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PRESIDENT’S MESSAGE: A BROAD VIEW

Recently, BMRA held its 35th annual Stockholders Meeting. The following is adapted from my message to the attendees.

I have witnessed many changes in the industry that have impacted BMRA’s revenue stream. We have witnessed a big change in the manner by which the Government agencies procure their courses. When we began the Continuing Education Business in Government Contracting, agencies would advertise in the *Commerce Business Daily* (CBD) and we would respond. The procurements that were advertised were usually a series of courses to be given repeatedly over an extended period of time. For example, our first big contract was for the Defense Management and Education and Training courses (DMET) sponsored by the Department of the Navy. We won the follow-on contract through competition and continued to present these courses through 1989. Another contract that we competed for and won was with the Department of Health and Human Services (DHHS). Except for a two-year hiatus, we held this contract until 2003. Both of these contracts dealt with a large number of presentations of a list of courses developed by/for the specific agency. In the mid-80s we taught as many as 30 courses per week.

A big change has taken place in the methods the Government uses to procure educational and training services. Instead of being advertised in the *Commerce Business Daily*, course procurements are advertised electronically through FedBizOps. Most agencies now require that contractors be authorized to deliver courses under the General Services Schedule 69 and that the courses be DAU equivalent. Such changes have increased administrative

expenses. For example, there is a cost to receive approval for course equivalency through the American Council on Education (ACE), and to deliver the courses under schedule 69 there is a .75% charge by GSA for the use of their schedule. These additional charges were unheard of ten years ago.

More important than these particular examples of increased administrative costs, however, are those that are caused by the fragmentation of training procurement: increasingly, we work on short-term contracts or task orders for a few presentations of one or two courses.

This predominance of “mini-contracts” has impaired our ability to perform work efficiently. Efficiency depends on predictability, and predictability is exactly what we no longer have. We can’t plan ahead. We can’t build up a repertoire (inventory) because we don’t know ahead of time what the need will be. The entire cycle of performance—from selecting the opportunity to pursuing payment—is affected. Little can be “mass produced”. We can’t develop either products or processes that can be used and reused repeatedly.

At the same time, with less opportunity to “practice”

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and perfect products and processes, quality tends to go down.

In addition, our customers' perception of the quality of our performance has been affected. Since our relationships are short-term, we don't have time to build a history of competence or a trusting, partnership mind-set. We deal with suspicious, hyper-critical strangers.

What does all this mean to BMRA today? It means competition is much keener and pencils must be much sharper in our proposed costs. To answer this financial challenge, we have undertaken cost-cutting measures. We continue to look for ways to increase revenue while reducing operating costs.

What about the future of BMRA? It is my intent that BMRA will continue to operate while providing and improving on the excellent service that we have offered over the years. This service is teaching courses and providing consulting services such as procurement systems reviews and writing performance work statements. We have an excellent office staff and a cadre of experienced professional men and women who have successfully performed in various positions in the field of contracting and business management.

With this strong nucleus of professional personnel, I believe we will continue to meet the challenges of the future and that BMRA will continue its operations as a small business well into the future.

*John Lynch
President*



BMRA HOLDS ANNUAL MEETINGS

On October 9th, BMRA held its 35th Annual Stockholders Meeting and Board of Directors (BOD) Meeting at its offices in Fairfax. The Board of Directors was elected by the stockholders and at the BOD meeting the following officers were elected.

Annemarie Lynch, Chairperson
John C. Lynch, President and CEO
Mary E. Ackerman, Executive Vice President
Margaret (Peggy) Kramer, Secretary
Edna Joyner, Treasurer.

At the Stockholders Meeting John Lynch reported on the operations of BMRA. The report included BMRA's history, current challenges, and what the future has in store for our operations. This was followed with a financial briefing by John Dove, Vice President for Operations, and Edna Joyner, Financial Manager. Their briefing included BMRA's financial conditions for FY 2007 and projections for FY 2008.

Under new business at the Stockholders Meeting, it was announced that BMRA is now a Veteran-owned Small Business as opposed to a Women-owned Small Business.

CSA CONFERENCE

The Contract Services Association (CSA) held its Annual Washington DC Conference in October. Mary Ackerman and John Lynch represented BMRA at the conference. Many leaders from Government and industry gave presentations, including Paul Denett, Administrator of the Office of Federal Procurement Policy; Dr. Paul Hsu, Associate Administrator for Government Contracting and Business Development, Small Business Administration; and Molly Wilkinson, Chief Acquisition Officer for the General Services Administration. The conference featured a panel discussion on "Congressional Acquisition Policy Outlook". Panel members included Cathy Garman, Majority Staff, House Armed Services Committee; Peter Levine, Majority Staff, Senate Armed Services Committee; and David Drabkin, Minority Staff, Senate Homeland Security and Government Affairs Committee. The Panel moderator was Wayne Keup, of Keup Law Firm.



