



# **OFFICE OF INSPECTOR GENERAL**

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## **REPORT OF AUDIT**

### **COMPETITION IN CONTRACTING**

**AUDIT REPORT E1BMF3-24-0027-4100232**

**MARCH 31, 1994**



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 31 1994

OFFICE OF  
THE INSPECTOR GENERAL

MEMORANDUM

SUBJECT: Competition in Contracting  
Audit Report No. E1BMF3-24-0027-4100232

FROM: Elissa R. Karpf *Elissa R. Karpf*  
Associate Assistant Inspector General  
for Acquisition and Assistance Audits

TO: Jonathan Cannon  
Assistant Administrator  
for Administration and Resources Management

Attached is the final report entitled "Competition In Contracting." Our overall objective was to evaluate the adequacy of competition for EPA's contracts that were awarded under full and open competition procedures.

We found that the Agency generally awarded its competitive procurements in accordance with applicable FAR requirements. For the majority (72 percent) of EPA's competitively awarded negotiated contracts that we reviewed, two or more proposals made the competitive range. However, a significant percentage of EPA's contracts were awarded after receipt of only one competitive proposal. For 140 contracts that we reviewed, 39 contract awards had only one proposal in the competitive range. Repeat contracts in which the incumbent won the follow-on award comprised a large majority of the total dollar value of these 39 contracts. As a result, EPA had less assurance that it received the benefits of competition for a significant portion of its competitively awarded contracts.

This audit report contains findings that describe problems the Office of Inspector General (OIG) identified and the corrective actions the OIG recommends. This report represents the opinion of the OIG. Final determinations on matters in this report will be made by EPA managers in accordance with established EPA audit resolution procedures. Accordingly, the findings described in this report do not necessarily represent the final EPA position.



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Action Required

We have designated the Assistant Administrator for Administration and Resources Management as the action official for this audit. In response to the draft report, your office provided responsive action plans and milestone dates for correcting the findings. As a result, and in accordance with our longstanding agreement outlined in EPA Order 2750, we find your response to the draft report acceptable. Therefore, we are closing this report in our tracking system as of this date. Please track all action plans and milestone dates in the Management Audit Tracking System.

Should you or your staff have any questions or need additional information regarding this report, please contact Mary M. Boyer, Divisional Inspector General for Audit, Southern Division, at 404-347-3623 or John M. Bishop, Audit Manager, RTP Regional Audit Office, Southern Division, at 919-541-1028.

Attachments

## EXECUTIVE SUMMARY

### PURPOSE

Awarding an Environmental Protection Agency (EPA) contract under competitive procedures does not always ensure that more than one responsible offeror will compete for the award. The Agency has consistently reported that it awarded most of its contracts through full and open competition. EPA's Annual Report on Competition for Fiscal Year (FY) 1992 reported that EPA obligated 96 percent of its contract dollars through full and open competition. However, these statistics address the procedures used and not the results of procurement solicitations issued. We evaluated the results of these solicitation actions to determine whether EPA's competitive process actually resulted in competitively awarded contracts.

When contracts are awarded after receipt of only one competitive proposal there is less assurance that the Government is receiving the benefits of competition. These benefits include potentially lower cost and higher quality service. We performed this audit to determine if EPA was in fact achieving competition for its competitively awarded contracts.

The objectives of the audit were to:

- determine the extent of competition for EPA contracts awarded under full and open competition procedures;
- determine the reasons for any significant lack of competition for EPA contracts; and
- evaluate the activities of the Agency's competition advocate program to promote competition for contracts awarded under competitive procedures.

### BACKGROUND

EPA and all other executive agencies are required by the Competition in Contracting Act of 1984 (CICA) to conduct their procurements in a way that obtains full and open competition. Federal Acquisition Regulation (FAR) Part 6 prescribes the policies and procedures to promote full and open competition in the acquisition process. Full and open competition means that all responsible sources have an opportunity to compete for the award of a contract. This can be achieved with sealed bidding or by the acceptance of competitive proposals (contracting by negotiation). Both FAR and CICA require the sealed bid procurement method if four conditions exist. If all four conditions do not exist, an agency may use the negotiated procurement process. EPA awards most of its contracts through the negotiated process. According to the Federal Procurement Data System report for FY 1992, EPA had awarded approximately 72 percent of all its active contract dollars through the negotiated process. CICA also requires all executive agencies to designate an advocate for competition. EPA's Competition Advocate is organizationally

located in the Office of Acquisition Management (OAM) and reports to the Director of that Office. The Advocate's responsibilities as mandated by CICA include (1) challenging barriers to and promoting full and open competition in the agency's procurements, and (2) reporting annually on his activities.

#### RESULTS-IN-BRIEF

We found that the Agency generally awarded its competitive procurements in accordance with applicable FAR requirements. For the majority (72 percent) of EPA's competitively awarded negotiated contracts that we reviewed, two or more proposals made the competitive range. However, a significant percentage of EPA's contracts were awarded after receipt of only one competitive proposal. For 140 contracts that we reviewed, 39 contract awards had only one proposal in the competitive range. Repeat contracts in which the incumbent won the follow-on award comprised a large majority of the total dollar value of these 39 contracts. As a result, EPA had less assurance that it received the benefits of competition for a significant portion of its competitively awarded contracts. The maximum potential value of the 39 contract awards in which only one competitive proposal was received was approximately \$327 million or 22 percent of the total maximum potential value of the contracts in our sample.

Our audit identified several factors that contributed to the limiting of competition for some EPA contracts. Often, a lack of competition for a particular solicitation could not be attributed to any single factor. In some instances, several conditions apparently existed in combination to limit the number of proposals received for a particular solicitation. Many of these conditions favored incumbent contractors. When these conditions were present, other firms were reluctant to submit proposals since they perceived a remote chance of winning the award which did not warrant the cost of preparing a proposal. Some of these conditions included: large, level of effort (LOE) contracts with diverse statements of work (SOW); technical evaluation criteria that placed heavy emphasis on personnel experience and availability; and industry perceptions that an incumbent contractor perceived to be performing satisfactorily could not be defeated.

When competition is limited, the Government may lose opportunities to obtain lower prices and increase the productivity and the effectiveness of its programs. The most important benefits of competition can often be the improved ideas, designs, technology, delivery, or quality of products and services that potential contractors are motivated to produce or develop to obtain Government contracts. The chance of winning a Government contract, or the threat of losing a subsequent contract award similar to one being performed, provides an incentive for greater efficiency and effectiveness.

The Agency has started several actions to eliminate or mitigate many of the conditions cited in this report that contribute to a lack of competition. Large contracts have been split into smaller procurements in several instances in order to increase competition. Some program offices, in order to increase responses to their solicitations, are presenting information about their future procurement needs to the contracting community. EPA plans to start regularly publishing annual acquisition plans in the Commerce Business Daily (CBD). In addition, during our fieldwork OAM collected statistical data similar to that presented in this report to assess the extent of competition for contracts awarded under full and open competition procedures. Continuation of these actions with increased emphasis on monitoring the results of contract award activities can further increase the competitiveness of EPA's procurement system. Increased competition for its contracts will benefit the Agency by encouraging (1) reasonable prices for its contracted services and (2) contractors to provide high quality services and products.

#### PRINCIPAL FINDINGS

##### COMPETITION WAS OBTAINED FOR SUPERFUND AND OAQPS CONTRACTS

Solicitations for contract support to the Superfund program and Office of Air Quality and Planning Standards (OAQPS) received substantially more proposals than other solicitations we reviewed. The Agency split some of the multi-tasked jobs for Superfund Emergency Response Cleanup Services (ERCS) contracts into separate tasks and awarded them as separate contracts. This action resulted in an increase in the number of responses to the solicitations for these Superfund contracts. We believe a major reason for the increased competition for OAQPS contracts is the method of solicitation used for some OAQPS contracts. For several of these solicitations, multiple contracts were awarded from each solicitation. In two of these solicitations, the SOW's were divided into separate, distinct sections and, for each section, two contracts were to be awarded. We believe these types of solicitations generated more competition since potential offerors knew that a strong incumbent contractor could not win all of the work.

##### LARGE, DIVERSE STATEMENTS OF WORK MAY LIMIT COMPETITION

The type of contract frequently awarded by EPA may have contributed to a lack of competition. EPA has long relied on large, LOE contracts with diverse SOWs. One way large, diverse contracts can limit competition is that small and medium sized firms can not alone handle the sheer diversity or volume of work required by these contracts. The process of trying to assemble a qualified team of subcontractors can be difficult for non-incumbent firms. In some situations, the incumbent contractor may have already assembled the best qualified subcontractors available.

#### TECHNICAL EVALUATION CRITERIA CONTAINED IN REQUESTS FOR PROPOSALS CAN LIMIT COMPETITION

Some Requests for Proposals (RFP) contained technical evaluation criteria and scoring plans which emphasized criteria that favored incumbent contractors and made it difficult for non-incumbent firms to compete. Non-incumbent firms were reluctant to submit proposals when RFPs' technical evaluation scoring plans awarded a high percentage of their total points for personnel experience and availability of personnel. Non-incumbent firms believed incumbent personnel's experience would be ranked higher than their own experience. Other factors related to this criteria also contributed to limited competition. These factors included RFPs that asked offerors to provide identities of and commitment letters from a large number of key personnel and sometimes non-key personnel.

#### INDUSTRY PERCEPTIONS ABOUT THE STATUS OF INCUMBENT CONTRACTORS LIMITED COMPETITION

Industry perceptions regarding the status of incumbent contractors played an important role in the degree of competition for EPA contracts. These perceptions concerning incumbent status included such issues as (1) performance of the incumbent contractor and (2) EPA preference to retain incumbent contractors. Prospective offerors were especially reluctant to compete against an incumbent for a follow-on contract when they believed the incumbent's performance on the existing contract was satisfactory or better. Almost half of the potential contractors we spoke with who had received solicitations issued by the Contracts Management Division (CMD)-Cincinnati stated they would not submit a proposal against an incumbent contractor. For potential contractors we interviewed who had received solicitations issued by CMD-Research Triangle Park (RTP) and were reportedly capable of performing the work solicited, the most common reason given for not submitting a proposal was the strength of the incumbent contractor.

#### COMPOSITION OF TECHNICAL EVALUATION PANELS CREATES RISK OF PARTIALITY IN EVALUATION RECOMMENDATIONS

Technical evaluation panels (TEP) evaluate and score proposals submitted in response to EPA solicitations. The composition of the TEPs created an appearance of partiality and the potential for bias in the award of follow-on contracts. TEPs for follow-on contract awards were often chaired by Project Officers (PO) who administered the prior contracts and were comprised entirely of officials from the program offices acquiring the contract services. When the panels are comprised of personnel who worked extensively with the incumbent contractor, there is at least a chance that panel members' personal experiences with and knowledge of the incumbent contractor could influence the scoring of technical proposals.



## COMPETITION ADVOCACY PROGRAM NEEDS TO BE STRENGTHENED

The Agency's Competition Advocacy Program has been successful in increasing competition for some types of contracts that had not experienced competition in the past. However, a major priority of the Program concentrated on the method of procurement instead of the results of the procurement method. Program goals were established and monitored to ensure that a high percentage of Agency contracts were awarded through competitive procedures as opposed to non-competitive procedures. Accordingly, the Program has been successful in limiting the number of sole-source awards. However, similar monitoring was not in place to determine the extent of actual competition for contracts awarded under competitive procedures. The Agency could make the Competition Advocacy Program a more effective tool for improving EPA's competitive procurement process by increasing its monitoring and evaluation of the results of competitive procedures. Increased monitoring in this area could help identify and mitigate the various factors that limit the number of proposals received for competitively awarded contracts.

## AGENCY ACTIONS TO DATE

In 1986 and 1992 reports, the Office of Inspector General (OIG) reported limited competition on Superfund contracts. EPA initiated several proactive measures and significantly increased vendor responses to Superfund RFPs. Additionally, near the completion of our fieldwork in September 1993, the Director, OAM issued a memorandum that outlined reasons for limited responses to EPA competitive solicitations and possible solutions to increase the number of responses to these solicitations.

## RECOMMENDATIONS

EPA needs to take several actions to increase the number of competitive proposals received for its competitive solicitations. Some of these actions will require coordinated efforts between the program offices receiving the contract services and the contracting offices awarding the contracts. These actions include conducting evaluations of existing large contracts for possible splitting of the services into smaller separate contracts and making program offices' future contracting plans available to the contracting community. EPA should also expand the focus of its Competition Advocacy Program to evaluate, monitor, and increase the extent of actual competition obtained for competitively awarded contracts.

## AGENCY COMMENTS

The Agency generally agreed with the report's findings and recommendations. The Agency's complete response is included as Appendix I to the report and our specific comments to their response is included as Appendix II.

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## CHAPTER 1

### INTRODUCTION

#### PURPOSE

Since 1987, EPA has reported that it has awarded the vast majority of its contracts through full and open competition procedures. For example, in its Annual Report on Competition for Fiscal Year (FY) 1992, EPA reported that it obligated 96 percent of its contract dollars through full and open competition. However, these statistics address the procedures used (full and open v. sole source acquisition) and not the results of those procedures. Awarding a contract under competitive procedures does not always ensure that more than one responsible offeror will compete for the award.

Recent Office of Inspector General (OIG) surveys and audits of Office of Research and Development (ORD) contracting activities found that often only one acceptable proposal was submitted for services procured for ORD Laboratories. This lack of competition for ORD services was prevalent when the services were procured under a previous contract(s) and the services were being re-procured. We performed this audit to determine whether this lack of competition was an EPA-wide problem. The objectives of the audit were to:

- determine the extent of competition for EPA contracts;
- determine the reasons for lack of competition for EPA contracts; and
- evaluate the activities of the Agency's Competition Advocacy Program to promote competition for contracts awarded under competitive procedures.

