



U.S. Department of Justice

Justice Management Division

Management and Planning Staff

Washington, D.C. 20530

September 12, 2006

MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS

FROM: Michael H. Allen 
Procurement Executive

SUBJECT: DOJ Procurement Guidance Document (PGD) 06-09
Reprogramming of Funds Notices to Congress for A-76 Competitions

Under the provisions of section 605(a) of Public Law 109-108, the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006, the Department must notify congressional appropriations committees of actions resulting from the award of a contract under an A-76 competition which may include reorganization or contracting out of functions or activities presently performed by Federal employees which would require a reprogramming of funds. In the past we have experienced extended delays in receiving the clearances from these committees and/or disapproval of the action.

The clause below gives all source providers notice of this requirement and allows the Department to cancel the procurement and award, without charge or penalty to the Government. This clause shall be included in all A-76 related solicitations and contracts.

Congressional Notification

Under the provisions of section 605(a) of the Department of Justice's appropriations act, an award in this procurement triggers a requirement that the Department notify congressional appropriations committees of actions resulting from the award which may include reorganization or contracting out of functions or activities presently performed by Federal employees. An award in this procurement, and its implementation, are contingent upon satisfactory completion of the process required under section 605(a). After award, the Department will notify the source provider when this process has been satisfactorily completed and that implementation may begin. In the event that either congressional committee expresses reservations, the Department may cancel the procurement and award, without charge or penalty.

Because the contract/performance start date could be delayed or actually cancelled due to the reprogramming notice to Congress, it is understandable not to include the expected start date in A-76 solicitations. However, the lack of a contract/performance start date makes it difficult for potential source providers to propose realistic pricing in their proposals. As a best practice, it is recommended that future solicitations for streamlined or standard competitions include a notice similar to the following sentences.

For pricing purposes only, offerors shall assume a contract/performance start date of _____, which is the date it is assumed that the transition/phase-in period begins. The actual contract/performance start date may be different. (See the "Congressional Notification" term of the solicitation).

Please disseminate this PGD as appropriate in your organization. If you or your staff have any questions on the use of this clause, please call Larry Silvis on (202) 616-3754.