



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

OPNAVINST 4200.8
N154
27 Aug 2014

OPNAV INSTRUCTION 4200.8

From: Chief of Naval Operations

Subj: MANPOWER, PERSONNEL, TRAINING AND EDUCATION ENTERPRISE
SUPPORT SERVICES CONTRACT REQUIREMENTS MANAGEMENT

Ref: (a) OPNAVINST 4200.7
(b) ASN (RD&A) memo of 1 December 2006, Acquisition of Services
(c) Section 812 of the National Defense Authorization Act for Fiscal Year 2006
(d) USD (AT&L) memo of 2 October 2006, Acquisition of Services Policy
(e) ASN (RD&A) memo of 1 October 2012, Reducing Reliance on Bridge Contracts
(f) NAVSUPINST 4205.3E
(g) ASN (RD&A) memo of 18 May 2010, Department of Defense Standard for Certification of Contracting Officer's Representatives (COR) for Services Acquisitions
(h) NAVSUPINST 4200.83H

Encl: (1) Manpower, Personnel, Training and Education (MPT&E) Enterprise Services Contract Requirements Tripwires

1. Purpose. To prescribe policy, responsibility, and procedures for services contract requirements management and oversight for the Manpower, Personnel, Training, and Education (MPT&E) enterprise, consisting of Bureau of Naval Personnel; Commander, Navy Personnel Command; Commander, Naval Education and Training Command; Commander, Navy Recruiting Command; President, Naval Postgraduate School; Superintendent, United States Naval Academy; and President, Naval War College and their subordinate commands, per references (a) through (h).

2. Background

a. References (a) and (b) established the Department of the Navy (DON) process for oversight and management of the acquisition of services by implementing references (c) and (d).

b. Contractor support obtained through award of service contracts is essential to the MPT&E enterprise's successful execution of its missions, functions, and tasks. Contractor support services contracts require appropriate planning and budgeting, consistent with the management and oversight process for the acquisition of services (MOPAS 2) requirements of reference (d). In addition, disciplined oversight and management procedures at all levels of the chain of command are necessary to achieve best value and mission accomplishment. Participation by the organization requiring contractor support in all phases of the acquisition process is essential for effective management of contractor support services.

3. Scope. This policy shall apply to requirements for contractor support services (specifically for those that exceed the simplified acquisition threshold in support of the MPT&E enterprise, including those that are funded by a NAVCOMPT 2276 Request for Contractual Procurement, military interdepartmental purchase request (MIPR), project order, or any other method for obtaining contractor support).

4. Definitions

a. Decision Authority. The individual who has the inherent or delegated authority to review and approve strategies for services contract requirements. For the purposes of this instruction and the MPT&E enterprise, this applies specifically to the requirements planning and budgeting aspect of the services acquisition process. Actual acquisition approval resides with the head of contracting activity (HCA) or above, dependent on the dollar threshold of the acquisition or designation as special interest.

b. Inherently Governmental. The Office of Management and Budget's Office of Federal Procurement Policy memorandum, released 9 September 2011, defines an inherently governmental function as "so intimately related to the public interest as to require performance by federal government employees." Included are functions that require either the exercise of discretion in applying Federal Government authority or value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements.

c. Requirements Review Board. A requirements review board is convened to coordinate and control the requirement's generation and prioritization of contractor support services that are needed in support of the MPT&E enterprise's mission. The requirements review board is chaired by the respective activity's commander, director, superintendent, president, or provost, with membership at the chair's discretion. The requirements review board's primary role is to review and approve the planning and budgeting aspect of the acquisition of contractor support services for its respective activities. The requirements review board is not a contracting board.

d. Service Contract. As defined in Federal Acquisition Regulation (FAR), subpart 37.101, a service contract is "a contract that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply." Examples of contractor support services include knowledge-based services; ongoing analysis support; electronic and communication services; equipment-related services; medical services; facility-related services; transportation services; or recurring studies.

5. Policy. It is imperative that MPT&E enterprise contractor requirements be properly planned and administered in compliance with applicable statutes and regulations for the procurement of services. The goal is to achieve appropriate support at best value to the Government.

a. Governance

(1) Each requirements review board shall be chartered to provide for consistent review and approval of requirements for services.

(2) Each requirements review board chair shall lead their respective staff in the management of contractor support services requirements, analysis, assessment of contract data, and the disciplined administration of contractor support services contracts.

b. Execution

(1) For each contractor support services requirement, requestors shall submit an acquisition strategy document (MOPAS

2 format preferred) prepared following reference (d) for review and approval by the requirements review board. Requestors shall address:

- (a) Requirements development and management;
- (b) Acquisition planning;
- (c) Risk management;
- (d) Contract tracking (of both contract deliverables and contractor performance) and oversight; and
- (e) Performance evaluation.