PLANS FOR HIRING RETIRED ANNUITANTS

On September 4, 2007, Paul A. Denett, the Administrator of the Office of Federal Procurement Policy (OFPP) issued a memorandum for Chief Acquisition Officers (CAO) and Senior Procurement Executives reminding them that last October the President signed into law the General Services Administration Modernization Act (P.L. 109-313), which allows Federal agencies to hire retired annuitants to fill critical vacancies in the acquisition field.

The legislation allows agencies to hire an individual receiving an annuity from the Civil Service Retirement and Disability Fund without discontinuing such annuity, under certain circumstances, to fill an acquisition-related position. The authority to use this provision expires on December 31, 2011. Agencies can use this authority, where appropriate, to help meet some of their acquisition workforce hiring needs.

You can find acquisition-related positions defined in the OFPP Procurement Policy Letter 05-01. If you have questions on this initiative, Lesley Field, in the Office of OFPP, is a point of contact. She can be reached at (202) 395-4761.

SMALL BUSINESS RECERTIFICATION PROGRAM

The Small Business Administration released its certification requirements in June of this year, accompanied by a flurry of confusing and inaccurate news releases. To clarify this recertification issue, there is no five-year loophole, as some believe. SBA's clarification in July stated that a formerly small business that becomes a large business through

acquisition, merger, or novation would immediately have to reclassify itself as large, and that government agencies could no longer count those contracts toward satisfying small business contracting goals.



FAR CHANGES

FAC 2005-18 Summary

Small Business Size Re-representation

The purpose of this interim FAR rule is to improve the accuracy of small business size status reporting, at the prime contract level, over the life of certain contracts (long-term contracts, contracts involving novations, acquisitions, and mergers). Contractors will be required to re-represent their size status on contracts—

- Prior to the end of the fifth year of a contract that is more than five years in duration (long-term contract);
- Prior to exercising any option thereafter;
- Following execution of a novation agreement; or
- Following a merger or acquisition of the contractor, regardless of whether there is a novation agreement.

A change in the size status does not change the terms and conditions of the contract, but the agency may no longer include the value of options exercised or orders issued against the contract in its small business prime contracting goal achievements.

FAC 2005-19 Summary of Items

Item I—Reporting of Purchases from Overseas Sources

This final rule adds a provision (52.225-18, Place of Manufacture) to require an offeror to indicate whether the place of manufacture of the end products it expects to provide in response to the solicitation is predominantly inside or outside the United States. Whenever the place of manufacture for a contract is coded outside the United States, the contracting officer will be required to enter into FPDS the reason for buying items manufactured outside the United States. In addition, the rule clarifies different tests used to determine the country of origin (FAR 25.001)



under the Buy American Act and the Trade Agreements Act.

Item II—Changes to Lobbying Restrictions

This final rule amends the FAR in order to be consistent with the Lobbying Disclosure Act of 1995 and the OMB Interim Final Guidance, and to improve clarity of the regulation through improved use of plain language and compliance with FAR drafting conventions. Among the changes, this final rule—

- Includes the new concept of “lobbying contact” and brings in the concept of registrants under the Lobbying Act of 1995;
- Includes the OMB guidance that the term “appropriated funds” does not include profit or fee from a covered Federal action and that to the extent the contractor can demonstrate that the contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds;
- Formalizes in the regulations the changes that were already incorporated in the OMB Form Standard Form LLL, Disclosure of Lobbying Activities;
- Removes 31 U.S.C. 1352, Limitations on Payment to Influence Certain Federal Transactions, from the list of laws that are inapplicable to subcontracts for the acquisition of commercial item; and
- Makes the text, provisions, and clauses easier to understand, for both contracting officers and offerors/contractors.

Item III—Online Representations and Certifications Application Archiving Capability



This final rule eliminates confusion between the FAR record retention requirements at FAR 4.803 and the requirements at FAR Subpart 4.12 requiring contractors to submit Annual

Representations and Certifications via the Online Representations and Certifications Application (ORCA), a part of the Business Partner Network. Using ORCA eliminates the administrative burden for contractors of submitting the same information to various contracting offices, and establishes a common source for this information to procurement offices throughout the Government.

Item IV—Requirement to Purchase Approved Authentication Products and Services

This final rule amends the FAR to address the acquisition of products and services for personal identity verification that comply with requirements in Homeland Security Presidential Directive (HSPD) 12, “Policy for a Common Identification Standard for Federal Employees and Contractors,” and Federal Information Processing Standards Publication (FIPS PUB) 201, “Personal Identity Verification of Federal Employees and Contractors.”

Item V—Combating Trafficking in Persons

This revised interim rule requires that contracts must include a clause that authorizes the department or agency to terminate the contract if the contractor, contractor employee, subcontractor, or subcontractor employee engages in trafficking in persons. To accurately reflect the statutory language, the revised interim rule provides for contract termination for engaging in severe forms of trafficking in persons or procurement of a commercial sex act during the period of performance of the contract, and provides for contract termination for use of forced labor in the performance of the contract. While the interim rule only applied to contracts for services (other than commercial), this revised interim rule applies to all contracts, including contracts for supplies, and all contracts for commercial items as defined at 2.101.

