08/12016

Responsible Office: Office of Procurement

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CHANGE HISTORY

NPR 5101.33A, Procurement Advocacy Programs

1	Office of Procurement	4/9/04	Deletions of paragraph, references, etc, per Jennings memo dated 12/5/03 and administrative changes made throughout to change NPG to NPR.
2	Office of Procurement	10/4/04	With the creation of NPD 2025, NASA Ombudsperson, NPR was edited to add the word "Procurement" in front of of "Ombudsman" so that distinction is made between the duties of the NASA Ombudsperson and the Procurement Ombudsman.
3	Office of Procurement	12/9/10	Updated wiht 1400 compliance, update applicable documents, and administrative changes made and Appendix A & B updated.
4	Office of Procurement	1/8/2016	Updated to comply with NPR1400.1G, and administrative changes.

Preface

P.1 Purpose

This NPR provides internal guidance for Agencywide advocacy roles:

- a. The NASA Procurement Ombudsman.
- b. Competition and Commercial Item Advocacy.
- c. Value Engineering (VE).

P.2 Applicability

a. This NPR is applicable to NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers.

b. In this directive, all mandatory actions (i.e., requirements) are denoted by statements containing the term "shall." The terms: "may" or "can" denote discretionary privilege or permission, "should" denotes a good practice and is recommended, but not required, "will" denotes expected outcome, and "are/is" denotes descriptive material.

c. In this directive, all document citations are assumed to be the latest version, unless otherwise noted.

P.3 Authority

- a. 48 C.F.R. Chapter 1, Federal Acquisition Regulations (FAR).
- b. Office of Management and Budget (OMB) Circular No. A-131, Value Engineering.

P.4 Applicable Documents and Forms

- a. OMB Circular No. A-131 Value Engineering
- b. NPD 5101.32, Procurement.
- c. NASA FAR Supplement (NFS) 1815.70 Ombudsman
- d. FAR 16505(b)(8) Task and Delivery Order Ombudsman
- e. FAR 3.104-5 Disqualification
- f. FAR 15.201(f) Exchange with Industry before receipt of proposals
- g. FAR Part 33 103 Protests to the Agency
- h. FAR 6.502 Advocates for Competition, Duties and Responsibilities
- i. FAR Part 48 Value Engineering

j. NFS 1806.5 Competition Advocates

k. NFS Part 1848 Value Engineering

P.5 Measurement/Verification

Measurement/verification occurs through receipt of competition advocate and commercial item advocate reports.

P.6 Cancellation

NPR 5101.33A, Procurement Advocacy Programs dated May 19, 2000.

Revalidated January 8, 2016, Original signed by

/s/Thomas S. Luedtke
Associate Administrator for Procurement

Distribution:

NODIS

Chapter 1. NASA Ombudsmen

1.1 Goal

The Procurement Ombudsman Program establishes a more open acquisition process by facilitating communication on an informal basis between NASA and parties outside the Government. For additional information see NFS 1815.70.

1.2 The Agency Procurement Ombudsman's Responsibilities

1.2.1 The Agency Procurement Ombudsman, designated in NPD 5101.32, shall:

- a. Take action to resolve concerns, disagreements, and recommendations submitted by interested parties that cannot be resolved at the Center level, or those having Agency-wide implications
- b. Refer Center-specific issues to the appropriate Center Procurement Ombudsman for action.
- c. Periodically communicate with Center Procurement Ombudsmen on common Agency-wide issues and refer those issues to the appropriate office for action.

