

Role of the Ombudsman

The primary purpose of the Acquisition and Assistance (A&A) Ombudsman is to ensure equitable treatment of all parties participating in USAID's acquisition and assistance process. The A&A Ombudsman is the designated neutral Agency official responsible for managing internal and external complaints related to any phase of the procurement process.

Trending Topics

IDIQ Language regarding Minimum Guarantees:

Partners we have received your inquiries regarding the language in the solicitations and awards and understand some of you have sought clarification. As a result, below we have shared the following with our A&A colleagues and hope that these revisions will provide the clarity that you seek.

Awarding officials are reminded that when fully executing IDIQ contracts to please use the IDIQ template that has been developed and shared internally. As a point of reference, the cover page template for IDIQ awards contains the following language:

"There is no guarantee on the number of task orders that the successful contractors will receive or the amount of money beyond the minimum order guarantee set forth in the contract. "

This language that is most commonly found in IDIQ awards typically reads as follows:

"The basic contract includes an initial obligation of funds in the amount of \$(insert amount) to cover the minimum order guarantee USAID is required to order and the Contractor is required to furnish the minimum order amount of services. Following this initial obligation, individual task orders will obligate funds to cover the work required under that task order."

While not entirely inconsistent, the language (according to partners) is (for some), misleading, or at the very least, unclear. Remember, the language in the solicitation and award sets expectations for the awardee. The importance of including the exact language in solicitations and awards as pulled from the template and cover letter are instrumental in removing ambiguity for holders so it is understood that there is no expectation of funding beyond any minimum guarantees. In the example provided, the language in the IDIQ template is not consistent with what is reflected in the cover letter.

We are reminding our A&A colleagues to:

1. Use the templates provided.
2. Ensure that the language in IDIQ cover letters and awards include the following: **"There is no guarantee on the number of task orders that the successful contractors will receive or the amount of money beyond the**

minimum order guarantee set forth in the contract. Following this initial obligation, individual task orders will obligate funds to cover the work.

Security Clearance/Facilities Access Updates:

Partners, we have received your concerns regarding consideration for opportunities if you do not have an active personnel security clearance or facilities access.

We have worked with leadership to identify the below remedies:

1. Issue awards 6 months earlier than the POP thereby allowing ample time to process the DD254 by SEC who submits the request to DCSA. Conceivably, initiating this process earlier (not the POP, or payment, just execution of the award), hopefully this will provide the time needed to finalize the proper vetting process.
2. End the practice of limiting competition for these services only to firms that have existing facility clearances. We advocate that awarding officials avoid limiting competition for services only to firms that have existing facility clearances. Solicitation language should not indicate “the partner must possess an active security clearance” and instead indicate “the partner must have the ability to obtain a security clearance” to the greatest extent possible. SEC is available to ensure that security determinations are appropriate, and we encourage you to engage SEC for support.
3. When Indefinite Delivery Indefinite Quantity (IDIQs) are awarded to multiple firms for classified services, Management Bureau’s Office of Acquisition and Assistance, in conjunction with the program or Bureau, collaborates with SEC to initiate the sponsorship process for the holder seeking a security clearance or facility access. This option provides a win-win for both parties in that USAID will receive the service from the cleared partner while a previously uncleared partner will receive the appropriate clearance/ access depending upon what is required under the award. The Ombudsman team is currently undertaking an exercise to review all IDIQ activities currently reflected on the business forecast. We encourage partners to also review the forecast and share with us any opportunities that would be right for this pilot.

Remember, unclassified awards require HSPD-12/Facility Access determinations which are completed through USAID’s Office of Security. Classified awards require the firm to obtain and maintain a Facility Clearance and the staff under the award to obtain and maintain a security clearance which are both handled through the Defense Counterintelligence and Security Agency (DCSA). Based upon the Intelligence Reform and Terrorism Prevention Act of 2004, the government-wide goals for personnel security clearance is estimated to take approximately six months; however, each review is case specific so the estimated time may vary.

eSRS:

We have been informed in the past of issues related to subcontracting plan compliance. We've taken steps to remedy the issues in an attempt to ensure all partners who are named awardees have an opportunity to perform. You may recall PEB 18-01, which was written as a result of partner inquiries. The purpose of the PEB was to provide reference information and best practice to support a Contracting Officer (CO) in facilitating prime contractor compliance with its own small business subcontracting plan as represented in its contract with the Federal government.

We have taken additional steps to ensure we are addressing the subcontracting concerns we continue to receive. As such, we've successfully advocated to M/OAA leadership that the eSRS function be centrally located in Washington and are in the process of addressing this change.

In the past, this function was monitored by COs across USAID's 80+ missions and Washington and even OSDBU assisted with managing the portfolio. Now, with the changes that are underway, M/OAA is placing emphasis on eSRS and assigning a team to manage and oversee these efforts.

eSRS.gov which stands for Electronic Subcontracting Reporting System, is the official site for the Electronic Subcontracting Reporting System. The use of eSRS promises to create higher visibility for federal contracting officials (aka COs and OSDBU) who need to access and review subcontracting reports and introduce efficiency into the process of gathering information on federal subcontracting accomplishments and is also used as a tool to collect those accomplishments.

These efforts will help to ensure the following:

1. Subcontracting compliance and small business goals and accomplishments are being met.
2. Active award profiles are being reviewed, accepted/rejected, and monitored.

These efforts help with managing the subcontracting components of awards and consequently OSDBU will benefit from the emphasis placed on subcontracting goals.

What's Next

Our next Quarterly Newsletter will be published in June 2023

How to Contact Us

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