(2) Risk management plans shall expressly incorporate measures intended to combat fraud and the factors that contribute to fraud. Annually, each MPT&E activity shall conduct a review of these plans to determine effectiveness of quality assurance surveillance plans (QASP) and measures to mitigate fraud risk.

(3) Enclosure (1) establishes the tripwires that invoke higher level notification and approval. These are designed to provide consistent oversight and management across the MPT&E enterprise. The tripwires apply to all types of service contracts and address bridge contracting actions; best value source selection premiums; other direct costs; labor rates and performance; subcontractors; and one-bids. When a tripwire is crossed or the potential exists that a tripwire may be crossed, the requirement owner shall advise Assistant Deputy Chief of Naval Operations for MPT&E Contracts Administrator (OPNAV (N1B4)) as MPT&E enterprise's service contract advisor.

6. Responsibilities. The following organizational duties and responsibilities are described:

a. OPNAV (N1B4) shall serve as an advisor to Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (CNO N1) on matters pertaining to MPT&E enterprise service support contracts and the central point of contact for echelon 1 contract issues. OPNAV (N1B4) will provide assistance as necessary to the MPT&E enterprise regarding the provisions of this instruction and shall ensure acquisition fraud awareness

training material is available for use by enterprise activities. All individuals involved in the contract acquisition process (leadership, contracting officer representatives (COR), and comptrollers shall receive this training).

b. Bureau of Naval Personnel; Commander, Navy Personnel Command; Commander, Naval Education and Training Command; Commander, Navy Recruiting Command; President, Naval Postgraduate School; Superintendent, United States Naval Academy; and President, Naval War College, shall:

(1) Chair their respective requirements review board domain process. Delegation to the deputy or technical director level is authorized.

(2) Seek guidance from Naval Supply Systems Command (NAVSUPSYSCOM) in ensuring all requestors understand the services contract requirements process and provide training as necessary. Ensure MPT&E enterprise service contracts are funded with the correct appropriation, generally Operations and Maintenance, Navy (O&MN). In consultation with NAVSUPSYSCOM, look for strategic opportunities to consolidate requirements to obtain the best value across the command and the MPT&E enterprise. It should be noted that NAVSUPSYSCOM is mission funded and should be used to the maximum extent practical for support services contracts, unless the contractor support services supported activity is specifically assigned to another systems command (SYSCOM) or contracting agency. Use of non-mission funded contracting activities, when there is overlap in responsibilities or specialty program managers, logistics, or engineering is needed from the SYSCOM to manage the requirements, should be justified by a business case analysis and the fee identified.

(3) Maintain oversight of their respective MPT&E enterprise services support contracts to ensure judiciousness and oversight, including compliance with the Procurement Integrity Act; Competition in Contracting Act; applicable Federal, Department of Defense, and DON acquisition regulations; and joint ethics regulations.

(4) Review and approve requests for services and supporting documents per reference (b). This shall include the statement of work or performance work statement, independent

Government cost estimate, purchase request or other encumbrance document, as well as other associated contract support documentation that may be required (e.g., justification and approval, determination and findings, acquisition plan, etc.).

(5) Approve bridge contracts as specified in enclosure (1) and reference (e).

(6) Provide funding authorization from a properly available funding line for all MPT&E enterprise services contract actions, including those that are funded by a NAVCOMPT 2276, MIPR, project order or other vehicle that may result in an obligation and expenditure of funds.

(7) In coordination with NAVSUPSYSCOM and as required by reference (f), identify training resources and requirements to provide required training for assigned CORs, and or technical assistants.

(8) In coordination with NAVSUPSYSCOM and as required by reference (g), ensure all MPT&E enterprise CORs' required training and certification is documented, current, and on file.

(9) Nominate, via the COR tracking tool, <https://wawf.eb.mil>, a COR for each contract as required, to monitor contractor performance and perform the duties as delineated in references (f) and (g).

(10) Ensure each nominated COR and any technical assistant geographically separated from their supported COR have completed all mandatory training requirements to obtain and maintain COR certification per reference (f).

(11) Ensure the COR responsibilities are prescribed in the individual's performance standards. The level of required contract oversight, with particular focus on pressurizing bridge contracts, fully burdened labor rates, and other tripwires outlined in enclosure (1), shall be specifically evaluated in the COR's routine performance appraisal.

(12) Ensure COR certification and designation letters are on file within the COR tracking tool.

(13) Designate a lead COR for contracts that span multiple activities and nominate the lead COR in writing for subsequent appointment by the contracting officer.