#### BACKGROUND

EPA and all other executive agencies are required by the Competition in Contracting Act of 1984 (CICA) to conduct their procurements in a way that obtains full and open competition. Federal Acquisition Regulation (FAR) Part 6 prescribes the policies and procedures to promote full and open competition in the acquisition process. Full and open competition means that all responsible sources have an opportunity to compete for the award of a contract. The CICA requires that agencies specify their needs in a manner designed to achieve full and open competition for procurements. To ensure competition, agencies must, among other things, give public notice of intent to award contracts and not include unduly restrictive requirements in their solicitation requirements or statements of work (SOW).

The CICA recognizes that noncompetitive awards may arise from procurements that used competitive procedures. The CICA requires

agencies to maintain and report information on procurements resulting in the submission of a bid or proposal from only one responsible source. These procurements are referred to as "noncompetitive procurements using competitive procedures."

Moreover, the Environmental Protection Agency Acquisition Regulation (EPAAR) recognized potential problems with the negotiated procurement process when only one proposal makes the competitive range. EPAAR 1515.609(c) states:

When only one offer is determined to be in the competitive range, the Contracting Officer shall review the solicitation document to assure that it did not unduly restrict competition. The competitive range determination shall include a discussion of the relevant aspects of the solicitation.

However, one acceptable proposal in the competitive range does not, in our opinion, constitute adequate competition. Competition exists when there is a "rivalry between two or more businesses striving for the same customer or market."<sup>1</sup> FAR 15.804-3(b)(1) recognizes adequate price competition when:

(i) Offers are solicited; (ii) Two or more responsible offerors that can satisfy the Government's requirements submit priced offers responsive to the solicitation's expressed requirements; and (iii) These offerors compete independently for a contract to be awarded to the responsible offeror submitting the lowest evaluated price.

The same criteria can be applied to competition, in general. In the absence of at least two responsive proposals, the competitive control over quality and price is diminished.

Two procurement methods used for meeting the requirement for full and open competition are sealed bidding and competitive proposals (contracting by negotiation). Both the CICA and FAR require sealed bidding when four conditions are present. If sealed bidding is not appropriate the Government may request competitive proposals. In sealed bidding the Government evaluates the bids without discussion and awards the contract to the responsible source whose bid conforms to the requirements and is the most advantageous to the Government considering only price and other price-related factors. In contrast, contracting by negotiation permits bargaining, and usually affords offerors an opportunity to revise their proposals before award of the contract. Most contracts that we reviewed were awarded through negotiated procedures as opposed to sealed bidding.

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<sup>1</sup> Definition obtained from Webster's II New Riverside University Dictionary, Copyright 1984, 1988 by Houghton Mifflin Company.

## The Negotiated Procurement Process

Contracting by negotiation involves several steps. First, EPA determines its acquisition needs. The public is then notified of the upcoming solicitation in the Commerce Business Daily (CBD). The specifics of the procurement are communicated to potential offerors through a Request for Proposal (RFP). The RFP includes instructions to offerors on how to prepare their proposal (cost and technical proposals) and the evaluation factors for the award. After proposals are received, a technical evaluation panel (TEP) evaluates the technical proposals against the stated RFP criteria and assigns each proposal a score. Based on evaluations of the technical and cost proposals, the contracting officer (CO) prepares a competitive range determination that identifies those proposals that have a reasonable chance for award. If necessary, for those proposals determined to be in the competitive range, the contracting specialist (CS) or CO will ask these companies questions (called interrogatories) concerning their technical proposals. The TEP reviews the answers and revises each company's technical score, if warranted. EPA holds discussions with all firms remaining in the competitive range and requests best and final offers. A source selection board prepares a source selection document recommending award to one company. The source selection official, a CO or higher level official, then approves the selection and the CO awards the contract.

## Competition Advocate

To help ensure that competition in Government contracting is achieved, the CICA requires that every executive agency designate an advocate for competition. The competition advocate's duties include: (1) challenging barriers to and promoting full and open competition; (2) reviewing the procurement activities of their agency; (3) identifying and reporting actions taken to achieve competition and conditions that unnecessarily restrict competition; and (4) preparing an annual report describing the advocate's activities, new initiatives to promote competition, and barriers to full and open competition that remain. According to the Agency's FY 1992 Annual Report on Competition, EPA obligated \$1,307,843,000 contract dollars (excluding dollars not available for competition), of which \$1,260,565,000 (96 percent) were awarded using competitive procedures.

## SCOPE AND METHODOLOGY

We conducted our audit work between October 1992 and September 1993. We reviewed contracts awarded by the Contract Management Division (CMD) in Research Triangle Park (RTP), N.C. and the CMD in Cincinnati, Ohio. We also reviewed Superfund contracts awarded by

the Superfund/RCRA Procurement Operations Division in Washington, D.C., and selected Regional Offices<sup>2</sup>.

To determine the extent of competition for contracts, we reviewed contract files to identify the number of proposals received and the number of proposals that made the competitive range for negotiated procurements. Most contracts we reviewed were awarded in FY 1991 and 1992, although we also reviewed contracts awarded in FY 1990 and 1993. We only reviewed contracts awarded under full and open competition procedures. We reviewed competitively awarded small business set-aside contracts at CMD-Cincinnati. We did not review Contract Laboratory Program contracts for analytical services awarded at CMD-RTP since these contracts and that program have been audited in several prior OIG audits. The majority of contracts that we reviewed were awarded through the negotiated (competitive proposals) procurement method.

CMD-RTP competitively awarded 79 contracts totaling almost \$800 million in potential value in FY 1991 and 1992 (excluding competitive small business set-asides and Contract Laboratory Program contracts). We selected 45<sup>3</sup> of these 79 for review. We randomly selected 43 contracts and judgmentally selected two other contracts because of their large dollar value. The 45 contracts we reviewed included 44 negotiated awards totaling \$608,859,368 and 1 sealed bid award totaling \$51,000. We also selected seven contracts awarded in FY 1993 that represented the entire universe of RTP FY 1993 competitive awards at the time of our sample selection in April 1993. The seven FY 93 contracts totaled approximately \$55 million in maximum potential value. All seven FY 93 awards were negotiated awards. Further, we reviewed four ORD contracts awarded by CMD-RTP in FY 1990 that we identified during OIG Surveys of ORD Laboratory Contracting Activities.

CMD-Cincinnati competitively awarded 102 contracts totaling almost \$334 million during FY 1991 and 1992. We reviewed all of these contracts. The 102 FY 1991 and 1992 contracts included 78 negotiated awards totaling \$328,696,116 and 24 sealed bid awards totaling \$5,224,512. We also reviewed five contracts totaling about \$41,000,000 awarded during the first quarter of FY 1993 by CMD-

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<sup>2</sup> The results of our review of Superfund contracts were previously reported in Special Review Report No. E1SFF3-11-0020-4100111 dated December 7, 1993.

<sup>3</sup> We actually selected 46 contract awards for review, but reviewed 45 since one file was not located. We were informed in the response to the draft report that the missing contract file was transferred to Region 6 on January 12, 1993, for administration purposes.



Cincinnati. The five FY 1993 contracts included 4 negotiated awards totaling \$40,883,622 and 1 sealed bid award totaling \$183,710.

The Superfund/RCRA Procurement Operations Division and regional offices awarded 52 contracts totaling approximately \$1,065,820,000 in FY 1991 and 1992 and the first six months of FY 1993. This includes non-competitively awarded contracts (e.g., sole-source acquisitions). We reviewed a judgmental sample of 19 Superfund contracts that were awarded under competitive procedures. These 19 contracts included 18 FY 1991 and 1992 negotiated awards totaling approximately \$533.1 million and one FY 1993 sealed bid award totaling approximately \$1.4 million.

We did not review contracts awarded by the Headquarters Procurement Operations Division (HPOD). The Competition Advocate's analysis of EPA competition conducted in August 1993 showed that for FY 1992 and 1993 to date, HPOD awarded 16 contracts and in two instances only one proposal made the competitive range.

The following table shows the number and dollar value of FY 1991 and 1992 awards we reviewed by location.

**Number and Value of FY 91-92 Contracts Reviewed**

| Location   | Number Reviewed | Dollar Value    |
|------------|-----------------|-----------------|
| RTP        | 45              | \$608,900,000   |
| Cincinnati | 102             | \$333,900,000   |
| Superfund  | 18              | \$533,100,000   |
| Totals     | 165             | \$1,475,900,000 |

We also reviewed the CICA, the FAR, the EPAAR, Agency guidance, and selected General Accounting Office (GAO) award decisions as they related to full and open competition and the objectives of our audit.

To identify reasons for lack of competition, we performed more detailed reviews of those contract awards in which only one proposal made the competitive range. This work was performed for contracts awarded by the Cincinnati and RTP CMDs only. We did not perform additional audit steps for Superfund contracts since these contracts exhibited adequate competition. This additional work included reviewing current award documents and prior award documents for follow-on contracts. We reviewed contract SOWs, RFPs, TEP reports, competitive range determinations, source selection documents, Office of General Counsel (OGC) review comments, and other correspondence

in the contract file. We also interviewed COs, CSs, and project officers (POs).

To determine reasons for limited competition we also contacted officials from firms who chose not to submit proposals for CMD-RTP and CMD-Cincinnati issued solicitations. We telephonically interviewed 66 company representatives and conducted on-site interviews with representatives from 20 companies. We judgementally selected companies to interview from those who submitted correspondence to EPA stating that they were not submitting a proposal. We also selected companies who attended pre-proposal conferences but did not submit proposals.

A primary internal control process for encouraging competition in contracting is the Competition Advocacy Program. The Competition Advocate reviews Agency contracting actions and reports annually on the results of these reviews and other activities undertaken to promote competition. To assess the Competition Advocacy Program and related internal controls, we interviewed procurement officials in the Office of Acquisition Management at Washington, D.C. and the Contracts Management Divisions at RTP, NC and at Cincinnati, Ohio. We reviewed recent Quality Assurance Reviews, Functional Reviews completed by the Competition Advocate, Annual Reports on Competition and the Federal Procurement Report.

We performed our audit in accordance with the Standards for Audit of Governmental Organizations, Program, Activities, and Functions (1988 Revision), issued by the Comptroller General.

Certain data used in this report was extracted from EPA's Contract Information System (CIS). The CIS data was not an integral part of this audit and its reliability was not crucial to accomplishing the objectives of this audit. Accordingly, no audit tests were performed to evaluate the adequacy of manual or automated controls for CIS or the validity of the data maintained by this system. Therefore, we cannot and do not attest to the accuracy or integrity of the CIS data used in this report.

However, we did complete audit steps to determine whether EPA complied with certain Federal procurement reporting requirements. This work included limited discussions with EPA officials to determine whether CIS contained the data fields necessary to comply with these reporting requirements.

#### PRIOR AUDIT COVERAGE

Several prior OIG reviews have identified instances where little or no competition was obtained for EPA contracts awarded under full and open competition procedures. These include audits of Superfund contracting activities as well as audits and reviews of ORD contracting activities. These reviews identified a number of factors that limited competition for certain agency contracts. The large size of EPA contracts was often noted as a factor in limiting competition. Factors related to RFP technical evaluation criteria and scoring methods were also found to limit competition. These factors included: (1) the excessive number of evaluation points awarded in the area of personnel qualifications; (2) requests for large numbers of key personnel; (3) requests for letters of commitment to show availability of key personnel; and (4) the extensive knowledge of EPA operations gained by incumbent contractors in the performance of service contracts.

These prior OIG reviews and their pertinent findings are described in Appendix IV to this report.

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## CHAPTER 2

### USE OF COMPETITIVE AWARD PROCEDURES DID NOT ALWAYS RESULT IN COMPETITIVE CONTRACT AWARDS

The Agency reported awarding a majority of its FY 1991 and 1992 contracts through competitive procedures. We found that the Agency generally awarded its competitive procurements in accordance with applicable FAR requirements. In 72 percent of the FY 1991 and 1992 negotiated contract awards we reviewed, these procedures resulted in the receipt of two or more competitive proposals in each award. In 28 percent of the FY 1991 and 1992 negotiated awards we reviewed, only one proposal made the competitive range in each award. In 12 percent of the sealed bid awards we reviewed, only one bid was submitted for the award.<sup>4</sup> The limited response for some of EPA's solicitations was attributable in part to conditions related to these solicitations that favored incumbent contractors. These conditions included: LOE contracts with large, wide-ranging SOWs; technical evaluation criteria that placed heavy emphasis on personnel experience and availability; the status of the incumbent contractor; and technical evaluation panels comprised of program officials who worked with the incumbent contractor. As a result, EPA was not assured that it received the benefits of competition for some of its contracts awarded under competitive procedures.

### COMPETITION WAS OBTAINED FOR SUPERFUND AND OAQPS CONTRACTS

Competition was obtained for many contracts that we reviewed. Solicitations for contract support to the Superfund program and Office of Air Quality and Planning Standards (OAQPS) received substantially more proposals than other solicitations we reviewed.

Prior OIG audits found that a small number of proposals were submitted for Superfund's Emergency Response Cleanup Services (ERCS) contracts. In response to these audits the Agency split some of the multi-tasked jobs for these contracts into separate tasks and awarded them as separate contracts. This action resulted in an increase in the number of responses to the solicitations for these Superfund contracts.

Special Review Report No. E1SFF3-11-0020-4100111 entitled Competition in Superfund Contracting, dated December 7, 1993, reported the results of our review of 19 competitively awarded Superfund contracts. Eighteen were negotiated awards and one was a sealed bid award. Two or more proposals made the competitive range in 17 of the 18 negotiated awards.

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<sup>4</sup> Sealed bid awards are made to the lowest bidder. A competitive range is not determined for these awards.



Our review noted that increased competition was obtained as a result of the Superfund program's effort to remove restrictive requirements from previous SOWs and evaluation criteria. In many instances, multi-tasked ERCS contracts were divided into separate tasks and awarded as separate contracts. For example, Region 4 recently awarded five different mini-ERCS contracts valued at \$120 million by separating the tasks of the previous single, large contract.

