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IMPLEMENTING THE COMPETITION IN CONTRACTING ACT

Review Date: August 15, 2014

1.0 PURPOSE

This circular enables the Bureau of Engraving and Printing (Bureau/BEP) to comply with the Competition in Contracting Act of 1984 (Public Law 98-369), Federal Acquisition Regulations (FAR), Part 6, and applicable Department of the Treasury Acquisition Regulations by defining the duties and responsibilities of the Bureau's Competition Review Board and Competition Advocate.

2.0 POLICY

It is the Bureau's policy to promote and provide full and open competition in the acquisition process, while providing competitive acquisition procedures. Exceptions to competitive procedures are permitted when adequate and complete written justifications accompany the proposed acquisition request as stated in FAR [Subpart 6.303](#). Additionally, the Bureau upholds FAR guidance that prohibits justifying less than full and open competition based on a lack of advanced planning by the requestors.

3.0 SCOPE

This circular applies to all Bureau personnel including contracting officers, requirements writers, and others involved with acquisition contract actions who must comply with the provisions of the Competition in Contracting Act (CICA).

4.0 SUPERSESSION

This circular supersedes Circular No. 70-06.4, December 9, 1992, "Implementing the Competition in Contracting Act (CICA)."

5.0 REFERENCES

- 5.1 [Competition in Contracting Act of 1984](#), (Public Law 98-369).
- 5.2 Government Services Administration, [Federal Acquisition Regulation \(FAR\) Volume 1](#), Parts 1-51, [Part 6, Competition Requirements](#), March 2005.
- 5.3 [Department of the Treasury Acquisition Procedures \(DTAP\) Part 1006](#), 03/1/2011.

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5.4 Treasury Directive 76-02, Use of Procurement Authority, October 22, 1992.

6.0 BACKGROUND

6.1 Enacted April 1, 1985, CICA provisions were incorporated into the Federal Acquisition Regulations (FAR) and the DTAP Part 1006. CICA requires the Bureau to promote and provide for competition when contracting for its logistical needs (i.e., supplies, services, buildings, and equipment) unless an exception to competition can be justified. The section that follows outlines those exceptions:

6.1.1 The CICA provides for the Bureau to write contracts without using full and open competition when the contracting officer can provide written justification based on any one of several US Codes. Following are the generalized reasons described in the codes:

- Only one responsible source can provide the required supplies or services to satisfy the Bureau's requirements.
- An unusual and compelling urgency permits the agency to limit the number of sources contacted.
- To achieve industrial mobilization or to establish or maintain essential engineering, developmental, or research capability.
- An international agreement or treaty precludes contracting with other sources.
- A specific source is authorized or required by statute.
- In the interest of national security.
- It is not in the public interest to use a competitive process.

7.0 CICA RELATED APPOINTMENTS AND RESPONSIBILITIES

7.1 Appointment of the Competition Review Board Members

In accordance with the Treasury Acquisition/Procurement Regulation (TAPR) 1006.304(b)(1), the Director shall appoint at least three Bureau officials at the GS/GM-15 or Senior Executive Service levels to function as the Competition Review Board. Appointees should not be members of the Office of Acquisition, the Chief Counsel, or be assigned as the Bureau's Competition Advocate. Competition Review Board (Board) appointments, and/or changes in membership, will be in writing; and copies of the appointment/change document forwarded to the Treasury Department and Bureau Competition Advocates.

7.2 Duties and Responsibilities of the Competition Review Board

7.2.1 The Board will meet periodically to review and approve or reject justifications for noncompetitive procurements exceeding \$25,000. Board members will sign TD Form 76-01.6, "Justification For Other Than Full and Open Competition (JOFOC)," to signal approval (See Section 7.4.2.1 of this circular for form information). After the Board has approved a request, the package will be forwarded to the next level of review and approval.