(14) Where the assigned COR is not collocated with the contract work, assign a Government point of contact to oversee the work and accept contract deliverables in support of the COR. This individual shall be designated in writing as a technical assistant, technical point of contact, etc. The designation must specifically delineate the responsibilities and limits of authority for the task assigned.

(15) Conduct routine meetings with staff and subordinate activities to address any process or performance issues and corrective actions required.

(16) Assign a point of contact for interaction with OPNAV (N1B4) on support service contract issues.

(17) Maintain and provide OPNAV (N1B4) a current listing of all assigned CORs and associated contracts.

7. Records Management. Records created as a result of this instruction, regardless of media and format, shall be managed per Secretary of the Navy Manual (M-) 5210.1 of January 2012.

8. Forms and Reports Control

a. NAVCOMPT 2276 Request for Contractual Procurement is available for download from Naval Forms OnLine (NFOL):
<https://navalforms.documentservices.dla.mil/web/public/home>.

b. Reporting requirements contained in subparagraphs 6b(15) and 6b(17) are exempt from reports control per SECNAV M-5214.1 of December 2005, part IV, subparagraph 7k.



W.F. MORAN
Deputy Chief of Naval Operations
Manpower, Personnel, Training
and Education)

OPNAVINST 4200.8
27 Aug 2014

Distribution:

Electronic only, via Department of the Navy Issuances Web site
<http://doni.documentservices.dla.mil>

MANPOWER, PERSONNEL, TRAINING AND EDUCATION (MPT&E) ENTERPRISE
SERVICES CONTRACT REQUIREMENT TRIPWIRES

1. Purpose. To provide initial policy in the planning and execution of service contract requirements and to provide some tools to assist in performing leadership oversight.

2. Background. These tripwires were developed during an initial review of MPT&E enterprise contracts conducted by OPNAV (N1B4). Continuing review and adjustment of the tripwires will be conducted. Changes and additions to the tripwires will be incorporated into future issuances of this instruction. Encroachment of these tripwires will be consolidated and reported to the HCA and OPNAV (N1B4) as they arise. There are several tripwires which require senior level awareness and action. These tripwires are tools to force visibility and conscious decisions at higher management levels and to ensure the decisions are documented. Tripwires are not intended to preclude execution, but instead to require higher level concurrence or notifications before continuing to execute. These tripwires apply to all types of service contracts and are identified herein.

3. Scope. These tripwires do not encompass all the areas of service acquisition that require oversight and risk management. However, this list is intended to raise awareness and accountability across both the requirements and acquisition communities, and initiate the vigorous implementation of actions to improve Government oversight, efficiencies, and effectiveness.

4. Tripwires

a. Bridge Contracting Actions (see reference (e)). Bridge contracts are defined as sole source actions entered into with the incumbent contractor to maintain support when competitive procurement cannot be processed in time to meet the required award date. All sole source actions require justification and approval. Often bridges are the result of poor planning and are more costly due to a lack of competitive pricing. For bridge contracts in support of MPT&E enterprise requirements:

(1) Bridge contracts shall normally be limited to 6 months in duration and shall be approved by the cognizant commander or technical director. Any further extension shall be forwarded to OPNAV (N1B4) for review and further action.

(2) Only one bridge contract shall be authorized. Subsequent bridge contracts shall not be awarded.

(3) Each bridge contract shall be limited to no more than \$3 million.

(4) Limited source justifications and approvals for all bridge contracts, regardless of value, will include branch head level signature under the technical cognizance section of the justification and approval and the requirement owner's signature under requirements cognizance section. In a limited source justification and approval, paragraph 8, "Actions to Remove Barriers to Competition," the requirement owner shall provide a detailed explanation that includes a schedule for a competitively awarded follow-on contract.

b. Best Value Source Selection Premiums

(1) In a best value competition, the Government may be willing to pay a premium to obtain a higher rated level of support; however, the premium still must represent a good business decision for the Government. Often requirements offices are willing to pay any premium to get to the highest rated offer, as long as they have the budget to afford it. Being able to afford something does not necessarily mean it is in the best interest of the Government to do so.

(2) Best value is a function of technical quality and cost trade-offs among competing proposals. Best value determinations are not made through mechanical calculations. As technical proposals approach equality, cost may become a more significant factor. The greater than 10 percent tripwire described below does not suggest there is anything impermissible with respect to paying a greater than 10 percent premium, only that additional reviews may be required, as determined by the procuring contracting officer (PCO) and source selection authority (SSA).

