



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

JUL 20 2010

PROCUREMENT MEMORANDUM 2010-12

ACTION

MEMORANDUM FOR: BUREAU PROCUREMENT OFFICIALS
HEADS OF CONTRACTING OFFICES

FROM: Helen Hurcombe *Helen Hurcombe*
Senior Procurement Executive
and Director for Acquisition Management

SUBJECT: First-Tier Subcontractor Reporting Under the Federal Funding
Accountability and Transparency Act

Background

The Federal Funding and Accountability Transparency Act (FFATA) requires the Office of Management and Budget to establish a free, public website containing full disclosure of all Federal contract award information. Federal Acquisition Circular (FAC) Number 44, issued July 8, 2010, further addresses requirements of the Federal Funding Accountability and Transparency Act specific to contractor reporting of executive compensation including first-tier subcontractors. The requirements are phased in their implementation based on the amount of the prime contract.

Purpose

The purpose of this memorandum is to prescribe the requirements of FAC 44 regarding contractors' reporting of subcontract award data and the total compensation of the five most highly compensated executives of the contractor and first-tier subcontractor on contracts and orders of \$25,000 or more, including options, except classified contracts and contracts with individuals. This memorandum further defines the contracting officers' requirements to review contractor reporting of this information.

Applicability

The requirements of this policy are applicable to all contracts and orders in excess of \$25,000 including commercial item contracts/commercially available off-the-shelf (COTS) item contracts, except classified contracts and contracts with individuals, described herein and in Federal Acquisition Regulation Subparts 4, 12, 42 and 52.

Required Actions

In accordance with the implementation schedule outlined below, the Contracting Officer shall:

Non-Commercial Contracts and Orders

In accordance with FAR Subparts 4.14 and 42.15,

- 1) Insert FAR Clause 52.204-10(e) in all contracts and orders in excess of \$25,000 (as prescribed by phased implementation) except classified contracts and contracts with individuals.
- 2) Unless excepted by FAR Subpart 12.504, ensure that contractors comply with the reporting requirements of FAR Clause 52.204-10 in www.fsrs.gov through review on a quarterly basis beginning October 2010 to ensure the information is consistent with contract information. The contracting officer is not required to address data for which he or she would not normally have supporting information; however, the contracting officer must inform the contractor of any inconsistencies with the known contract information and require that the contractor correct the report or provide additional support of the correctness of the information.
- 3) Reflect performance as it relates to contractor's reporting into databases such as www.fsrs.gov in past performance reporting.

Commercial Contracts and Orders

In accordance with FAR Subparts 4.14 and 42.15,

- 1) Insert FAR Clause 52.204-10(e) in all contracts and orders in excess of \$25,000 (as prescribed by phased implementation) except classified contracts and contracts with individuals.
- 2) Ensure that contractors comply with the reporting requirements of FAR Clause 52.204-10 in www.fsrs.gov through review on a quarterly basis beginning October 2010 to ensure the information is consistent with contract information. The contracting officer is not required to address data for which he or she would not normally have supporting information; however, the contracting officer must inform the contractor of any inconsistencies with the known contract information and require that the contractor correct the report or provide additional support of the correctness of the information.
- 3) Reflect performance as it relates to contractor's reporting into databases such as www.fsrs.gov in past performance reporting.

Simplified Acquisitions

In accordance with FAR Subparts 4.14 and 42.15,

- 1) Insert FAR Clause 52.204-10(e) in all simplified acquisitions in excess of \$25,000 (as prescribed by phased implementation) except classified contracts and contracts with individuals.
- 2) Ensure that contractors comply with the reporting requirements of FAR Clause 52.204-10 in www.fsrs.gov through review on a quarterly basis beginning October 2010 to ensure the information is consistent with contract information. The contracting officer is not

required to address data for which he or she would not normally have supporting information; however, the contracting officer must inform the contractor of any inconsistencies with the known contract information and require that the contractor correct the report or provide additional support of the correctness of the information.

Effective Date

The requirements herein are effective July 8, 2010 and implemented in accordance with the following schedule:

- 1) Between July 8, 2010 and September 30, 2010, any newly awarded subcontract must be reported if the prime contract award amount was \$20,000,000 or more.
- 2) From October 1, 2010, until February 28, 2011, any newly awarded subcontract must be reported if the prime contract award amount was \$550,000 or more.
- 3) Starting March 1, 2011, any newly awarded subcontract must be reported if the prime contract award amount was \$25,000 or more.

This guidance is effective until rescinded.

My point of contact for this matter is Lori Donovan, 202-482-1716 or ldonovan@doc.gov.

cc: Acquisition Community
Acquisition Council