Bullpen BPAs

Overview

The concept of Bullpen blanket purchase agreements (BPA) is simple, as is the metaphor. All you need to know is basic procurement principles and perhaps a little baseball, to make the analogy hit home. This technique applies when the Government is considering a single-award BPA to support a specific requirement. The acquisition team has carefully determined that a BPA, and not a task order or contract, is the right procurement instrument. To begin this process, the team awards **two** BPAs total from an initial competition, instead of only awarding one BPA to the awardee. **Both are single-award BPAs**. The Government is **not** competing orders for the two companies as it would in a multiple award BPA scenario. The winner of the requirement takes on the role of the starting pitcher, and this is where the baseball analogy comes into play. The requirement becomes the game and instead of nine innings, it is more like up to five years.

The Revolutionary FAR Overhaul (RFO) has removed timeframe limitations from BPAs, leaving it up to the Government to be reasonable – but five years seems like an appropriate number for this example. The awardee is the starting pitcher in this baseball metaphor. They are given the opportunity to pitch a complete game, throw a shutout, maybe even a no hitter, it is up to them! This means they are given the opportunity to perform the requirement, earn the option exercises, earn incentives if they are built it, earn good CPARS, and more. Ordinarily in government contracting, there is only a starting pitcher with no bullpen to rely on. If the starting pitcher (awardee) is facing performance concerns, they could seek support and remedies on their own. In baseball that is like getting better fielding support or hitting, but nobody else is technically allowed to pitch (in this analogy). Like old school baseball, that pitcher starts every game, week in and week out. With the Bullpen BPA process, the Government *can* bring in another pitcher at its discretion; removing the starting pitcher (awardee) completely with no opportunity to come back into the game, or by developing a framework where more than one pitcher can routinely be involved.

At times, the Government may choose to take a calculated risk on a contractor, recognizing that while some risk is involved, the potential rewards could be significant. The government mitigates the risk using this technique while in RFO subparts 8.4 or 16.5. Since a BPA is meant to cover a wide range of needs by design, vague evaluation criteria may make it easier for contractors to win using smoke and mirrors. That often shows up as unrealistically low pricing or promises that sound great on paper, but don't hold up in execution. This puts the Government in a tough spot. Re-procurement is time-consuming, expensive, is often highly discouraged, and in many cases the mission simply can't pause to support it. As a result, the path of least resistance becomes exercising follow-on option periods. Too often, those options are exercised with CPARS ratings marked as satisfactory or even good, despite the program office believing the contractor is not truly meeting program and mission expectations.

This technique, like many others not detailed in acquisition regulations, policy, or any other place, can be molded to attain tremendous benefits for the Government but can also be abused. The Government includes language in the original solicitation, awarding multiple single-award BPAs. There is a major differentiation between this concept and Replacement Task Order (RTO) concept. In this Bullpen BPA setup, the Government establishes two single-award agreements. Because BPAs are agreements, not contracts, the Government can step away from them when or if needed. There's no need for extended quote validity periods, or the administrative effort to cancel an awarded task order. Overall, agreements are simply easier to manage post award and gives the Government more flexibility.

It is imperative that the government program office makes a good faith effort to adequately prepare the awardee (starting pitcher) to be successful during any transition periods, whether temporary or permanent, if the bullpen will be called upon. The program should thoroughly document the performance of the awardee (starting pitcher) frequently and offer monthly feedback sessions to help correct the contractor's performance ahead of making the decision to call in the bullpen for support. This commitment to providing monthly feedback serves multiple purposes and can increase the likelihood of success while also contributing to more accurate and comprehensive CPARs narratives that ultimately benefit both parties. Think of this part of the approach like a mound visit. Good oversight is provided from the COR, there is solid involvement from the acquisition team, and timely course corrections to keep performance on track. At this time, the acquisition team can decide to keep allowing the pitcher to pitch! Or the acquisition team may decide that now is the right time to pull the pitcher and make a call to the bullpen.

Include the language contained in the Consider This Language section below, and contemplate reviewing the Replace Task Orders guidance, as there is some procedural overlap in the execution. Consider using the Select Best-Suited, then Negotiate technique from the Periodic Table of Acquisition Innovations (PTAI) in the initial evaluation and award process using the apparent awardee as the starting pitcher and the next best suited as the bullpen pitcher. This is possible in both RFO FAR subpart 8.4, BPAs under GSAR 538.71, and RFO FAR subpart 16.507, BPAs under multiple-award IDIQs.

Key Considerations

- Eliminates re-procurement costs and reduces the total timeline to continue operations.
- Allows the Government to mitigate the risk associated with a new entrant to the market, or to their specific mission space.
- The acquisition team should document its efforts to support the contractor prior to deciding to call upon the bullpen.
- Must include explicit language in the solicitation, award, and Bullpen BPA of the envisioned process to avoid misinterpretations.
- Including the language in the solicitation and resultant award may incentivize the awardee to put their best foot forward, no matter if they are new or an incumbent.
- The process encourages the program office to closely monitor performance of the awardee, providing direct feedback to ensure The process reinforces the requirement for the program office to actively monitor awardee performance and provide direct, timely feedback, while establishing a clear, structured way to do so that supports accurate CPARS narratives and promotes continuous collaboration to reduce misunderstandings before they become performance issues.
- When considering a change during performance of an order, it is easiest to align with the upcoming option exercise date. However, the Government may refer to RFO Part 49 and

consider a termination if it is in the best interest of the Government, then make the call to the Bullpen BPA holder.

Consider This Language

- **Bullpen BPAs**
    - **a)** As provided elsewhere in this solicitation, the Government intends to award a single BPA to the contractor that provides the best value to the Government. Additionally, the Government may award an additional BPA, referred to as the Bullpen BPA, to the next best suited contractor. Both BPAs will have the same term and duration. However, the Government may choose not to exercise the option periods on either BPA; but may consider it sooner for the Bullpen BPA if the performance of the awardee remains successful.
    - **b)** The Government's intent is for the BPA awardee, the starting pitcher, to receive the task order(s) commensurate with their performance. The intent is not to go to the Bullpen unless performance has consistently fallen short without meaningful corrective actions taken and/or the program determines that additional support is needed to keep the requirement on track.
    - **c)** The Government's initial evaluation, and subsequent exchanges, of the quotes during the initial BPA competition will serve as the results for the decision for the award of the BPA (starting pitcher) and Bullpen BPA.

Why Is This Innovative?

This approach represents a departure from standard government practices for FAR-based procurements. Currently, there are no federal agencies implementing this approach. Most importantly, the FAR does not prohibit this practice, meaning it is permissible and could be implemented without any statutory barriers (see RFO 1.102(b)(4). By leveraging this technique, agencies can move beyond traditional norms to drive better performance, enhance accountability, and improve mission outcomes without significant mission failure risk.

Questions? Contact The LAB at thelab@doc.gov. The LAB is happy to connect and think through the next steps with you.

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