We reviewed 13 contracts (12 FY 1991 and 1992 awards and one FY 1993 award) awarded by the CMD-RTP to support OAQPS. We noted that two or more proposals made the competitive range for all 13 contracts. The number of proposals received in response to OAQPS RFPs ranged from 2 to 10 proposals. The number of proposals in the competitive range ranged from two to seven proposals.

We believe a major reason for the increased competition for OAQPS contracts was the method of solicitation used for some OAQPS contracts. For three solicitations that we reviewed, multiple contracts were awarded from each solicitation. In one case the total hours required (after set-asides for small business) were split into four equal parts. Ten firms submitted proposals for this solicitation. Seven firms made the competitive range and four of these firms were selected for award.

In two of the three solicitations, the SOWs were divided into separate, distinct sections and, for each section, two contracts were to be awarded. These solicitations contained clauses that stated that one contractor could not win both contracts for the same SOW section. Competitive range determinations were made for each SOW section. At least three proposals made the competitive range for each SOW section for these two solicitations. We believe these types of solicitations generated more competition since potential offerors knew that a strong incumbent contractor could not win all of the work.

The use of multiple award solicitations with exclusion of sources may have also helped generate competition for OAQPS work that was awarded under the more traditional solicitation approach; i.e., one RFP with one SOW resulting in one contract award. We reviewed six of these "traditional" solicitations for OAQPS work. The number of proposals received for each of these solicitations ranged from two to five proposals and at least two proposals made the competitive range for each solicitation. In addition, five of these solicitations were for repeat service, and non-incumbent contractors won two of these awards.

## ABSENCE OF COMPETITION FOR SOME AGENCY CONTRACT AWARDS

We found that in 28 percent of the FY 1991 and 1992 negotiated contract awards we reviewed, only one proposal made the competitive range in each award. The following table shows the extent of competition for competitive negotiated contract awards for FY 1991 and 1992. Since RTP experienced substantially more competition for OAQPS contracts than other program office contracts, we segregated our RTP results into non-OAQPS contracts and OAQPS contracts for illustration purposes. For contracts awarded by CMD-Cincinnati there was no significant difference in competition among different program offices.

**Results Of Review Of FY 91-92 Negotiated Contract Awards**

| Location       | Contract Awards Reviewed (\$ in Millions) |              | Contract Awards With Only One Proposal in the Competitive Range (\$ in Millions) |                           |              |                             |
|----------------|---|--------------|--|---------------------------|--------------|-----------------------------|
|                | No.                                       | Dollar Value | No.  | Percent of Those Reviewed | Dollar Value | Percent of Dollars Reviewed |
| RTP Non-OAQPS  | 32  | \$462.1      | 13   | 41%                       | \$217.5      | 47%                         |
| RTP OAQPS Only | 12  | \$146.8      | 0  | 0%                        | \$0          | 0%                          |
| Cinc.          | 78  | \$328.7      | 25   | 32%                       | \$106.1      | 32%                         |
| S/Fund         | 18  | \$533.1      | 1  | 6%                        | \$3.5        | 1%                          |
| Totals         | 140                                       | \$1470.7     | 39   | 28%                       | \$327.1      | 22%                         |

Although negotiated awards represented the large majority of the total contracts in our sample, both in number of awards and maximum potential value of the awards, our sample included some sealed bid contracts. We reviewed 25 FY 1991 and 1992 sealed bid awards. These 25 contracts totaled approximately \$5.3 million in maximum potential value. In 3 of the 25 (12 percent) only one bid was submitted in response to the solicitation. The total value of the 3 contracts in which only one bid was submitted was \$343,000.

The following table shows the results of our review of sealed bid awards.

### Results Of Review Of FY 91-92 Sealed Bid Contract Awards

| Location | Total Reviewed<br>(\$ in millions) |        | Only One Bid Received |        |
|----------|------------------------------------|--------|-----------------------|--------|
|          | No.                                | Value  | No.                   | Value  |
| RTP      | 1                                  | \$ .05 | 0                     | \$0    |
| Cinc.    | 24                                 | \$5.22 | 3                     | \$ .34 |
| S/Fund   | 0                                  | \$0    | 0                     | \$0    |
| Totals   | 25                                 | \$5.27 | 3                     | \$ .34 |

Appendices V, VI, and VII provide a complete list of all FY 1991 and 1992 CMD-RTP, CMD-Cincinnati, and Superfund contracts reviewed, the number of proposals received and the number of proposals that made the competitive range for each contract award.

Our review of FY 1993 awards was limited since few FY 1993 contracts had been awarded at the time we performed our fieldwork. EPA typically awards a large percentage of its contracts at or near the end of the fiscal year. However, our limited sample and competition statistics compiled by the Competition Advocate suggest that EPA experienced similar levels of competition for the FY 1993 awards. We reviewed a total of 11 negotiated FY 1993 contract awards. In four of these contract awards only one proposal made the competitive range in each award. Competition statistics obtained by the Competition Advocate in August 1993 showed that for FY 1992 and FY 1993 to date, EPA competitively awarded 173 contracts and in 53 (31 percent) of the awards only one proposal made the competitive range.

#### Repeat Awards to Incumbent Contractors Accounted For The Majority of Awards That Lacked Competition.

Our analysis of the 39 negotiated awards in which only one proposal made the competitive range showed that, based on the dollar value of the contracts, a large majority were repeat contracts in which the incumbent won the follow-on award. The 39 contracts in which only one proposal made the competitive range totaled approximately \$327.1 million in maximum potential value. Nineteen of these contracts were awarded to incumbent contractors. The maximum potential value of these 19 contracts was approximately \$307.2 million.

The following table categorizes these 39 contracts as to repeat contracts awarded to incumbents, those awarded to non-incumbent contractors, or first-time contract awards.

**Analysis of FY 1991 and 1992 Awards With Limited Competition**

| Location | Awards With Only One Proposal in the Competitive Range (\$ = millions) |         |                                    |         |                                    |       |                  |        |
|----------|--|---------|------------------------------------|---------|------------------------------------|-------|------------------|--------|
|          | Total in Our Sample  |         | Repeat Award Went To the Incumbent |         | Repeat Award Went To Non-Incumbent |       | First-Time Award |        |
|          | No.  | Value   | No.                                | Value   | No.                                | Value | No.              | Value  |
| RTP      | 13   | \$217.5 | 10                                 | \$213.3 | 0                                  | \$0   | 3                | \$4.2  |
| Cinc.    | 25   | \$106.1 | 9                                  | \$93.9  | 1                                  | \$.9  | 15               | \$11.3 |
| S/Fund   | 1  | \$3.5   | 0                                  | \$0     | 1                                  | \$3.5 | 0                | \$0    |
| Totals   | 39   | \$327.1 | 19                                 | \$307.2 | 2                                  | \$4.4 | 18               | \$15.5 |

The preceding table shows that in 19 cases the incumbent contractor submitted the only proposal that made the competitive range and was subsequently awarded the contract. (In 11 of these 19 awards the incumbent contractor was the only company to submit a proposal. These 11 contracts totaled approximately \$216 million in maximum potential value.)

Although the number of first-time awards that experienced a lack of competition was relatively high, 18 out of 39 cases, the dollar value of these contracts was not large. Twelve of these 18 contracts had maximum potential values under \$1 million.

We reviewed the extent of competition for predecessor contracts to the 11 awards in which the incumbent contractor submitted the only proposal. In some cases we found that fewer proposals were received with each succeeding generation of a follow-on contract. For example, on one Cincinnati contract we reviewed, the incumbent had provided the requested services for more than 10 years. The original award received three proposals. The first follow-on award received two proposals. The most recent follow-on award received one proposal -- from the incumbent. We also noted follow-on contracts that had not experienced competition for a number of years. One laboratory support follow-on contract at RTP had only received one proposal (from the incumbent) for the last three contract awards. The incumbent had performed these services for 18 years.

Appendixes VIII and IX provide schedules of the procurement history for those contract awards in our RTP and Cincinnati samples that only received one proposal in response to the solicitation.

The FY 1991 and 1992 sealed bid awards we reviewed were primarily first-time awards and generally were awarded after receipt of two or more bids. Of the 25 sealed bid contract awards we reviewed, only one award represented repeat contract services. The three sealed bid awards in which only one bid was submitted were all first-time awards and were relatively small contracts. The dollar value of these three contracts ranged from \$59,850 to \$173,368.

#### BARRIERS TO COMPETITION RESULT IN LIMITED NUMBER OF PROPOSALS

Through discussions with over 80 potential offerors and review of RTP and Cincinnati contract files we identified several conditions that contributed to a lack of competition for some EPA solicitations. These conditions varied from case to case and sometimes existed in combination to limit the competition for a particular solicitation. We identified three major conditions that limited competition: (1) LOE contracts with large, diverse SOWs; (2) RFP personnel requirements that placed heavy emphasis on experience and availability; and (3) industry perceptions about the status of incumbent contractors. We also noted that technical evaluation panels were comprised of officials from the program offices that were receiving the services. As a result, these panel members most likely worked on a regular basis with the incumbent contractor. Since these panel members evaluate all offerors' technical proposals as part of the award process, this situation may increase the risk of partiality in the selection process. These factors may combine to limit the competition for some EPA contracts, especially contracts for repeat services (See Chapter 3 for a detailed discussion of these issues).

We also noted that, until recently, Agency Competition Advocate efforts in promoting competition focused primarily on reducing the number of sole source acquisitions. The Competition Advocate was successful in this endeavor as shown by the high percentage of contracts awarded under competitive procedures. However, the Competition Advocate had not routinely evaluated the results of these competitive procedures to determine whether they were resulting in competition for Agency contracts. For example, functional reviews of competition performed annually by the Competition Advocate did not look at the actual level of competition achieved for contracts awarded under full and open competition procedures. The Agency also had no mechanism for tracking contracts awarded under competitive procedures that resulted in the receipt of only one competitive proposal. The Agency could make the Competition Advocacy Program a more effective tool for improving EPA's competitive procurement process by improving its evaluation of the results of competitive procedures. This increased focus could help identify and mitigate the various factors that limit the number



of proposals received for some competitively awarded contracts (See Chapter 4 for a detailed discussion of these issues).

#### EPA NOT ASSURED THAT IT RECEIVED THE BENEFITS OF COMPETITION

Giving everyone an opportunity to compete does not ensure that potential contractors will submit offers and provide EPA with the benefits of competition. In a significant portion of contracts we reviewed, there was a lack of acceptable offers for those awards. For FY 1991 and 1992 we identified 39 negotiated contract awards totaling over \$327 million in maximum potential value for which only one proposal in each award made the competitive range. This included 24 awards totaling almost \$223 million for which only one company submitted a proposal in each case.

The Government is best served when all potential contractors have the opportunity to compete equally for its business. Contracts should be awarded to those submitting the most advantageous offers to the Government. Offering all contractors the opportunity to compete equally helps to ensure that the Government pays fair and reasonable prices.

In addition, the benefits of competition go beyond the short-term price advantage. The most important benefits of competition can often be the improved ideas, designs, technology, delivery, or quality of products and services that competition motivates potential contractors to produce or develop to obtain Government contracts. The chance of winning a Government contract, or the threat of losing a subsequent contract award similar to one being performed, provides an incentive for greater efficiency and effectiveness. When competition is restricted, the Government loses the opportunity not only to obtain lower prices but also to increase the productivity and the effectiveness of its programs.<sup>5</sup>

#### CONCLUSION

The Agency has received an inadequate number of responses to some of its contract solicitations. In 28 percent of the FY 1991 and 1992 contract awards we reviewed, the Agency received only one competitive proposal. Reasons for this limited competition were varied. Our audit noted several factors in the procurement process that favored incumbent contractors and thus limited competition for repeat contracts. When a material portion of Agency contracts are awarded without any significant degree of competition, the Agency has less assurance that it has paid reasonable prices for those services or that it has maximized program effectiveness and productivity in those areas affected.

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<sup>5</sup> GAO report entitled Better Compliance With the Competition in Contracting Act is Needed (GAO/NSIAD-87-145), issued August 1987.

## RECOMMENDATIONS

Chapters 3 and 4 contain detailed discussions of the specific causes of limited competition that were summarized in this chapter. Accordingly, recommendations to improve the competitiveness of EPA procurements are made in those chapters.

## AGENCY COMMENTS AND OIG EVALUATION

The Agency generally agreed with the findings presented in this chapter. However, the Agency believed our discussion of price was "inappropriate" since the vast majority of the Agency's contracts are cost-reimbursement type contracts. Although the effects of competition on price may be more pronounced for fixed-price contracts, we believe cost-reimbursement contracts can still benefit from the price effects of competition. FAR 15.803(c) states that price negotiation is intended to permit the CO and the offeror to agree on a fair and reasonable price. The Government's negotiation position can benefit from the presence of several competitive proposals. In addition, companies may incur different labor costs and G & A expenses and propose different rates for profit. Although estimates of cost may not be valid indicators of final cost in all cost-reimbursement contracts, in a competitive environment a company would need to be concerned about controlling costs and avoiding excessive overruns. A history of excessive overruns could negatively effect a firm's chances for subsequent cost-reimbursement contracts when competing against equally qualified companies that do not have a history of excessive overruns.

## CHAPTER 3

### CONDITIONS THAT LIMIT COMPETITION EXIST IN THE PROCUREMENT ENVIRONMENT

Several conditions existed in the procurement environment that by themselves or, in combination with other conditions, limited competition for EPA contract awards. These conditions tended to benefit incumbent contractors and include:

- level of effort (LOE) type contracts with large, diverse, contract SOWs;
- RFP evaluation criteria that placed significant emphasis on personnel experience and availability;
- perceptions about the status of the incumbent contractor; and
- TEP panels that were comprised of personnel from the office receiving the contract services.

