



INFORMATION PAPER FOR THE BUSINESS ADMINISTRATION COMMITTEE

Status on the Draft *Fourth Edition* of Contracting Manual

February 2013



Purpose

The purpose of this paper is to update the Business Administration Committee on the status of the recommended changes to the Metropolitan Washington Airports Authority's Contracting Manual in the form of a Draft *Fourth Edition*

No formal action is requested at this meeting

Management will brief the Committee on:

- 1) The status of due diligence and solicited comments, and
- 2) Next steps for adoption of the *Fourth Edition*



Background

In October 2012, the Board of Directors approved issuance of the *Third Edition* of the Contracting Manual, primarily incorporating requirements of the Federal Transit Administration

On November 1, 2012, the US DOT Office of Inspector General (OIG) released a report containing 12 specific recommendations, four of which recommended various enhancements to the Contracting Manual



Background

In December 2012, staff presented the Draft *Fourth Edition* Contracting Manual to the Business Administration Committee, which was intended to specifically address recommendations of the OIG.

The Committee authorized staff to begin due diligence and solicit public comment on the Draft *Fourth Edition*

The Draft was advertised in the Washington Post and posted on the website for 30 days, to solicit public comment (Only nominal public comments were received)



Background

Additionally, the Draft *Fourth Edition* was provided to the US DOT, FAA, FTA, GAO and US DOT-OIG for review and comment with a request to return comments by January 18, 2013

On February 5 and February 7, respectively, the FAA and GAO confirmed that they had no comments

On January 29 and February 1, respectively, the OIG and FTA provided comments



Summary of Comments

FTA comments are primarily focused on ensuring that requirements related to procurements using federal funds are clearly identified throughout, and suggests the development and/or inclusion of reference to several forms to aid in documentation

OIG comments are primarily focused on providing additional clarity around items intended to address their original concerns

Staff has evaluated the comments and concur they will result in additional improvement to the Contracting Manual



Next Steps

In December, staff targeted approval of the Draft *Fourth Edition* of the Contracting Manual at its February meeting

Given the nature and timing of comments received, staff continues to refine the Draft, and to ensure proper quality control, recommends the following timeline for adoption:

- March 2013 Business Administration Committee Meeting
 - Approval of Draft *Fourth Edition* of the Airports Authority Contracting Manual, incorporating comments as appropriate, and Committee recommendation to Board for adoption on same meeting date
- March 2013 Board of Directors Meeting
 - Adoption of Fourth Edition of Airports Authority Contracting Manual



APPENDIX I

Inspector General's Recommendations Specific to Contract Manual As presented to the Committee in December 2012

[Recommendation 1](#)

Provide Quarterly Acquisition Reports to the Board of Directors (BOD) and Department of Transportation (DOT)

[Recommendation 2](#)

Implement a Plan with Milestones to Revise Contracting Policies & Procedures to Reflect Federal and Other Best Practices

[Recommendation 3](#)

Clarify and Enforce Current Contracting Policies and Procedures

[Recommendation 5](#)

Establish Policies and Procedures for Procurement Integrity

APPENDIX II

Draft Revisions To the Contracting Manual As presented to the Committee in December 2012

Recommendation 1 - Provide Quarterly Acquisition Reports to the Board of Directors and US DOT

- Annual Acquisition Forecasts / Quarterly Reports
 - In addition to the annual acquisition forecasts, the manager of the Procurements and Contracts Department shall present to the Board and to the Secretary of Transportation a quarterly procurement report that lists planned solicitations for the coming quarter and acquisitions greater than \$50,000 made during that quarter, including the type of acquisition made, the vendor the contract was awarded to, the dollar amount of the award, and whether full and open competition was used, and if not, the authority under which it was awarded
 - Delegations of contracting authority will be reported within the quarterly report



Draft Revisions

Recommendation 2 - Implement a Plan with Milestones to Revise Contracting Policies & Procedures to Reflect Federal and Other Best Practices, and

Recommendation 3 – Clarify and Enforce Certain Contracting Policies and Procedures

Revisions eliminate concept of “Categorical Exceptions” which did not require Board approval for certain Sole Source procurements



Draft Revisions

Recommendations 2 and 3, Continued

Establishes four primary types of procurements:

1. Full and Open Competition
2. Full and Open Competition with Exclusions
3. Full and Open Competition Using Contracts
Competitively Procured by Other Governmental Units
4. Other Than Full and Open Competition
- All of this type will require Board approval if over \$200,000



Draft Revisions

Recommendations 2 and 3, Continued

- **Full and Open Competition with Exclusions**
 - **Local Disadvantaged Business Enterprise – 100% Set-Aside:** The Airports Authority may set aside contracts, when appropriate, for competition only among LDBE firms. While competition for such contracts is limited to LDBE firms, all LDBE firms able to complete the scope of work may compete.
 - **Airport Security:** For security reasons, distribution of some solicitations relating to airport security and information technology procurements must be controlled and issued only to Airports Authority-approved firms.



