
From: The LAB @ DOC
Subject: MMCB - Vol. 4 - Fair Opportunity Language & TO Protest Threshold Clarification, Aug. 2019



Welcome to MMCB Volume 4! This Monday highlights some specific language to consider when conducting task orders in a multiple-award IDIQ setting, i.e. FAR 16.505(b), as well as a clarification on whether a task order is protestable at the \$10M or \$25M threshold.

Matter of: Credence Management Solutions, LLC
File: [B-417389.2](#)
Link: <https://www.gao.gov/products/b-417389.2#mt=e-report>
Date: Jul 31, 2019

This is something the USAF does well, consistent terminology under FAR subpart 16.505 that steers away from anything related to 'source selection'. Here, using the GSA OASIS GWAC, the USAF stuck to terms like Fair Opportunity Proposal Request (FOPR), Fair Opportunity Decision Document (FODD), Fair Opportunity Decision Authority (FODA), etc. This might seem too nitpicky, but I am constantly trying to coach my teams to use FAR specific language as they build their approaches. I have not encouraged teams to completely adopt this language outright, but I have assuaged a couple of my teams to stick with the fair opportunity terminology, calling them Fair Opportunity Notices (FONs)!

This is FAR 16.505, which is independent from FAR 15.3. Please encourage the adoption of more language like 'fair opportunity' and away from 'source selection' anything.

Now to the protest threshold clarification but, footnote 8:

"[8] This protest is within our jurisdiction to hear protests of task orders placed under civilian agency IDIQ contracts valued in excess of \$10 million. 41 U.S.C. § 4106(f)(1)(B); See Wyle Labs., Inc., B-413989, Dec. 5, 2016, 2016 CPD ¶ 345 at 4 (The authority under which we exercise our task order jurisdiction is determined by the agency that awarded the IDIQ contract under which the task order is issued, here GSA, rather than the agency that actually issues or funds the task order.)."

I keep hearing from some USCG & DOD contracting officers that if they use their agency funds for a task order on a civilian agency IDIQ contract then their threshold is \$25M for GAO jurisdiction. This was a live conversation during a recent boot camp at the USCG base in Portsmouth, the attorney was steadfast in

this belief! My research had led me to believe this footnote was the truth – and for that I feel somewhat **grateful**. This provides some clarity that the DOD agency must establish the IDIQ in order for the jurisdiction to become \$25M. I would assume that civilian agencies using a DOD MA-IDIQ would still be only be afforded the same \$10M threshold, but I could not verify that at the time of this volume.

This volume was originally authored in August 2019 and refreshed in March 2025.

*Disclaimer: The information contained in this MMCB is merely an opinion of the author and does not constitute formal legal or policy guidance of any kind.