These conditions combined to reduce competition for some EPA contracts. Our audit showed that repeat contracts that were awarded to incumbent contractors made up the large majority of the dollar value of those awards that lacked competition. In some of these instances the incumbent contractor was the only company to submit a proposal.

#### BACKGROUND

For those contracts in our sample that received only one competitive proposal, we performed additional work to determine why there was an absence of competitive proposals.

We reviewed documentation in contract files that included, but was not limited to, RFP technical evaluation criteria, RFP SOWs, OGC review comments, TEP Reports, competitive range determinations, source selection memorandums, and correspondence from companies explaining why they did not submit a proposal. For repeat contracts where there was a lack of competition we also reviewed the contract files for prior awards. We also interviewed COs and CSs, POs, CMD Directors and Branch Chiefs, and the Competition Advocate.

In addition, to determine reasons for the lack of competition for EPA contracts we interviewed over 80 potential offerors. For RTP contract awards, we selected potential offerors for interview using judgmental sampling techniques. First, we identified contracts in which there was a lack of competition. For these contracts, we selected companies from the following items contained in the contract files: lists of pre-proposal conference attendees, letters from companies stating that they would not submit a proposal to EPA, letters from companies requesting copies of the RFP, and from EPA solicitation mailing lists. We initially selected those companies

that indicated an interest in the solicitation. We did this by selecting those companies who attended pre-proposal conferences. We also selected those companies who expressed some reason in their letters for not submitting a proposal. Further, we selected companies who expressed some interest in the procurement through a written request for a copy of the RFP. After exhausting those criteria, we selected firms who submitted letters stating they would not propose, but did not express a specific reason for not proposing. Lastly, we judgmentally selected companies from solicitation mailing lists.

#### THE SIZE AND DIVERSITY OF LOE CONTRACT SOWs MAY LIMIT COMPETITION

The type of contract frequently awarded by EPA has contributed to a lack of competition. EPA has long relied on large, LOE contracts with diverse SOWs. The June 1992 Staff Report of the Standing Committee on Contracts Management, reported three reasons for this reliance on large, LOE contracts: (1) an Agency belief that flexible contract vehicles were needed to accomplish its work; (2) the Procurement Contracts Management Division (currently OAM) encouraged their use since they required less resources to award and manage; and (3) the Agency's available full-time equivalents (FTE) were not sufficient to accomplish the Agency's mission without contractor support. Some firms we spoke with recognized the advantages of the incumbent in these types of contracts and, consequently, did not submit competing proposals.

The large, diverse contracts awarded by EPA appeared to favor the incumbent in a number of ways including the following:

- Small and medium firms alone could not handle the diversity and/or volume of work required by the larger contracts.
- General SOWs made it difficult for non-incumbent firms to prepare technical proposals.
- LOE contracts made it desirable to retain the incumbent contractor for the sake of continuity and consistency in the work and its results. (The discussion of this issue is included in the subsection entitled "Perception That EPA Favored the Incumbent Contractor" and starts on page 36.)

#### Large, Diverse SOWs May Limit Competition

During our discussions with prospective offerors, we asked them if there were conditions in the EPA procurement system that limited competition. The large size of EPA contracts was the second most often stated condition. The diversity of tasks and the sheer number of labor hours required in such contracts could deter medium and small firms from submitting proposals. Some of these officials expressed the opinion that EPA may not get the best services when awarding large contracts. This was because medium sized firms that

may be proficient in one specialized area under the general SOW but do not have experience in the other areas of the SOW may not submit proposals. The only way such a firm could submit a proposal was to find other contractors to team with them as subcontractors. This was difficult to arrange since the incumbent contractor may have already secured the most qualified team.

The Agency has recognized the diminishing effect that large contracts can have on competition. The FY 1992 Annual Report on Competition chronicled cases in which EPA was breaking up larger contracts to enhance competition. For example, the report stated that the Agency was breaking down Office of Policy, Planning and Evaluation (OPPE) contracts into smaller contracts to encourage more offers. The Competition Report also stated that the Agency was dividing contracts supporting Superfund to increase competition. It stated that several of these contracts were now being awarded on a regional basis as opposed to a zonal basis (comprised of several regions). The Agency hopes that the smaller contracts will generate more proposals and competition. The annual report noted that CMD-RTP had split large mission contracts into three separate contracts. The Agency was considering awarding three contracts: one full and open competition, one competitive small business set-aside, and one SBA 8(a) set-aside. Moreover, RTP contracting officials told us that the Environmental Service Assistance Teams (ESAT) contracts that were previously awarded on a zonal basis will be awarded on a regional basis.

One approach the Agency has used to reduce the size of contracts is to make multiple awards from a single solicitation. As noted in Chapter 2, contracts awarded to support OAQPS have been issued under this approach. Other program offices have also used this method to increase competition for their contracts. The Office of Water (OW) used multiple awards to increase competition on a contract for sampling and analysis services. The solicitation for the OW initial contract only received one proposal. Likewise, the solicitation for the first follow-on contract only received one proposal. The solicitation for the second follow-on contract used a multiple award approach. As a result, five companies submitted proposals and three companies' proposals made the competitive range for the multiple awards.

Although the Agency has reduced the size of many of its procurements, large SOWs were still a factor in some contracts that we reviewed during our audit. Some program offices maintained that having one contractor perform under one large contract was more efficient for accomplishing their work than using several smaller contracts. Some program offices preferred these larger types of contracts because they required fewer POs to administer. Because of the lack of Government employees available to accomplish the program's tasks, program officials often used LOE contracts to obtain essential program support.

The following cases from our review are provided to illustrate contracts in which large, diverse SOWs affected the degree of competition obtained:

Case Example One: Contract Numbers 68D20155 and 68D20185

We reviewed two contracts awarded in FY 1992 to support the Office of Radiation Programs.<sup>6</sup> This support was previously provided under one contract. The maximum potential value of the two 1992 awards was approximately \$52,000,000 and \$28,000,000. The incumbent was one of three contractors to submit proposals for the \$52,000,000 contract and was the only contractor to submit a proposal for the \$28,000,000 contract. The incumbent contractor won both awards. The number of labor hours required by these two contracts were 850,000 and 425,000, respectively.

We interviewed company officials of one firm who received the RFPs for both competitive awards. These officials cited two factors related to the size and diversity of the RFP SOWs that influenced their decision not to submit proposals. These factors were the large number of professionals with doctorate degrees required and the diversity of experience that the solicitations required. Both RFPs required a large number of health physicists with doctorate degrees. These company officials explained that this was a specialized area and that it was difficult to come up with that many personnel with doctorate degrees in that specialty. They stated that only a few firms already had the number of people required to fill those positions. They also stated that the major work tasks for the two RFPs were in distinctly different fields. They believed that each of the two RFPs could have been split into three separate contracts. Since the two RFPs contained work tasks in such divergent fields, they would have had to put together a team of contractors to provide the requested support. These officials believed that EPA could have promoted competition by procuring the different support services separately.

We also spoke with the PO for one of these contracts. His explanation for the lack of competition supported what we were told in our interview with firm's officials who did not submit a proposal. The PO stated that the area of radiation program activities in which the contracts were involved was very specialized. He stated that this specialized activity required the use of several subcontractors and that the incumbent contractor already had these subcontractors in place.

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<sup>6</sup> Six contracts were awarded to support this Office. The two contracts awarded under full and open competition provided most of the support. Two competitive small business set-asides and two SBA 8(a) set-asides were also awarded.

We also reviewed prior contract awards for contract support to this program office. This history of prior contract support revealed that the incumbent contractor has provided most of the support to one of this office's divisions and that support has increased dramatically since 1984. In 1984, the current incumbent contractor was awarded one contract to provide up to 63,000 labor hours of support with a maximum potential value of \$2,606,896. In 1987 the incumbent won one contract to provide up to 270,000 labor hours with a maximum potential value over \$11,000,000. In 1989 the incumbent won one contract to provide 600,000 labor hours of support with a maximum potential value of \$26,157,674. In 1992 the incumbent won two contracts to provide up to 1,275,000 hours of support with maximum potential values totaling \$80,628,441.

The number of proposals submitted in response to solicitations for contract support to this program office has decreased since 1989. For the support contract awarded in 1987, four companies submitted proposals. For the support contract awarded in 1989, five companies submitted proposals. For the two contracts awarded in 1992, three companies submitted proposals. The incumbent submitted proposals for both solicitations while two other firms submitted proposals for the largest of the two solicitations.

#### Case Example Two: Contract Number 68D20056

This contract was awarded in April 1992 with a maximum potential value of \$67,985,497 and up to 1,768,500 labor hours of support. The contract provides technical support to ORD's Health Effects Research Laboratory. The incumbent contractor was the only firm to submit a proposal for the current contract award. The incumbent and one other firm submitted proposals for the prior contract award.

The current contract SOW covers several different work areas. CMD attempted to "set-aside" a portion of the current contract SOW for a small business. However, Laboratory officials believed that the contract's services would be more effectively provided under one contract. These Laboratory officials stated that the procurement represented an integrated requirement that involved close coordination between different projects.

We spoke with the vice president of one company that received the solicitation for the current contract award. He stated that the contract was too large for his company to manage. His company has an annual revenue of about \$32 million and employs approximately 500 people. This official stated that he knew of only three other firms that could handle the work required under this contract. This official believed that the work could be split among the Laboratory's organizational lines instead of procured under one large contract.

Gradual increases in work tasks and labor hours in follow-on contracts can further increase the incumbent advantage when

competing for successive follow-on contracts. With each increase in tasks the incumbent's experience advantage is increased. We reviewed the current contract SOWs and prior contract SOWs for nine RTP follow-on contract awards that had only one proposal make the competitive range. Each of these contracts had maximum potential values over \$4 million. We reviewed these SOWs to determine if the work required was expanding over time. In all nine contracts additional tasks were added to the contract SOW which were not in the previous SOW. In the most extreme example we noted that the prior contract contained 6 work tasks while the follow-on contract expanded to 19 work tasks. In five contracts the number of labor hours increased from the prior contracts. In three of these follow-on contracts the increase in labor hours ranged from 29 to 43 percent from the previous contract to the follow-on contract. In two instances the increase in labor hours happened essentially because the contract period of performance (including option years) was increased from three years to four years and five years. In addition, we noted that three contract SOWs contained non-technical tasks; e.g., conference support, word processing support, and other such tasks that could possibly be procured separately from the technical work.

#### General Statements of Work

Another problem we found related to LOE contracts was the generally worded SOWs that were common to these types of contracts. Prior OIG reviews noted that SOWs for these contracts were general and did not describe specific work tasks. A non-incumbent offeror can find it difficult to write their technical proposal when they do not know what specific tasks are required under the SOW. An incumbent contractor would know the specific work required because of their past work experience and could better tailor their technical proposal to that work.

Some company officials we spoke with expressed concerns about generally worded SOWs. One company official stated that this type of contract does not promote full and open competition. This official believed that such SOWs do not allow a company to demonstrate superior productivity. Another company official stated that he would like to see large, general LOE contracts broken down into separate completion type contracts. He believed this would promote competition and allow the Agency to obtain better expertise by encouraging medium sized firms which specialize in one area to compete for EPA contracts in those areas.

The Director of CMD-RTP told us that he believed generally worded SOWs were a major problem in obtaining competition for Agency contracts.



## Large Contracts With Extensive Subcontracts May Cost EPA More Than Smaller Contracts That Do Not Use Subcontracts

The use of large, diverse, LOE contracts can limit competition for these contracts. In addition, each of these contracts may cost more than several smaller contracts and can present special contract management problems when extensive subcontracting is used. These contracts may require extensive subcontracting for two reasons. First, because of the large number of personnel required, the prime contractor may choose to subcontract rather than directly hire a large number of employees. Secondly, the diversity of expertise required by the contract may necessitate subcontracting since no one contractor may have the diverse staff needed to perform the statement of work.

When extensive subcontracting is required, this type of contract may not be cost beneficial to EPA. Some Agency Determinations & Findings (D & F) we reviewed argued that these contracts were not economical. (D & Fs are contract documents prepared by the CO that provide the Agency's justifications for taking certain contract actions.) This was because the subcontractor's costs were passed through the prime, who in turn, added its General and Administrative (G & A) rate and profit to the subcontractor's costs. For example, a D & F for splitting up an OAQPS contract stated that:

With an increase in the volume of work, the one contractor will tend to propose with numerous subcontracts, which pyramids indirect costs and profits. This is certainly not cost effective for the Agency.

Using a 5 year LOE contract requiring 1,100,000 hours as an example, the D & F estimated that breaking up the contract into four equal contracts could save the Government anywhere from \$2,268,750 to \$6,806,250 depending upon the prime contractor's G & A rate.

Also, when extensive subcontractors are used, contract management problems can be present which would not be a problem when a prime contractor is performing the majority of the work. An issue paper prepared by an Agency Quality Action Team (QAT) listed problems associated with extensive subcontracts. Some of these problems included the potential for directed subcontracting, (i.e., EPA tells the prime which subcontractor to use for a specific work assignment), the prime not using the same subcontractors who were presented in their original proposal, and EPA personnel dealing directly with the subcontractors instead of the prime contractor.

## Conclusion

The type of contract awarded by EPA can be a significant factor in limiting competition for some contracts. A large, diverse SOW can limit competition since only a few firms may be capable of

performing the variety of work required. When the work requires the assembling of large subcontracting teams, the incumbent contractor may have the best qualified expertise already on its staff. Consequently, it could be difficult for a potential competitor to put together a team that can successfully compete against the incumbent and its team. As a result, competition may be limited for such contracts.

#### RFP EVALUATION AND SCORING CRITERIA CAN LIMIT COMPETITION

We found that RFP technical evaluation criteria and its assigned scoring weights favored the incumbent contractors in some instances. This contributed to a lack of competition for some contracts. Some prospective offerors we spoke with stated that the technical evaluation criteria played an important role in deciding whether to submit a proposal. If the technical evaluation scoring criteria allotted a high percentage of points for areas that they believed favored the incumbent contractor, they were reluctant to submit proposals.