1.3 Additional Agency and Center Procurement Ombudsmen's Responsibilities:

1.3.1 Agency and Center Procurement Ombudsmen's shall:

- a. Serve as Agency representatives to facilitate communications between NASA and interested parties (e.g., offerors, potential offerors, contractors, and industry representatives) in the resolution of matters arising during the pre-award and postaward phases of a procurement. Additionally, interested parties may provide recommendations on the way NASA can improve its acquisition process. However, interested parties must try to resolve their concerns with the contracting officer before consulting with a Procurement Ombudsman.
- b. Listen to concerns about specific issues and working with the appropriate persons within NASA to resolve those concerns before they become major problems.
- c. Review complaints relative to multiple-award task and delivery order contracts, awarded under FAR 16.505 to ensure that all contractors are afforded a fair opportunity to be considered.
- d. Collect all relevant facts to resolve issues raised by interested parties. Collection of source selection and proprietary information will be coordinated with the contracting officer or, if appropriate, the Source Evaluation Board (SEB) chairperson. Procurement Ombudsmen are granted access to source selection and proprietary information and will comply with the requirements in FAR 3.104-5 and 15.201(f). Information shall be obtained from officials responsible for the Freedom of Information Act prior to the release of Agency records.
- e. Maintain a log to track individual cases from receipt to disposition. Names will not be recorded in the log if anonymity is requested by the interested party.

1.3.2 The role of the Procurement Ombudsman will not diminish the authority of the contracting

officer, Source Evaluation Board, or Source Selection Authority. The Procurement Ombudsman Program does not replace the FAR contract protest or disputes processes. Moreover, communications with an Procurement Ombudsman does not affect the time limits for filing a protest or appealing a contracting officer's final decision as described in FAR Part 33.

Chapter 2. Competition and Commercial Item Advocacy

2.1 Competition Advocates

The Competition Advocates for NASA are designated in NFS 1806.501. Their duties and responsibilities are set forth in FAR 6.502 and NFS Subpart 1806.5. These include being advocates for both competition and commercial item acquisition.

2.2 Reports

2.2.1 As required in NFS 1806.502, Center Competition Advocates will submit annual reports to the Agency Competition Advocate (Headquarters Procurement, Program Operations Division) on or before November 30 of each year.

2.2.1.1 Competition Advocate Report. Contracting activities that achieve both a competitive action rate of 80% and a competitive obligation rate of 70% are only required to complete a Competition Advocate Report Short Form.

2.2.1.2 Contracting activities that do not meet the requirements for completing the Competition Advocate Report - short Form are required to report competition advocate data to the Headquarters, Procurement Operations Division, and will use the template in Appendix A to this document. The report shall address all of the FAR 6.502 requirements for competition and commercial item reporting by means of concise, self-explanatory bullets for each element. The number of bullet entries for each element will be dependent on the amount of activity the contracting activity has had during the year, but at least one bullet entry is required for each.

2.2.1.3 Competition Advocate Report - Short Form. Those contracting activities that meet the requirements for completing a Competition Advocate Report - Short Form will use the template in Appendix B to this document. This report also requires concise and self-explanatory entries, and at least one bullet entry is required for each element.

Chapter 3. Value Engineering (VE)

3.1 Goal

The VE Program will contribute to the overall Agency and contract management objectives of streamlining operations and organizational structure, improving quality and safety, reducing costs, and ensuring that environmentally sound and energy-efficient practices and materials are considered in all of NASA's decisions.

3.2 Responsibilities

3.2.1 The Agency VE Manager, designated in NPD 5101.32, shall:

- a. Carry out policies and practices set forth in OMB Circular No. A-131, Part 48 of the FAR, and Part 1848 of the NFS.
- b. Monitor the VE Program, in coordination with the Program Associate Administrators, to ensure that a viable VE Program is established throughout NASA. Value engineering analysis during the early stages of design provide the greatest potential for savings.

3.2.2 Center Directors will designate a senior staff member to act as a focal point to monitor and advocate VE as it affects projects, programs, systems, and product development under their cognizance.

3.2.3 The Center VE focal points are responsible for:

- a. Assisting the VE Manager in meeting the objectives of the VE Program.
- b. Ensuring that a VE clause is included in NASA solicitations and contracts, as required by FAR Subpart 48.2 and NFS Subpart 1848.2.
- c. Actively eliciting Value Engineering Change Proposals (VECP) from contractors whose contracts contain a VE clause. Value Engineering Change Proposals will be promptly processed and objectively evaluated in accordance with NFS 1848.103.