Draft Revisions

Recommendations 2 and 3, Continued

- **Full and Open Competition Using Contracts Competitively Procured by Other Governmental Units**
 - At times, the required goods, services or construction are able to be obtained by utilizing a government-awarded contract previously awarded using competitive procedures.
 - Sponsoring organizations may include the Metropolitan Washington Council of Governments (COG), the General Services Administration and other federal, state, county or local government agencies.



Draft Revisions

Recommendations 2 and 3, Continued

- **Other than Full and Open Competition**

- The following are the categories of circumstances in which other than full and open competition may be used with proper justification.
 - » *Urgent and Compelling Needs*: The need for goods, services or construction is so urgent and compelling that the Airports Authority would be seriously injured financially or otherwise
 - » *Airline Improvements to Airport Facilities*: The procurement of construction services by an airline tenant to deliver specifically identified and approved improvements to airport facilities is in the best interests of the Airports Authority
 - » *Sole Source*: There is only one responsible or one practicable source for required goods, services or construction

All of this type over \$200,000 require Board approval



Draft Revisions

Recommendations 2 and 3, Continued

- Task Order Contracts
 - Fair opportunity to all firms under multi-contract task order
 - Procedures shall be established by Procurement and Contracts Department
- Change Orders
 - Any change in price or terms may be authorized by the Contracting Officer only after reviewing the circumstances and making the determination that the change is justified and falls within the scope of the contract



Draft Revisions

Recommendations 2 and 3, Continued

- **Authorized Contracting Offices**
 - Procurement of all goods and services and construction shall be undertaken by the Central Procurement Office and the Airports' Materials Management Divisions
- **Ethics in Procurement**
 - Revised section of conduct directs the user back to the Airports Authority-wide Ethics Policy
 - All offerors shall certify that they have no information concerning Code of Ethics violations by an airport employee or Director



Draft Revisions

Recommendations 2 and 3, Continued

- “Sole source negotiation” procurements
 - In excess of \$200,000, notice prior to contract award will be published on the Airports Authority’s website, describing the item to be acquired, stating that the Airports Authority has determined that only one source of the item is practicably available, identifying that sole source and stating the date on which the contract will be awarded.
 - Justifications must be made publicly available by posting on the Airport Authority website within 14 days of the contract award and must remain available for a minimum of 30 days.



Draft Revisions

Recommendation 5 -

Establish Policies and Procedures for Procurement Integrity

- Authorized Contracting Offices
 - Procurement of all goods and services and construction shall be undertaken by the Central Procurement Office and the Airports' Materials Management Divisions
- Ethics in Procurement
 - Revised section of conduct directs the user back to the Airports Authority-wide Ethics Policy
 - All offerors shall certify that they have no information concerning Code of Ethics violations by an airport employee or Director

**INFORMATION PAPER FOR THE BUSINESS ADMINISTRATION
COMMITTEE**

**STATUS ON THE DRAFT REVISIONS TO AIRPORTS AUTHORITY
CONTRACTING MANUAL**

FEBRUARY 2013

PURPOSE

Staff will provide the Business Administration Committee with an update on the status of the revisions to the Metropolitan Washington Airports Authority's Contracting Manual.

BACKGROUND

In October 2012, the Board of Directors approved the Third Edition of the Contracting Manual. At the time of that approval, the Department of Transportation's Office of the Inspector General (OIG) was conducting an organization-wide audit of the Airports Authority. This audit began in early 2011; the OIG final report was released on November 1, 2012 (OIG Report). Within the OIG Report were 12 recommendations that the Airports Authority should address, several of which were related to the Contracting Manual.

At the December 12, 2012, Business Administration Committee Meeting, staff presented a Draft Fourth Edition of the Contracting Manual intended to implement the OIG recommendations. Staff additionally requested from the Committee its concurrence to begin the "Due Diligence" process, to amend the Airports Authority Contracting Manual.

The due diligence process consisted of providing the public the opportunity to comment prior to the Board of Directors taking final action on the Contracting Manual. Staff also provided the revisions for comment to the Federal Transit Administration, Federal Aviation Administration, US Government Accountability Office, and Department of Transportation, Office of Inspector General.

The Airports Authority requested all comments be received by January 18, 2013, to enable staff to compile, review and present to the Business Administration Committee and the Board of Directors at their February 20, meetings. The Airports Authority received nominal comments from the general public. On February 5 and February 7, respectively, FAA and GAO confirmed that they had no comments. However, on January 29 and February 1, respectively OIG and FTA provided comments.

FTA comments are primarily focused on ensuring that requirements related to procurements using federal funds are clearly identified throughout the Manual, and suggests the development and/or inclusion of reference to several forms to aid in documentation. The OIG comments are

primarily focused on providing additional clarity around items intended to address its original concerns. Neither FTA nor OIG suggestions alter Airports Authority policy.

CONCLUSION

Staff has evaluated the comments and concurs that they will result in additional improvement to the Contracting Manual. Given the nature and timing of comments received, staff continues to refine the Draft, and to ensure proper quality control. Staff recommends presenting the Draft Fourth Edition of the Airports Contracting Manual to the Business Administration Committee, Board of Directors for consideration and approval in March.

Prepared by

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