(3) The decision to obtain further review is subject to rules regarding the protection of source selection information, as defined in FAR, subpart 3.104. The PCO and SSA request for a higher level review applies in instances where the total value of the procurement is greater than \$10 million and the best value source selection dollar value premium is greater than 10 percent over lowest acceptable offer's total evaluated cost and price.

c. Other Direct Costs in Excess of 10 Percent Total Contract Value

(1) While a service contract is appropriate when the primary purpose is to perform an identifiable task, materials are often required to perform these services. It may be appropriate for a service contractor to procure materials under a service contract; however, there are a number of considerations that enter into developing an appropriate strategy to meet any requirement.

(2) Other direct costs are intended to include travel and incidental miscellaneous expenses required and generally consumed in performance of the service. They are not intended to hide expensive consultants or subcontractors, or for the Government to purchase material by circumventing existing policies and procedures. Deputy Assistant Secretary of the Navy (Acquisition and Logistics Management) memorandum dated 15 May 2007 emphasizes "the need to ensure that service contracts are not improperly used to acquire products or facilities not required for, or incidental to, performance of those services."

(3) Required actions are as follows:

(a) Prior to Award. If other direct costs are estimated greater than 10 percent of the total labor value or \$1 million (whichever is lower) for any given contract, then the rationale for the other direct costs requirements must be provided to the PCO and the methods for monitoring these other direct costs charges shall be documented in the quality assurance surveillance plan. It is expected that some individual task orders under indefinite delivery, indefinite quantity services contracts may have a disproportionate amount of other direct costs included (i.e., greater than 10 percent); however, in these instances justification and rationale shall be

included in the acquisition strategy. When excessive other direct costs are comprised of material items, an explanation as to why these costs are not specifically defined and managed as supply items shall be provided and documented. Generally speaking, travel and conference fees associated with representing the MPT&E enterprise staff at professional or technical conferences are not an acceptable other direct costs.

(b) Post Award. The COR shall monitor the use of other direct costs monthly.

d. Labor Rates (in excess of \$300,000 annualized) and Performance. For competitive cost-type and time and materials, as appropriate, service contracts and task orders.

(1) Prior to Award. When proposed fully burdened labor rates are in excess of \$300,000 per year or \$155 per hour for a full time equivalent within any labor category, or \$35 per hour for a "blue collar" labor category covered under the Service Contract Act, the PCO shall investigate the appropriate nature of such rates as part of cost realism analysis. When multiple labor categories are contemplated in satisfying a service's requirement, fully burdened labor rate caps should be applied to each standard labor category.

(2) Post Award. The COR shall monitor funds expended through the review of progress reports to ensure funding ceilings are not exceeded; monitor burn rates and other direct costs as applicable; and document acceptance of services per QASP prior to certification for payment. The COR shall promptly notify the PCO of issues requiring resolution and OPNAV (N1B4) of significant problems.

e. Subcontractors Added After Contract Award

(1) Post award due diligence is required to monitor any proposed addition of subcontractors beyond those included and evaluated as part of the initial award. The Government cannot exert improper influence on the prime contractor to contract with specific subcontractors. The Government does not have privilege of contract with the subcontractor, only with the prime. It is the prime's responsibility to propose a team to

accomplish the requirements, and it is the prime's responsibility to select additional subcontractors if it becomes necessary to supplement the team.

(2) When applicable, the proposed subcontractor addition must be reviewed first by the PCO to ensure the prime contractor has provided the required documentation (per FAR, part 44.201) and that the information clearly presents the business case for the addition of the subcontractor. If the PCO is comfortable with the business case presented by the contractor, the PCO shall pass the request on to the COR, who must receive concurrence from the MPT&E enterprise requirements manager (or equivalent requirements holder). MPT&E enterprise requirements manager concurrence shall be elevated to higher levels as determined or specified by cognizant MPT&E enterprise commander or director.

(3) The COR shall remain vigilant to identify subcontractor changes or additions that may not be covered by the contract or task order, including all modifications, or may present potential organizational conflict of interest issues.

f. One Bids

(1) Effective competition is one of the most powerful tools the Government has to achieve real efficiency and do more with less. Single offers or "one bids," can be the result of several factors: inadequate time to prepare a proposal, poorly described defined requirements, or evaluation factors that appear to be tailored to an incumbent or target a specific contractor.

(2) When a solicitation results in a one bid offer, the PCO shall either re-solicit the requirement or enter into negotiations, the result of which will be reflected in the business clearance memorandum. Business clearance memorandum approval for all one bid procurements with a fully burdened labor rate greater than \$150,000 per year will be per reference (h).

(3) One bids received under a competitive solicitation shall be reported by the PCO to the cognizant MPT&E enterprise requirements manager.