The FAR provides only broad guidance in the area of technical evaluation criteria. FAR 15.605 (a) states:

The factors that will be considered in evaluating proposals should be tailored to each acquisition and include only those factors that will have an impact on the source selection decision.

FAR 15.605(b) states:

The evaluation factors that apply to an acquisition and the relative importance of those factors are within the broad discretion of agency acquisition officials... Quality also shall be addressed in every source selection. In evaluation factors, quality may be expressed in terms of technical excellence, management capability, personnel qualifications, prior experience, past performance, and schedule compliance. Any other relevant factors, such as cost realism, may also be included.

We reviewed the technical evaluation criteria and scoring plans for 19 RFPs issued by CMD-RTP that resulted in the receipt of only one proposal that made the competitive range. We reviewed the evaluation criteria to determine whether it included factors that may have favored the incumbent contractor. We also evaluated the relative importance of various criteria to the total amount of points available. We did this to determine whether the RFP appeared to allot excessive points for certain criteria. We also interviewed prospective offerors to obtain their opinions on RFP technical evaluation criteria.

Based on our review, we observed scoring criteria and related elements that favored the incumbent contractor and made it difficult for other potential offerors to compete against the incumbent. In some cases several criteria which favored the incumbent contractor were present in the RFP. We identified four such factors in our review: (1) corporate experience that exceeded 15 percent of the total available points; (2) personnel experience and availability that equaled or exceeded 40<sup>7</sup> percent of the total available points; (3) letters of commitment were requested to show availability of key personnel; and (4) offerors were asked to name non-key personnel. The following table summarizes our review results:

(See top of next page for table)

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<sup>7</sup> We do not suggest that 40 percent should be a definitive cutoff point for all RFPs. Based on our review we believe this is a percentage that represents a substantial portion of the total evaluation points available and may benefit the incumbent contractor to the point that it could limit competition. In the Agency's recent guidance document for awarding LOE contracts, a hypothetical scoring plan awards 35 percent of the total available points in the area of personnel experience and availability.

**Summary Results of Review of RFPs For Contract Awards In Which  
Only One Proposal Made The Competitive Range**

| Contract Number | Corporate Experience Exceeded 15 percent | Personnel Experience & Availability Was 40 Percent or More | Letters of Intent Required For Key Personnel | Offerors Asked to Name Non-Key Personnel |
|-----------------|--|--|--|--|
| 68D10135*       |  | x  | x  |  |
| 68D20056*       | x  | x  | x  | x  |
| 68D00106        |  |  |  | x  |
| 68D20155*       | x  | x  |  |  |
| 68D00110*       |  |  |  |  |
| 68D20172*       |  |  |  | x  |
| 68D10003*       |  |  | x  |  |
| 68D30013*       | x  | x  | x  | x  |
| 68D10009*       |  |  |  | x  |
| 68D20175*       |  | x  | x  | x  |
| 68D00114        |  | x  |  |  |
| 68D20186*       |  |  |  |  |
| 68D30010*       |  | x  |  |  |
| 68D10134        | x  |  |  |  |
| 68D10105*       | x  | x  |  |  |
| 68D10149        | x  |  |  |  |
| 68D20151*       | x  |  |  |  |
| 68D30015*       |  |  |  |  |
| 68D10160        |  |  |  |  |
| Totals          | 7  | 8  | 5  | 6  |

\* = Repeat contract and incumbent won the award.

### Corporate Experience Exceeded Goals Established by the Competition Advocate

Corporate experience is a rating criteria based on experience that the proposing company has in a specified field(s). The Competition Advocate's policy is that points for this category should not exceed 15 percent of the total evaluation points.

In 7 of the 19 RFPs we reviewed, the points available for corporate experience exceeded 15 percent of the total. The percentage allotted in those solicitations we reviewed ranged from 16 percent to 38 percent of the total evaluation points. Four of these cases were for contracts under \$5,000,000 and consequently were not reviewed by the Competition Advocate. The Competition Advocate only reviews acquisition plans for procurements with a maximum potential value of \$5,000,000 or more. The other three cases were for contracts over \$5,000,000 and were reviewed by the Competition Advocate. We found no evidence in the contract files concerning actions taken by the Advocate related to corporate experience in these cases. Corporate experience for these three latter cases totaled 16, 17, and 20 percent of the total points available.

There is no written Agency policy specifying how much emphasis should be placed on corporate experience. However, the Competition Advocate stated he followed his guidance of 15 percent for several years to prevent the incumbent from gaining an excessive advantage for an award based on their prior EPA work experience. CMD-RTP's Placement Branch Chief stated that CMD-RTP also used this benchmark in reviewing RFPs.

We spoke with the CSs for two of the RFPs in which the amount of points awarded for corporate experience exceeded 15 percent of the total points. One CS stated that, at the time of the award, she was unaware of any guidance restricting corporate experience to 15 percent. However, she said the Branch Chief had confirmed this policy in a recent staff meeting, therefore she would see that future RFPs adhered to this percentage. The other CS we spoke to stated that he had also been unaware of this guidance.

### Personnel Experience and Availability

In 8 of the 19 RFPs we reviewed, 40 percent or more of the available evaluation points were based on experience and availability of personnel. For three RFPs the percentage was over 50 percent with a high of 66 percent. These three contracts had maximum potential values of approximately \$28 million, \$4.3 million, and \$1.2 million. The evaluation points were allotted in such categories as: demonstrated ability of personnel; personnel experience; and availability of personnel. Availability referred to the likelihood that the proposed personnel would work on the contract. These factors were always applied to key personnel, and in some cases applied to non-key personnel as well. These rating factors were beneficial to incumbent contractors because they could cite

personnel with extensive EPA experience that had been gained on the predecessor contract. Incumbent contractors could also demonstrate availability of personnel since their personnel were already working on the contract.

The greater the percentage of points allotted to a particular evaluation factor, the more beneficial a high score in that area will be to an offeror in trying to win the award. Some company officials we spoke with stated that when they see a high percentage of points awarded for personnel experience and availability they believe it will be difficult to defeat the incumbent contractor. These officials believed that the incumbent's EPA experience will generally count more than their proposed personnel's experience.

We did not find RFPs which specifically stated EPA experience was desired; however, the TEP reports sometimes indicated that EPA experience was what the panel considered most beneficial. For example, a TEP report's comments concerning a non-incumbent proposal included the statement, "Their only ties to EPA appear to be with the Superfund program, a program which is distinctly different from our own."

One way a non-incumbent firm can try to avoid the problem of not having experienced personnel is to propose to hire the incumbent's staff. However, when the rating factor of availability is heavily weighted it can hinder an offeror's ability to propose incumbent staff. The manner in which offeror's are asked to show availability of personnel can also favor the incumbent. In addition to requesting information on the experience of proposed personnel, RFPs often requested that the offeror show the availability of proposed personnel. Some methods for demonstrating availability as stated in the RFPs we reviewed included; showing the length of time the proposed personnel have worked for the proposing company, showing past projects the proposed personnel have worked on and future projects they will work on, and providing letters of commitment if the proposed personnel are not currently employed by the proposing firm. The incumbent contractor can better demonstrate availability of its staff since it can propose people who are currently working on the contract.

#### Key Personnel and Letters of Commitment

The availability of personnel rating factor becomes even more beneficial to the incumbent contractor when the RFP requests that availability be demonstrated with letters of commitment from proposed personnel. In 5 of the 19 RFPs we reviewed, potential offerors were asked to provide letters of commitment for key personnel. This can be especially difficult for non-incumbent contractors who plan on hiring incumbent staff. Potential offeror's we spoke with indicated that incumbent contractor personnel were typically reluctant to sign letters of intent stating that they would work for their current company's competitor.

An issue related to the requirement for letters of commitment for key personnel was the number of key personnel required. We noted that this requirement was not treated the same way for all Agency RFPs. For example, the RFPs issued by CMD-RTP typically did not specify which positions were considered key positions. Offerors designated which positions they considered key in their proposals. Final determinations of key personnel were decided during contract negotiations. In contrast, prior OIG audits and surveys of ORD laboratories noted that other (non-RTP) RFPs designated which positions were considered key positions. These reviews noted that competition was limited for some contract awards because of the large number of positions that were designated as key positions.

We spoke with the manager of business development for a company that had submitted a proposal in response to an RFP for an EPA laboratory support contract awarded in 1990. He explained how the requirement to obtain letters of commitment for key personnel and the number of key personnel desired by EPA hindered his ability to compete against the incumbent. This company submitted a proposal with five key personnel designated. However, during negotiations with EPA he was informed that 15 key personnel were needed, not five. This official explained to us that the only way he could obtain 15 key personnel was to hire incumbent staff. However, letters of commitment were needed to demonstrate their availability and he was unable to get the names of the incumbent's staff. His other alternative was to hire non-incumbent key personnel. However, to do this his company would incur excessive costs in relocating these people. In addition, he did not believe these people would be rated as high as incumbent staff in the experience category. He told us that he contacted CMD officials and inquired as to whether the issue of key personnel was to be treated similarly for the award of the follow-on contract. He stated he was informed that it would be treated the same and he, therefore, decided not to compete for the follow-on contract.

We also interviewed the vice president of a company that had submitted a proposal for the follow-on contract discussed in the preceding paragraph. He stated that initially he contacted the key personnel for the incumbent staff and that they verbally agreed to work for his company if it won the award. However, when he contacted these same employees to obtain letters of commitment for his proposal they stated that they would not sign letters of commitment. This official believed that the incumbent's staff were promised future employment with the incumbent company regardless of the award outcome, and that they, therefore, decided not to sign letters of commitment with his company.

We found that the issue of commitment letters was not treated consistently among RFPs and TEPs for different contract awards. For example, we reviewed two contracts that were awarded at the same time to support two ORD laboratories at RTP. Both RFPs contained a section for evaluating the ability, experience, and availability of

staff. However, the two RFPs differed in the stated factors to be used in evaluating these sections. One RFP stated that if new personnel were to be hired to fill positions, the offeror should present a hiring plan and hiring procedures. This RFP did not ask for letters of commitment. However, the other RFP stated that if the offeror was to hire new staff they must show letters of commitment or other such evidence which indicated that the designated personnel would accept employment in the event of award.

The TEP reports and the competitive range determinations further highlighted the differences in treatment of evaluation criteria. The competitive range/source selection document for the RFP which did not request commitment letters offered the following discussion regarding the non-incumbent proposal:

...While it is normal, and acceptable, for an offeror who is not the incumbent to be unable to get advance commitments from the existing staff, one would expect to see a demonstration of a well conceived, aggressive plan to hire the incumbent staff. Additionally, one would expect to see evidence of the likelihood of success, i.e.; statistics of percentage of incumbent staff [company name omitted] successfully recruited on prior "takeovers" of this nature...

The line of reasoning outlined by that panel was very different from the position taken by the TEP for the RFP that requested letters of commitment. The "Narrowing of Competitive Range and Source Selection" document for this award stated;

...The interrogatories explicitly stated that the EPA was looking for letters of intent from incumbent personnel or at least claims of verbal commitments; none was offered. [company name omitted] basically re-argued that they have a 95 plus percent success rate in hiring incumbent contractor's personnel in the past and plan to do so this time also...

The non-incumbent company also provided a hiring plan in addition to their past hiring success rates. Both were factors which the other TEP would have considered as a plus in their evaluation of this element. In this example as in all cases, TEPs are required to follow the scoring plan as outlined in their respective RFPs. However, we believe the Agency's RFPs should be more consistent in establishing the criteria used to evaluate and score similar evaluation factors.



### Offerors Were Sometimes Asked to Name Non-Key Personnel To Be Placed on The Contract

RFPs that ask offerors to name non-key personnel can provide even greater advantage to the incumbent contractor in the area of personnel qualifications and availability. In 6 of the 19 RTP RFPs we reviewed, potential offerors were asked to name personnel, other than just key personnel, who would perform on the contract. In the most extreme example we found, one RFP requested that offerors specifically name all technical personnel to be placed on the contract (see Case Example Six, below). Requirements to name key personnel are common since these people are considered essential to the performance of the contract SOW. However, asking offerors to provide names of an excessive number of non-key technical personnel appeared to place an excessive burden on non-incumbent potential offerors. Since the incumbent already had people in place working on the contract it was easy for them to name the people that would be placed on the follow-on contract. It was difficult for non-incumbent offerors to anticipate which employees would possibly be assigned to a contract at the time the proposal was prepared.

We question whether an offeror should be evaluated on the experience and availability of non-key personnel. If personnel were not designated as key personnel then these personnel would not be considered crucial to successful completion of the work. Their prior work experience would not be as important as key personnel's experience. In addition, these positions should be easier to fill since they require less qualified personnel than those in key positions. This rating factor provides a substantial advantage to the incumbent. Rating offerors on the experience and availability of personnel who are not: (1) key personnel; (2) the most important technical personnel; or (3) being rated collectively as project groups, may unduly restrict competition.

The following two examples illustrate some of the evaluation factors discussed in this section.

#### Case Example Three: Contract Number 68D30013

The RFP for this contract contained several factors which favored the incumbent contractor. The RFP placed 60 percent of the technical evaluation criteria in two areas which favored the incumbent. These areas were "Demonstrated Company Expertise" and "Demonstrated Qualifications, Expertise, Experience, Education, and Availability of Proposed Personnel." In order to show availability of personnel, the RFP requested letters of commitment for new hires. This included key and non-key personnel.

The RFP did not request that offerors specifically show EPA experience; however, the experience advantage gained by the incumbent in performing the contract work would have been hard to overcome by any potential competitors. For example, the RFP

evaluation criteria contained the following statement regarding management experience, "Evidence of having successfully managed projects (similar to those stated in the Statement of Work).." In regard to technical experience it contained the following statement, "Demonstrated technical expertise and experience including completed and current projects related to the Statement of Work."