Appendix A: COMPETITION ADVOCATE REPORT (Ref: FAR 6.502)

(Insert Contracting Activity Here)

A.1. Full and Open Competition - New opportunities/actions taken to maximize competition: Summarize your competitive procurements (distinguish between awarded and planned) and provide specific examples (e.g., actual or potential contract dollar value/identify program or project /contract type). Discuss any conditions that led to increase/decrease from previous year and include meaningful analysis of trends citing examples representative of report findings.

A.2. Competition of Commercial Items - New initiatives taken to increase commercial item acquisition: Summarize your competitive commercial item procurements (distinguish between awarded and planned) and provide specific examples (e.g., actual or potential contract dollar value/identify program or project /contract type). Discuss any conditions that led to increase/decrease from previous year and include meaningful analysis of trends citing examples representative of report findings.

A.3. Use of Performance Based Acquisition Strategies - Results of new initiatives taken to ensure, to the maximum extent practicable, the use of performance based acquisition strategies structured around the purpose and outcome desired.

A.4. Task and Delivery Orders over \$1.0M - Results of initiatives that ensure task and delivery orders over \$1M issued under multiple award contracts are properly planned, issued and comply with FAR 8.405 (Federal Supply Schedule) and 16.505

A.5. Recommendations for personal/organizational accountability for competition, which may include the use of recognition and awards to motivate program managers, contracting officers, and others in authority to promote competition in acquisition.

A.6. Barriers to Competition and Commercial Item Acquisition - Describe any condition or action that has the effect of unnecessarily restricting competition or commercial item acquisition and suggestions or steps taken to remove or mitigate.

A.7. Other - **a)** Actions taken to mitigate risk when noncompetitive, cost-reimbursement, or time-and-material/labor-hour contracts are used. **b)** Opportunities and actions taken to transition to more competitive or lower risk contract types.

A.8. If applicable, list potential value/requirement description for your Center and provide brief discussion of changes in trends or conditions that led to increases/decreases from prior fiscal year:

Example: XX Center - \$750,000,000 Russian Space Agency one year Soyuz extension

a. JOFOCs over \$78.5M,

b. JOFOCs Unusual & Compelling Urgency,

c. Any single award IDIQs over \$100 million, and

d. Only one offer received for competitive acquisitions (definitive contracts only (excludes Purchase Orders, Delivery/Task Orders and Blanket Purchase Agreements)).

Appendix B: COMPETITION ADVOCATE REPORT

SHORT FORM (Ref: FAR 6.502) (Insert Contracting Activity Here)

(NOTE: This template is to be used only by those contracting activities that exceeded the 80% competitive action AND the 70% competitive obligation threshold.)

B.1. Competition of Commercial Items - New initiatives taken to increase commercial item acquisition: Summarize your competitive commercial item procurements (distinguish between awarded and planned) and provide specific examples (e.g., actual or potential contract dollar value/identify program or project /contract type). Discuss any conditions that led to increase/decrease from previous year and include meaningful analysis of trends citing examples representative of report findings.

B.2. Barriers to Competition and Commercial Item Acquisition - Describe any condition or action that has the effect of unnecessarily restricting competition or commercial item acquisition and suggestions or steps taken to remove or mitigate.

B.3. Task and Delivery Orders over \$1.0M - Results of initiatives that ensure task and delivery orders over \$1M issued under multiple award contracts are properly planned, issued and comply with FAR 8.405 (Federal Supply Schedule) and 16.505

B.4. Other - **a)** Actions taken to mitigate risk when noncompetitive, cost-reimbursement, or time-and-material/labor-hour contracts are used. **b)** Opportunities and actions taken to transition to more competitive or lower risk contract types.

B.5. If applicable, list potential value/requirement description for your Center and provide brief discussion of changes in trends or conditions that led to increases/decreases from prior fiscal year:

Example: XX Center - \$750,000,000 Russian Space Agency one year Soyuz extension

a. JOFOCs over \$78.5M,

b. JOFOCs Unusual & Compelling Urgency,

c. Any single award IDIQs over \$100 million, and

d. Only one offer received for competitive acquisitions (definitive contracts only (excludes Purchase Orders, Delivery/Task Orders and Blanket Purchase Agreements)).