Item VI—Emergency Acquisitions

This final rule provides a consolidated reference to acquisition flexibilities that may be used during emergency situations. This change improves the contracting officer’s ability to expedite acquisition of supplies and services during emergency situations. The final rule makes no change to existing contracting policy.



Item VII—Small Business Credit for Alaska Native Corporations and Indian Tribes

This final rule provides that contractors may count subcontracts awarded to Alaskan Native Corporations (ANCs) and Indian tribes towards the satisfaction of goals for subcontracting with small business (SB) and small disadvantaged business (SDB) concerns, regardless of their size. These changes are expected to increase subcontracting opportunities for ANCs and Indian tribes, and improve Government and contractor subcontracting performance with these entities.

Item VIII—New Designated Countries—Bulgaria, Dominican Republic, and Romania

This interim rule allows contracting officers to purchase the goods and services of Bulgaria, the Dominican Republic, and Romania without application of the Buy American Act if the acquisition is subject to the Free Trade Agreements.

The threshold for applicability of the Dominican Republic—Central America—United States Free Trade Agreement is \$64,786 for supplies and services (the same as other Free Trade Agreements to date except Morocco, Bahrain, Israel, and Canada) and \$7,407,000 for construction (the same as all other Free Trade Agreements to date except NAFTA and Bahrain). Bulgaria and Romania have become parties to the World Trade Organization Government Procurement Agreement, so they are now designated countries.

Item IX—Online Representations and Certifications Application (ORCA) Review

This interim rule revises the prescriptions for the use of 52.223-9 (Estimate of Percentage of Recovered Material Content for EPA-Designated Products) and 52.223-14 (Toxic Chemical Release Reporting) to provide for use under the same circumstances as the prescription for use of their associated provisions. These revisions allow the proper receipt of certification information and ensure compliance with the statutory requirements of 40 CFR Part 247 and 42 U.S.C. 11023.

Item X—Free Trade Agreements—El Salvador, Honduras, and Nicaragua

This final rule allows contracting officers to purchase the products of El Salvador, Honduras, and Nicaragua without application of the Buy American Act if the acquisition is subject to the Dominican Republic—Central America—United States Free Trade Agreement (CAFTA-DR). The threshold for applicability of the CAFTA-DR is \$64,786 for supplies and services, and \$7,407,000 for construction.

Item XI—Free Trade Agreements—Bahrain and Guatemala

The final rule allows contracting officers to purchase the goods and services of Bahrain and Guatemala without application of the Buy American Act if the acquisition is subject to the Free Trade Agreements. The threshold for applicability of the Bahrain Free Trade Agreement is \$193,000 (the same as the Morocco FTA and the WTO GPA) and \$8,422,165 for construction (the same as NAFTA).

Item XII—Accepting and Dispensing of \$1 Coin

This interim rule implements the Presidential \$1 Coin Act of 2005, which requires the Secretary of the Treasury to mint and issue annually four new \$1 coins bearing the likenesses of the Presidents of the United States in the order of their service and to continue to mint and issue “Sacagawea-design” coins for circulation. In order to promote circulation of the coins, Section 104 of the Public Law also requires that Federal agencies take action so that, by January 1, 2008, entities that operate any business, including vending machines, on any premises owned by the United States or under the control of any agency or instrumentality of the United States, are capable of accepting and dispensing \$1 coins and that the entities display notices of this capability on the business premises.

Item XIII— Technical Amendments



FAC 2005-20 Summary of Item

Federal Funding Accountability and Transparency Act (FFATA)–Reporting Requirement of Subcontract Award Data

This final rule establishes a pilot program to test the collection and accession of subcontract award data. As a result, subcontracts awarded and funded with Federal appropriated funds will be disclosed to the public in a single searchable website. However, information reported under the pilot program will not be disclosed to the public. The FFATA requires the existence and operation of a searchable website that provides public access to information about Federal expenditures. Section 2(d) of the FFATA requires that a pilot program be established to test the collection and accession of subcontract award data. In order to implement Section 2(d) of the FFATA, the Councils are adding a new Subpart to FAR Part 4, with an associated clause in FAR Part 52, which

addresses reporting subcontract awards. The pilot program will terminate no later than January 1, 2009. This rule applies to contracts with values equal to or greater than \$500 million awarded and performed in the United States, and requires the awardees to report all first tier subcontract awards exceeding \$1 million to the FFATA database at www.esrs.gov. The Councils chose these thresholds to ensure that a sufficient number of subcontract award reports will be entered in the database to permit assessment of its effectiveness without imposing a significant burden on contractors during the pilot program. The Government does not guarantee the reliability of the data reported. The Government has no mechanism to verify the data submitted. Before completion of the pilot program, the Councils will initiate a separate rulemaking process to establish the requirements for the final subcontract reporting database pursuant to the statute. This rule does not apply to classified contracts or commercial item contracts issued under FAR Part 12.



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