Although the RFP contained separate evaluation factors to cover both corporate and personnel experience, experience was also factored into the evaluation of an offeror's proposed technical approach. The OGC reviewer questioned whether experience should be included in the evaluation of technical approach. Despite the OGC reviewer's comments, the RFP requested that:

Any recent experience in fields relating to this procurement should be described. This description should be adequately detailed to establish the pertinence of the experience and what influence it had on the proposed technical approach to this requirement.

This contract was awarded to the incumbent after receipt of two proposals. Only the incumbent's proposal made the competitive range. The incumbent had held the four prior contracts, and in each of these awards, was the only contractor to make the competitive range.

Case Example Four: Contract Number 68D10009:

The RFP for this contract contained two evaluation factors which appeared to limit competition. First, the RFP requested that offerors specifically name all technical personnel to be placed on the contract. Secondly, offerors were requested to travel to RTP to conduct performance audits. Only one other company submitted a proposal. However, this proposal was rated non-responsive and received zero technical points.

The RFP's technical evaluation criteria allotted a certain number of points for an offeror's ability to specifically name technical personnel to be placed on the contract. The larger the percentage of technical hours that an offeror provided specific names for, the greater the number of technical points their proposal received. An offeror could receive a maximum of 150 points by providing names for 90 percent of the technical hours. If an offeror provided names for less than 75 percent of the total technical hours the offeror would receive zero points for this rating element.

The OGC reviewer questioned the purpose of asking offerors to provide names of their technical personnel. A memorandum from the PO indicated that he believed having offerors name technical personnel was necessary to show that the offeror had sufficient people available to perform the work. A contracting official stated

on the disposition of the legal review comments that the attorney's comments regarding technical evaluation criteria were "discussed at length" with the Competition Advocate and the PO and no changes were made.

Additionally, the technical evaluation criteria awarded up to 500 points for demonstration of an offeror's knowledge and experience by conducting performance audits of various pollutants. These performance audits were to be conducted at RTP.

We interviewed a senior planner from one organization that had received a copy of the RFP. This official stated that the naming of employees was too restrictive. He said this would be impossible for most large companies because they would not know who would be available until the contract was awarded. He stated his company conducted 1500 - 1800 projects annually and that this requirement assumed companies had people standing around waiting for contract work. He also stated that the requirement to visit EPA and conduct performance audits was unusual. He believed that, in this case, any potential offerors, in order to realistically compete, would have had to be in the general area of RTP.

#### Agency Actions

EPA has issued recent guidance for developing technical evaluation criteria. In November 1993, EPA issued The Cookbook, How To Get Contracts Awarded In EPA. This document provides guidance to POs for awarding LOE contracts. Chapter V of this document provides guidance on the development and scoring of technical evaluation criteria. The chapter states that criteria must not unduly favor the incumbent contractor. It also states that generally, no more than 15 percent of the total points available should be assigned to the corporate experience criterion. Although maximum percentages are not specifically suggested for other criterion, the chapter contains a sample technical evaluation criteria for a hypothetical solicitation. In this example, personnel experience and availability only account for 35 percent of the total points available.

#### Conclusion

EPA RFPs contain several evaluation scoring factors that have been used in ways that favor incumbent contractors. These factors include corporate experience and availability of personnel. The use of experience as a criteria becomes more beneficial to the incumbent contractor when EPA experience is considered more important than non-EPA experience. Other factors that favor the incumbent contractor are: requests for letters of commitment to show availability of personnel; requests for offerors to name all proposed technical personnel in addition to key personnel; and requiring offerors to identify a large number of key personnel. When potential offerors see these scoring factors in an RFP they are

reluctant to prepare a proposal since they believe their chances of winning the award are lessened. Potential offerors can also interpret these factors as signals that the agency wants to reaward the contract to the incumbent contractor.

Incumbents can gain a legitimate advantage through their past EPA work experience. We do not advocate eliminating legitimate experience advantages. However, we believe the Agency should eliminate any unnecessary experience factors contained in evaluation criteria. The Agency should also evaluate and implement methods which will enable more firms to gain experience in various EPA programs.

#### INDUSTRY PERCEPTIONS ABOUT THE STATUS OF INCUMBENT CONTRACTORS SOMETIMES LIMIT COMPETITION

Industry perceptions regarding the status of the incumbent contractor played an important role in the degree of competition for contracts. Incumbent status included such factors as the performance of the incumbent contractor and some contractors' perceptions that EPA unduly favored incumbent contractors. These perceptions were based on these companies' prior experiences and observations of EPA's procurement process. A perceived lack of information regarding EPA solicitations also contributed to the belief by some contractors that EPA favored the incumbent contractor. As a result, competition for many repeat contracts was limited, especially when other contractors perceived that the incumbent was performing well.

We contacted 52 companies who had received solicitations originating from CMD-RTP but did not submit proposals. We asked these companies why they did not submit proposals for specific solicitations in our sample. For firms who were capable of performing the work, the most common reason given for not submitting a proposal was the strength of the incumbent contractor. Strength of the incumbent contractor included such things as the extent of the contractor's facilities, number of personnel, and extent of experience in performing the contract services. We also solicited these officials' opinions on EPA's contracting process and areas which may limit competition for EPA contracts. Twelve officials from different companies told us that they could not comment on EPA contracting due to a lack of experience with EPA. Of the remaining 40 companies, 7 stated that EPA was closed to outsiders or favored incumbent contractors too much. The other 33 respondents offered a variety of responses.

We also contacted 34 companies who had received solicitations originating from CMD-Cincinnati. Forty seven percent (16 of 34) stated that they would not submit a proposal against an incumbent contractor. Strength of the incumbent contractor was the third most common reason given for not submitting a proposal from those firms who were capable of performing the work.

Our analysis of repeat and first-time contract awards supports company officials' contentions that they do not like to compete against incumbent contractors. We analyzed the number of proposals received for 32 contracts (excluding OAQPS contracts) awarded by CMD-RTP in FY 1991 and 1992. Twenty-one of the contracts were follow-on contracts. In 17 cases the incumbent contractor won the repeat award. The average number of proposals submitted for the 17 contracts the incumbent won was 2.06 proposals. The average number of proposals in the competitive range was 1.59 proposals. For repeat awards that the incumbent did not win, the response to these solicitations was greater. The four repeat awards in which a non-incumbent won the contract averaged 3.75 proposals with 2.5 proposals in the competitive range. For first-time awards the response was even greater. Our review of 11 first-time contract awards showed that CMD-RTP received an average of 4.55 proposals and placed an average of 2.91 proposals in the competitive range.

#### Performance of the Incumbent Contractor

Company officials indicated that the performance level of the incumbent contractor can greatly influence their decision on whether to compete for a follow-on contract award. Many companies were hesitant to compete against an incumbent contractor if they knew or believed that the incumbent was performing at an acceptable level. Two contract awards we reviewed illustrate the importance of the incumbent's performance in determining the amount of competition received for a follow-on contract.

CMD-RTP simultaneously solicited and awarded two Environmental Services Assistance Team contracts for different zones (several regions comprised a zone). According to EPA documents, one incumbent had performed well and the other incumbent had not performed well. The re-compete for the zone in which the incumbent was performing well only received a proposal from the incumbent. The re-compete for the zone in which the incumbent was not performing well received three proposals (including one from the incumbent) and all three made the competitive range. The incumbent did not win the award in this case. We discussed these contracts with one non-incumbent firm who submitted a proposal. An official from this firm told us that they proposed on the contract where they knew the incumbent was doing poorly because they believed they had a better chance of winning. This official told us he was aware of the incumbent's poor performance by requesting the firm's award fee letters for the previous contract through the Freedom of Information Act.

An illustrative example of an offeror's evaluation of an incumbent's status and how that affects the decision on whether to compete for a contract award can be found in letter from an offeror to EPA. The letter stated:

...In order to assure that we were not wasting resources in an attempt to unseat a firmly-placed incumbent, usually a fruitless endeavor, we examined the incumbent contract, the incumbent contractor, the new requirements, and the array of probable competition.

The letter went on to explain why the company decided to submit a proposal:

...this effort was to be comprised of approximately one-third work that continued the incumbent contract work, and two-thirds work support in areas not undertaken previously. Specifically, it was stated that new support in such areas as...in which...is very strong, were to comprise the bulk of the effort...If the work to be procured had been simply a follow-on to the previous work...the limited scope would have made the risk of success against such a firm [the incumbent] too great for the expense involved.

The reasoning outlined in this letter also shows how adding additional work to follow-on contracts can increase the incumbent advantage as mentioned earlier in this Chapter. If the new work tasks do not comprise most of the total effort, non-incumbent firms may be reluctant to submit a proposal. Over several procurements, the size of the SOW can gradually increase and offerors will not compete for the repeat awards since the incumbent contractor already has experience performing most of these tasks for EPA.

#### Perception That EPA Favored the Incumbent Contractor

Seven of 40 potential contractors from our RTP sample stated that they believed that EPA, in general, favored the incumbent contractor too much or was closed to "outsiders." Almost half of the companies in our Cincinnati sample stated they would not submit a proposal against an incumbent contractor. Some contractors we spoke with did not believe EPA was biased as a rule but had experienced certain acquisitions where they believed that competition was not wanted. These officials obtained this perception from talking with other industry sources and through their own personal contacts with EPA. These officials identified actions that led them to this conclusion. These actions included: seeming unwillingness of EPA to answer questions concerning procurements during the pre-proposal stage; lack of information concerning future and current EPA procurements; and evaluation factors that favored the incumbent contractor.

One factor or a combination of factors sometimes led company officials to conclude that the Agency wanted to keep the incumbent contractor and that competition was not really wanted. For example, one company official told us that the Agency's unwillingness to answer his written questions concerning a repeat procurement convinced him that the program office wanted to keep the

incumbent contractor. Consequently, this company did not submit a proposal on the procurement. In addition, they elected not to pursue another related procurement in the same program office because of the experience with the other procurement. The incumbent contractor won both procurements and was the only company to submit a proposal for either solicitation.

Another company official told us that due to several factors he believed two concurrent procurements for support to the same program office were "wired" for the incumbent and consequently he did not submit a proposal. This official believed the LOE contracts required too many positions requiring doctorate degrees. This requirement, coupled with the fact that there was no pre-proposal conference, and that his request for certain prior contract information was not received prior to the proposal submittal date led him to believe that the incumbent contractor would win the procurements. The incumbent was the only firm to submit a proposal for one of the solicitations, while the incumbent and two other firms submitted proposals for the other solicitation. The incumbent contractor won both awards.

The following two examples illustrate how program offices sometimes exhibit preferences for incumbent contractors performing on LOE contracts. In one of these cases the prior contract's period of performance had expired, but the incumbent contractor had not finished studies that were a high priority to the program office. In the other case the program office desired consistency and continuity in the research data being collected under the contract. Program offices' preferences to keep incumbent contractors may have resulted in technical evaluation criteria that excessively favored incumbent contractors (see discussion on page 24). A preference to keep the incumbent contractor could also possibly affect the impartiality of the TEP evaluation process (see discussion on page 38).

#### Case Example Five: Contract No. 68D30013

We reviewed the current contract award and four of its predecessor contract awards that had not experienced a high degree of competition over the life of the procurements. The award of the current follow-on contract was delayed past the end of the performance date for the prior contract. The program office requested an extension of the prior contract that required a Justification for Other Than Full and Open Competition (JOFOC). The JOFOC prepared by the program office stated:

This office has initiated 24 work assignments under contract 68-D9-0166 with the expectation that they would either be completed within the term of the contract, September 30, 1992, or that they would achieve a particular milestone by then while on a much longer

planning scale that would be carried forward without interruption in a follow-on procurement...

The current contractor,...must complete the work specified because only...has been involved in efforts to date to complete this work. It is necessary to extend the existing contract while the process of procuring a replacement contract is pending because the ongoing necessary services cannot be interrupted and only...can meet the government's needs within the required time frame...

It is impractical to solicit offers from other sources. To do this would cause serious injury to the government in that established milestones would almost certainly be missed. Additionally, it would be extremely costly to educate a new contractor to a level necessary to get the job done. The start-up costs would be prohibitive.

The reasons expressed in the JOFOC for using a sole-source acquisition to extend the prior contract explain why the program office had an incentive to retain the incumbent contractor. For work that carried over into the next procurement, the incumbent contractor already had the experience and knowledge gained from performing the first phases of the work.

Case Example Six: Contract Number 68D20134

EPA awarded this contract to continue and expand an existing monitoring network that the Agency had operated under a prior 5 year contract. In a memorandum justifying why a 5 year contract was necessary, the PO outlined why it was desirable from a program standpoint to retain one contractor for a long period. The memorandum stated:

From the quality assurance point of view, consistency is a major virtue. Thus, the longer one set of people are involved in the data collection effort the better the chance of the data being consistent.

We also want to keep the same contractor as long as allowable because of the "learning curve." This will be a large project that will start off big because it incorporates the existing National Dry Deposition Network... It will be beyond the first year of the new contract before most participants have enough experience to feel confident in carrying out their tasks.

New procedures and new sites are expected to be phased in over a very long period of time. This means well into the project, new measurements can be expected to be made and



new sites started. Just as there is confidence in these, even a five year contract will be over.

Both of these examples illustrate situations wherein program offices wanted to retain the services of an incumbent contractor. Prior OIG reviews have noted the close relationship between EPA personnel and contractor personnel in LOE contracts and the effect that this may have had in limiting competition for follow-on contracts. Since program officials develop the technical criteria that contractor proposals are evaluated against, we believe the desire to retain incumbent contractors could have resulted in some technical evaluation criteria that unduly favored the incumbent contractor (see our discussion of technical evaluation criteria on page 24). In addition, since TEPs are comprised of program officials who may have worked with the incumbent and could work with the follow-on contractor, these kinds of situations present the opportunity for bias in the evaluation process (see our discussion of the composition of technical evaluation panels on page 40).