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- 7.2.1.1 Forward requests for \$150,000 or less to the Contract Officer for final approval.
 - 7.2.1.2 Requests exceeding \$550,000 will be forwarded to the Competition Advocate through the Chief, Office of Acquisition after it has been reviewed by Legal (See Section 7.3, Appointment of the Competition Advocate).
 - 7.2.1.3 Contracts ranging between \$151,000 to \$549,000 should be forwarded to the Contract Officer and Small Business Representative.
 - 7.2.1.4 After approval recommendation by the Competition Review Board or Chief, Office of Acquisition, noncompetitive procurements exceeding \$1 million must be further reviewed by the BEP Director or designee at the Senior Executive Service level. For procurement requests exceeding \$11.5 million, an additional level of review by the Department of the Treasury Senior Procurement Executive is required.
- 7.2.2 The Board, in conjunction with the Bureau's Competition Advocate, will contribute to discussions with the Department of the Treasury towards establishing Bureau competitive procurement goals; or other goals related to competition advocate program. Progress towards meeting these goals will be reviewed by the Board periodically.
- 7.2.3 The Board will provide input for the Bureau's Competition Advocate's annual report to the Department of the Treasury.
- 7.2.4 The Board is tasked to provide the following support to help eliminate barriers to competition:
- Assisting in Bureau-wide advanced procurement planning.
 - Ensuring that, upon request, assistance is made available to the Competition Advocate.
 - Suggesting or helping to develop potential sources of supply.
 - Working with the Competition Advocate to identify problem areas (or barriers) that may be limiting competition for Bureau procurements.
- 7.3 Appointment of the Competition Advocate
- The FAR Section 6.501 requires the Bureau Director to appoint a Competition Advocate and inform, in writing, the Treasury Department Competition Advocate of the appointment and any subsequent changes.
- 7.4 Duties and Responsibilities of the Bureau's Competition Advocate
- 7.4.1 The Bureau Competition Advocate will ensure that a written justification, required by FAR [Subsection 6.304\(2\)](#), is prepared before the actual purchase and accompanies all acquisitions that exceed \$650,000 but less than \$12.5 million and will not be openly bid. Exceptions to this requirement are explained below:
- Acquisitions made under an unusual and compelling urgency, when prior approval would result in an unreasonable delay resulting in harm

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to the Government. Under these circumstances, written justification may be made and approved after contract award.

- Contracts written under statutes that specify a source for the procurement. However, if the statute authorizes but does not require a specified source, the requirement to provide written justification and approval remain in effect.

7.4.2 To approve a Justification for Other Than Full and Open Competition, the Competition Advocate will sign and date TD Form 70-01.6. Conversely, the Competition Advocate will return the form to the sender for revision or cancellation when the justification is insufficient.

7.4.2.1 TD Form 76-01.6, [Justification For Other Than Full And Open Competition](#), is used to justify procurements in the exception to competition category described in Section 6.1.1 of this circular. The bulleted statements below are examples of situations requiring additional documentation that can be included in Section 15. E. of the form.

- An explanation of why technical data packages, specifications, engineering descriptions, statements of work, or purchase descriptions suitable for full and open competition have not been developed or are not available.
- When only one responsible source is cited for follow-on acquisitions as described in the FAR, [Subsection 6.302-1\(a\)\(2\)\(ii\)](#), an estimate of the cost to the Government that would be duplicated and how the estimate was derived.
- When citing an unusual and compelling urgency, data, estimated cost, or other rationale should be included to explain the extent and nature of the harm to the Government.

7.5 Department of the Treasury Annual Report

7.5.1 The Competition Advocate will prepare and submit an annual report to the Department, that complies with CICA and Departmental requirements. At a minimum, each annual report shall contain the following information:

- A list of actions that the Bureau intends to take during the current fiscal year to increase the number and dollar value of competitive procurement actions to meet the competition goals established by the Department.
- Other methods the Bureau used to emphasize competition in areas such as acquisition training and research.
- A detailed summary of Bureau's activities and during the preceding fiscal year.

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8.0 OFFICE OF PRIMARY RESPONSIBILITY

Office of Acquisition

<SIGNED>
Larry R. Felix
Director