#### Lack Of Information About Future And Current Procurements

Eleven company officials from our RTP sample told us that a lack of information was a factor in limiting competition for EPA contracts. These officials expressed concern over the lack of information for future EPA procurements as well as information provided for procurements which were in the process of being solicited. They believed this lack of information improved the incumbent contractor's position, since the incumbent had knowledge about EPA that other contractors were unable to obtain. This lack of information contributed to some officials' belief that EPA unduly favored incumbent contractors.

Five company officials from our RTP sample stated that they would like to see EPA use more advance notices of solicitations. They stated that if a company does not find out about a procurement until the FAR-required CBD notice, it is too late to prepare an adequate proposal. Three officials from our RTP sample expressed concerns over the lack of pre-proposal conferences while two officials expressed concerns about their effectiveness. One company official stated that pre-proposal conferences were not effective since EPA was reluctant to divulge information at the conferences. Other comments were that EPA should publicize future contracting opportunities and also make available information about the program offices. Some companies contacted from our Cincinnati sample also expressed concerns that detailed information was not provided far enough in advance to allow them to adequately plan resources and prepare proposals. (See Chapter 4 for a detailed discussion of issues related to this information).

## Conclusion

Several factors can work to the advantage of incumbent contractors in trying to win the award of follow-on contracts. These include large, diverse SOWs, and RFP criteria with heavy emphasis on personnel experience and availability. The existence of these factors in EPA procurements has lead some contractors to conclude that the chance of winning an award over an incumbent contractor does not justify the cost of preparing a proposal. Some companies have the perception that there is an inherent bias toward incumbent contractors in EPA's procurement system. A contributing factor to this perception is the belief that there is a significant lack of information regarding EPA procurements. Regardless of whether these perceptions have any basis in fact, their existence contributes to a lack of competition for EPA contracts.

## COMPOSITION OF TECHNICAL EVALUATION PANELS CREATES RISK OF PARTIALITY IN EVALUATIONS

EPA TEPs were comprised entirely of personnel from the program office that received the procured services. In addition, the TEP Chairperson was often the PO. For follow-on contracts, this meant that the individuals evaluating the proposals typically worked extensively with the incumbent contractor. This situation, at a minimum, presented an appearance of potential partiality when follow-on contracts were awarded.

EPAAR 1515.612(a) states that the PO will serve as the Chairperson of the TEP. The Chairperson is responsible for obtaining a consensus on all TEP scores. As such, the Chairperson can exercise considerable influence over the evaluation process. The PO is the primary technical representative of the CO on a contract, and has regular contact with the contractor. The PO also assesses the contractor's performance. The PO's daily contacts with the incumbent contractor's staff over a prolonged period of time can result in the PO forming personal biases in regard to the incumbent staff. Placing this person on the TEP in a major decision-making role could compromise this process when incumbent contractor proposals are involved. In 47 percent (24 of 51) of the follow-on contracts we reviewed at Cincinnati and RTP, the prior contract PO remained as the follow-on contract PO and chaired the TEP. In 41 percent (21 of 51) of the follow-on contracts reviewed the TEP chairperson was the same for both the current and prior contract awards.

The EPAAR also states that the TEP will consist of at least two members in addition to the PO who are knowledgeable of the procurement's technical aspects. It does not specify whether or not these panel members should be from the requesting program office. In 94 percent of the follow-on contracts awarded by CMD-Cincinnati that we examined, the panel was composed entirely of personnel from the requesting office. For CMD-RTP, in all of the 17 contracts we

reviewed for this attribute, the panel was comprised entirely of personnel from the requesting office. As in the case of the PO, if these people have worked with the incumbent contractor they could have formed personal biases with regard to the incumbent contractor. These personal biases could compromise the objectivity of the evaluation process.

In contrast, the National Institute of Health (NIH), when awarding research contracts, is required by law to have panels comprised of 75 percent non-Government members. In addition, NIH policy has been to exclude personnel who were or will be involved with actions in the award and administration of the research contract from serving on TEPs to "avoid conflicts of interest and undue influence and to help ensure continuing objectivity" in the proposal evaluation process.

The technical evaluation process is a subjective process and we did not find conclusive evidence to suggest that a panel knowingly or incorrectly favored one proposal over another. We did find examples where TEP reports appeared to criticize non-incumbent proposals in areas that were not explicitly covered in the RFPs technical evaluation criteria. For example, in one case the TEP found weaknesses in two non-incumbent proposals for not addressing the program offices' goals and how these goals related to EPA. This was not an area listed in the technical evaluation criteria.

A prior OIG audit identified this control weakness in the award of ORD contracts. In response to that report, ORD established a policy requiring that at least one member of their TEPs be from outside the program office requesting the contract services. In addition, OAM officials told us that they plan to prepare an EPAAR class deviation concerning the composition of the technical evaluation panels. This deviation would require that at least one or two panel members are from outside the procuring office. OAM officials told us they did not plan on addressing the chairperson issue in this class deviation.

### Conclusion

TEPs staffed with officials who work closely with the incumbent contractor's staff could result in bias in the scoring of proposals for follow-on awards. The current composition practices, at a minimum, present an appearance problem regarding the panel's partiality.

### CHAPTER CONCLUSION

The conditions discussed in this chapter can make it difficult for potential contractors to compete successfully against incumbent contractors. These conditions can exert varying degrees of influence on the number of proposals received for a particular solicitation. When several of these conditions exist in combination

in a procurement action they can severely limit the number of competitive proposals submitted. In some cases only the incumbent contractor will submit a proposal. These conditions have contributed to a belief among many company officials that we spoke with that incumbents cannot be successfully competed against.

The Agency has initiated several actions to correct and mitigate many of the conditions discussed in this report and has improved the level of competition for many of its contract awards. Continuation of these actions with increased emphasis on monitoring the results can further increase the competitiveness of EPA's procurements. This will benefit the Agency by helping to ensure that EPA pays reasonable prices for its contracted services and its contractors are motivated to provide high quality services and products.

### RECOMMENDATIONS

Changes in the contracting process aimed at improving competition will require the efforts of both program offices and the contracting offices. We therefore, recommend that the Assistant Administrator for Administration and Resources Management direct EPA contracting offices, in coordination with the appropriate program offices, to:

1. Evaluate large, complex contracts for the possibility of splitting them into smaller contracts. Use of multiple contract awards should be considered, whenever feasible, to accomplish this splitting and, thereby, encourage greater competition.
2. Better publicize future EPA contracting opportunities to the contracting community. This could include attendance at industry trade shows and seminars, and publication of program office long-range procurement plans.

We recommend that the Assistant Administrator for Administration and Resources Management have the Director of OAM:

3. Monitor and evaluate RFP evaluation criteria to ensure that incumbent contractors are not given an unfair competitive advantage. This process should ensure that Agency RFPs:
  - a. Limit the evaluation of personnel experience and availability to key personnel, the most important technical positions, and project groups, as necessary.
  - b. Limit the use of letters of commitment and key personnel to those positions that are essential to performing the contract SOW. Allow for the use of other measures to show availability of personnel, such as hiring plans and evidence of successful hiring for other contracts.

- c. Do not provide for an excessive percentage of points that can be awarded in the areas of corporate experience and personnel experience and availability.
4. Revise EPA policy to require at least one member of a TEP to be from an organization other than the procuring office and at least two TEP members to be from outside the procuring office when the TEP is comprised of five or more panel members.

#### AGENCY COMMENTS AND OIG EVALUATION

The Agency generally agreed with the findings presented in this Chapter. The Agency had some reservations regarding our recommendation to consider using multiple contract awards, where feasible. They commented that in some cases it may be appropriate to package requirements in a manner that results in large amounts of labor and numerous disciplines. The Agency did not fully agree with our draft report recommendation to develop policy regarding the preparation of technical evaluation criteria. The Agency believed further analysis was needed before such a policy was issued. The Agency also did not agree with our draft report recommendation that POs be prohibited from serving on the TEP for the award of the follow-on contracts. They believed the inclusion of at least one outside member to the TEP would prevent the appearance of favoritism to the incumbent contractor.

We understand the Agency's reservations concerning the splitting of contracts. We believe our recommendation as stated in the draft and final reports allows the Agency the necessary latitude to make a professional judgement as to when a contract should be split into smaller procurements. We revised our recommendation regarding the development of policy concerning technical evaluation criteria. We believe continued monitoring and evaluation of technical evaluation criteria as indicated in the Agency's response could achieve the desired effect. We still have concerns about the impartiality of TEPs when POs are involved in the evaluation and scoring of proposals for follow-on contracts. However, given the Agency's concerns with workload problems that our draft report recommendation might cause, we are no longer recommending that POs be prohibited from serving on TEPs for follow-on contracts. We agree that the inclusion of one member from outside the office is a significant change, but the inclusion of one member may not be sufficient for larger TEPs. We note that one ORD office has implemented a policy that at least two panel members be from outside the procuring office when the panel is comprised of five or more members. Accordingly, we have revised final report to recommend that EPA policy require at least two outside members when the panel is comprised of five or more members.

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## CHAPTER 4

### COMPETITION ADVOCACY PROGRAM CAN BE STRENGTHENED TO PROMOTE COMPETITION FOR CONTRACTS AWARDED UNDER FULL AND OPEN COMPETITION PROCEDURES

The Agency's Competition Advocacy Program has primarily focused on achieving adequate competition by limiting the number of procurements awarded through sole-source means. As a result, the Agency has been successful in limiting the number of contracts awarded on a sole-source basis. Until recently, similar emphasis had not been placed on improving competition for contracts awarded under full and open competition procedures. EPA could improve the level of competition for some of its competitively awarded contracts by increasing its evaluation and monitoring of the results of its competitive procedures.

OAM needs to strengthen its Competition Advocacy Program and related internal controls to ensure that competition is achieved for procurements awarded under full and open competition. The Competition Advocacy Program can be improved by: (1) identifying and monitoring contract awards where only one competitive proposal was received; (2) expanding the roles of associate competition advocates and competition coordinators; (3) strengthening the market research program; (4) increasing the scope of Functional Reviews; and (5) determining reasons for receipt of only one proposal for competitive procurements.

### BACKGROUND

CICA required that each executive agency establish an advocate for competition. The CICA states that advocates for competition shall:

- 1) be responsible for challenging barriers to and promoting full and open competition in procurements by their agency;
- 2) review the procurement activities of their agency;
- 3) identify and report to the senior procurement executive on  
(a) activities taken to achieve full and open competition, and  
(b) any condition or action that has the effect of unnecessarily restricting competition;
- 4) prepare annual reports that describe (a) the advocate's activities, (b) new initiatives to increase competition, and (c) barriers to full and open competition that remain;
- 5) recommend to the senior procurement executive goals and plans for increasing competition on a fiscal year basis;

6) recommend to the senior procurement executive a system of personnel and organizational accountability for competition; and

7) describe other ways in which the agency has emphasized competition in programs for procurement training and research.

The CICA also states that agencies shall provide Competition Advocates with such staff as may be necessary to carry out the duties and responsibilities of the advocate for competition.

Chapter 10 of the Contracts Management Manual established the Procurement and Contracts Management Division's (now OAM) Quality Assurance Program for evaluating the performance of EPA acquisition systems. The Chapter provides criteria for fostering competition and includes techniques and strategies for enhancing competition. The creation of a Competition Advocacy Program was cited as an internal control technique in Chapter 10 to enhance competition. Other related internal controls cited in the Chapter include: (1) the establishment of an aggressive market research program; (2) a determination of reasons when a single response was received for a competitive solicitation; and (3) the establishment of a Management Information System.

The term "Competition Advocacy Program" used in our report refers to an Agency-wide program to improve competition for EPA contracts. The term is not limited to the responsibilities of the Competition Advocate. According to Chapter 10 of EPA's Contracts Management Manual, the responsibility to implement an Agency-wide program is shared by employees in the OAM offices and the program offices. The Competition Advocate is the official responsible for coordinating the Competition Advocacy Program.

Actions to enhance the Competition Advocacy Program include steps taken before the solicitation is issued to promote competition and follow-up actions taken to increase competition for the follow-on contract.

EPA's Competition Advocate is organizationally located in OAM at Washington D.C. Headquarters and reports directly to the Director of OAM.

The Competition Advocate has been successful in meeting the goals for awarding contracts under full and open competition by limiting the number of contracts awarded under sole-source means. According to the Agency's FY 1992 Annual Report on Competition, the Agency obligated 96 percent of its contract dollars through full and open competition each year for FY 1990 through 1992. For FY 1992 the Agency set goals for awarding contracts under full and open competition for all major programs. The goals ranged from 95 to 97 percent of the contract dollars obligated.



To assess the Competition Advocacy Program's effectiveness and related internal controls, we interviewed procurement officials in OAM and the CMDs at RTP, NC, and Cincinnati, OH, and selected competition coordinators in the program offices. We reviewed recent Quality Assurance Reviews, Functional Reviews completed by the Competition Advocate, Annual Reports on Competition and the Federal Procurement Report. We also reviewed the contract files for the 11 solicitations in our CMD-RTP sample that received one proposal. We identified several areas where the Competition Advocacy Program could be strengthened to increase competition for contracts awarded under full and open competition procedures.

EPA DID NOT IDENTIFY AND REPORT COMPETITIVELY AWARDED CONTRACTS FOR WHICH ONLY ONE PROPOSAL WAS RECEIVED

EPA did not report to the General Services Administration (GSA), contract actions awarded under competitive procedures that resulted in EPA receiving only one proposal, as required. EPA's CIS, which provides information to GSA, did not show the number of proposals received for contracts awarded under full and open competition procedures. As a result, EPA's input into Federal Procurement Data System (FPDS) reports was not accurate and information that could be used to improve the effectiveness of EPA's Competition Advocacy Program was not available.

CICA established contract reporting requirements for executive agencies. CICA (Public Law 98-369, Section 2732) required each executive agency to establish and maintain a computer file containing unclassified records of all procurements, other than small purchases, by fiscal year for a five year period. This record was supposed to contain certain identifying information for procurements carried out using competitive procedures. Included in this required record of information on competitive procurements, was a separate category for those procurements resulting in the submission of a bid or proposal from only one responsible source. The term "responsible source" as defined in the CICA means a prospective contractor who, among other things, has adequate financial resources to perform the contract, is able to comply with required delivery or performance schedules, and has a satisfactory performance record, etc. The CICA states that this record of information shall be designated "noncompetitive procurements using competitive procedures" and is to be reported to GSA and entered in the FPDS.

The GSA operates the FPDS. The FPDS was established to collect, develop, and disseminate procurement data to the Congress, the executive branch, and the private sector. According to the FPDS Reporting Manual, the data is used to, among other things, measure and assess the impact of (1) Federal procurement on the nation's economy, and (2) full and open competition on the acquisition process.

EPA provides information from its CIS to GSA for inclusion into the FPDS. The CIS provides general contract data for EPA contracts and contract actions. The data is downloaded onto magnetic tape and sent to GSA. The Acting Chief of OAM's Systems and Information Management Branch told us that the CIS does not have a field that shows the number of proposals submitted for solicitations. He told us that he assumed that in transmitting the data to GSA, EPA automatically codes the entry for number of proposals received as two or more offers received.

CMD-RTP enters its contract information into the Automated Contract System (ACS). The ACS is used to develop RFPs and contract documents as well as maintain basic contract related information. RTP contract data is then transferred from the ACS into the CIS. The ACS has a field for the number of proposals submitted for solicitations. Edit checks within the system require that the number of proposals received for a solicitation must be included. We learned that CMD-RTP keys this information into the ACS but the data is not transferred into the CIS.

The information for the CIS from CMD-Cincinnati is taken from the Automated Procurement Data System (APDS). The APDS does not have fields for the number of proposals received for a solicitation. Thus, CMD-Cincinnati has been unable to submit this information to the FPDS.

EPA plans to replace the CIS with the Integrated Contract Management System (ICMS). According to EPA officials, ICMS will be operational in FY 1996 and will include fields identifying the number of proposals received in response to competitive solicitations.

By identifying and tracking cases where it received only one proposal, EPA could improve the effectiveness of its Competition Advocacy Program with regard to competitively awarded contracts, as well as meet its CICA reporting requirements. This data could be used to; (1) monitor the results of efforts to improve competition for contracts awarded under competitive procedures; (2) target future efforts in areas where the data shows that competition is lacking; and (3) select contracts to review as part of the Competition Advocate's reviews of competition.

#### ASSOCIATE COMPETITION ADVOCATES' AND COMPETITION COORDINATORS' ROLES NEED TO BE EXPANDED

EPA has only one Competition Advocate who is responsible for enhancing competition on Agency contracts. The Competition Advocate has focused his efforts on contracts that were not awarded under full and open competition procedures. As a result, the Agency has not placed sufficient emphasis on enhancing competition for contracts awarded under full and open competition.

According to EPA's FY 1992 Annual Report of Competition, an associate competition advocate was located at each major contracting activity and a competition coordinator represented each major EPA program. A General Accounting Office (GAO) report entitled Status of EPA's Contract Management Improvement Program (GAO/RCED-87-68FS), issued January 1987, discussed EPA's position of associate competition advocate. This report stated that the associate competition advocate and competition coordinator positions were established to assist the Competition Advocate, in addition to their usual duties, in removing barriers to competition. The positions were created in response to recommendations in a GAO report entitled The Environmental Protection Agency Should Better Manage Its Use of Contractors (GAO/RCED-85-12), issued January 1985.

CICA established individual responsibilities for Agency procuring activity competition advocates that were similar to those held by associate competition advocates. Section 2732 of the Act states:

The advocate for competition for each procuring activity shall be responsible for challenging barriers to and promoting full and open competition in the procuring activity.

However, when we inquired about the identity of CMD-Cincinnati's and RTP's Associate Competition Advocates, we learned that no one was officially designated as the Associate Competition Advocate for either CMD. The title was informally given to the CMD Directors in the 1980's. According to CMD-RTP's Chief, Contracts Placement Branch, the position was created to resolve questions about competition between the Competition Advocate and CMD-RTP and to resolve any local competition issues before referral to the Competition Advocate.

The Competition Advocate stated that associate competition advocates were not required under CICA because the contracting divisions in RTP, Cincinnati, and Washington DC were not considered separate procuring activities. However, prior to the creation of OAM in 1992, the contracting divisions at RTP and Cincinnati reported organizationally to the respective OARM Directors at those locations. Therefore, until 1992, these contracting divisions functioned as separate procuring activities.

Though associate competition advocates are not required, we believe that formal designations of associate competition advocates would result in needed assistance to the competition advocate in his efforts to improve competition for contracts awarded under full and open competition. The Competition Advocate told us that he would like to have associate advocates at each contracting location. These associate advocates could assist him by reviewing competitive range determinations for solicitations where only one competitive proposal was received and by coordinating with the program offices to promote competition.

Competition coordinators are generally senior-level employees or managers located within the major program offices. According to the Staff Report of the Standing Committee on Contracts Management, issued June 1992, Senior Procurement Officials would "subsume" the role of the program competition coordinator. Competition coordinators' responsibilities are generally related to the acquisition or management of extramural resources. The Competition Advocate and the competition coordinators work together to ensure the goals for awarding contracts under full and open competition procedures are met for each program office. The Competition Advocate provides them with statistics on the percentage of contracts awarded under full and open competition for their program offices. According to the Competition Advocate, the competition coordinators do not assist him in improving competition for solicitations that are awarded under full and open competition. For example, he does not provide them with statistics on the amount of competition the program office received for their contracts awarded under full and open competition.

The competition coordinators we interviewed have been involved in efforts to enhance competition for contracts awarded under full and open procedures for their program. Several program offices have recently taken actions to improve competition. For example, in 1992, the Office of Policy Analysis in OPPE prepared a Five Year Acquisition Strategy. Officials in the Office of Policy Analysis and the Procurements and Contracts Management Division (now OAM) also held a conference with officials from the contracting community to discuss the Five Year Acquisition Plan and possible changes in the procurement process which would enhance competition. The Five Year Acquisition Plan provided the contractor community a list and description of future contracts that will be awarded to support the Office of Public Analysis. The Competition Coordinators we contacted in the Office of Air and Radiation, ORD and OPPE informed us that their offices have taken actions to split large contracts in an attempt to enhance competition.

Actions have been taken by some program offices to improve competition for contracts awarded under full and open procedures. However, we believe the competition coordinators could be more effective if they would coordinate with the Competition Advocate in efforts to improve the degree of competition obtained in full and open competition actions. If the CIS is modified to identify solicitations that receive only one proposal, the Competition Advocate could establish and monitor program offices' success in meeting contract competition goals.

#### EPA'S MARKET RESEARCH PROGRAM NEEDS IMPROVEMENT

The Agency has not provided any specific guidance on establishing a market research program and has not prepared a market research action plan. An aggressive market research program could increase

the amount of competition by improving communications between the Agency and the contracting community.

The Competition Advocate is responsible for promoting market research to identify competition potential in support of acquisition strategies. A market research program can be used by EPA to determine whether sources capable of satisfying the Agency's needs exist. Efforts include contacting knowledgeable experts within the Government and industry regarding the Agency's requirements and publishing announcements in pertinent publications such as the CBD and technical journals and newspapers.

According to Chapter 10 of the Contracts Management Manual, the Agency should develop a market research action plan, implement the plan, evaluate its results and report its progress to the Agency's procurement executive. However, the Agency has never completed a comprehensive market research action plan. Further, the Agency does not have any guidance on developing and implementing an effective market research program.

Our review of actions taken by the CMDs and the program offices disclosed that the Agency has completed some market research actions. The CMDs complete market research actions on individual solicitations by synopsisizing solicitations in the CBD before the RFP is issued. They have completed other market research actions such as attending trade fairs. For example, CMD-RTP conducted a minority business mini-trade fair and seminar. Some program offices have completed market research actions such as publishing an acquisition plan in the CBD and conducting conferences to discuss contracting issues. As stated earlier, OPPE held a conference with officials from the contracting community to discuss ways to improve competition for their contracts.

Though market research actions are completed by some offices in the Agency, EPA does not have a comprehensive Agency-wide plan that includes all program offices. We believe the OAM should develop a market research action plan with specific guidance for the CMDs and the program offices. By implementing the guidance the Agency would be able to improve its communication with the contracting community. The Competition Advocate should be responsible for tracking the implementation of the plan by working with the associate competition advocates and competition coordinators.

Competition could be increased if EPA would communicate its needs to potential contractors sooner and in more detail. Steps that can be taken by the CMDs and the program offices to improve communications with the contracting community include: (1) publishing annual EPA procurement plans and discussing the plans with the contracting community; (2) publishing pre-solicitation notices in the CBD; and (3) soliciting contractor comments on a draft of the RFP's SOW during the pre-solicitation phase.

All EPA program offices currently develop annual procurement plans. These plans forecast each program's contracting requirements for the next fiscal year. EPA uses this information to plan contracting activity and to project small and disadvantaged business contracting objectives. The Agency does make available the "Forecast of Contract and Subcontract Opportunities for 8(a) and Small Business" for each fiscal year. Although the annual procurement plans are not made publicly available, they could serve to provide a long range summary of EPA contracting plans to potential contractors. The development of a Five Year Plan by OPPE and publishing the Plan in the CBD is one example of using procurement plans to inform the contracting community about a program office's needs. Many companies we contacted suggested that more advance notice of EPA's procurement plans, even in general terms, would increase their interest and improve their ability to prepare acceptable proposals.

Pre-solicitation notices are another tool for advising the contracting community of future solicitations. FAR 15.404(a) states that pre-solicitation notices are used in negotiated acquisitions to: (1) develop or identify interested sources; (2) request preliminary information based on a general description of supplies or services involved; (3) explain complicated specifications and requirements to interested sources; and (4) aid prospective contractors in submitting proposals without undue expenditure of effort, time, and money. Our review of 107 contracts awarded by the CMD-Cincinnati indicated that they did not use pre-solicitation notices to identify interested qualified sources. CMD-RTP used pre-solicitation notices. For example, CMD-RTP used pre-solicitation notices in two instances. The CMDs could better assist contractor efforts to prepare proposals by using more pre-solicitation notices.

In addition, publishing pre-solicitation notices in the CBD and making a draft RFP available to potential contractors upon request could improve solicitations and encourage greater competition. For most solicitations, the SOW is first made available to potential contractors as part of the RFP. By then a timetable for completing the procurement has been established. According to company officials, they believe it is too late to submit a proposal if they learn about a solicitation through the CBD announcement. For large, complex solicitations that have not received adequate competition in the past, providing a draft of the SOW to potential contractors during the pre-solicitation phase would allow valuable contractor feedback and clarification of SOW requirements. Involving contractors earlier in the procurement process could encourage a larger number of responsive proposals.

Our review of contracts at CMD-Cincinnati contracts did not identify any instances where draft RFPs were published. Our review of the contracts at CMD-RTP identified only one instance where a draft SOW was published.

We believe the Agency should provide more opportunities for potential contractors to become familiar with the Agency's requirements. Officials in the contracting community and the Competition Advocate stated that the Agency needs to better inform the contracting community about its contractor support needs. During our interviews with company officials, the inability to obtain knowledge about EPA's programs was frequently cited as a problem in their efforts to compete for EPA contracts. Many companies expressed concerns that detailed information was not provided far enough in advance to allow them to adequately plan resources and prepare proposals. The Competition Advocate acknowledged that the Agency should provide the vendor community more opportunities to become more familiar with contracting opportunities at EPA. An improved market research program, that includes establishing and implementing a market research action plan, would provide such opportunities.

#### SCOPE OF FUNCTIONAL REVIEWS SHOULD BE EXPANDED

The Competition Advocate is responsible for completing annual Functional Reviews to assess the adequacy of competition for EPA contracts. Functional Reviews of Competition did not address the extent of competition for awards made under full and open competition procedures. Until a study was completed by OAM in August 1993, the Agency was not aware of the extent of the lack of competition received for solicitations awarded under full and open competition.

In accordance with CICA, the Agency must prepare an annual report on competition. The report should include a statistical analysis and summary of the adequacy of JOFOCs. The Competition Advocate completes this analysis by conducting Functional Reviews on Competition at the contracting offices at RTP, NC, Cincinnati, OH and Washington, D.C.

The Functional Review of Competition is not the only internal contract review performed within EPA. Procurement and Contracts Quality Assurance Reviews (PCQAR) are also to be conducted in accordance with guidance in Chapter 10 of the Contracts Management Manual. PCQARs evaluate the acquisition system of a CMD and may include one or more specific areas of evaluation. The evaluated areas may include: (1) general management, (2) policies and procedures, (3) contract placement, (4) small purchases, (5) pricing, and (6) contract administration.

We reviewed the last three Functional Reviews (Reviews) of CMD-RTP. The latest Functional Review covered the period October 1, 1990 through April 30, 1992. A Functional Review was not completed for FY 1993. The Reviews did not address awards made through full and open competition. The Reviews focused on JOFOCs for sole-source contracts and approval of subcontractors. In addition, for those awards where there was an absence of competitive proposals, these

reviews did not address reasons for the low number of responses or the adequacy of CMD actions to determine why there were low responses.

The last PCQAR of CMD-RTP, conducted in January 1992, did not address competition for competitively awarded contracts. Although not required by policy, prior reviews had addressed this issue. A January 1989 PCQAR of CMD-RTP noted the lack of proposals for RTP procurements. In addition, a former member of the PCQAR review team told us that, in a separate 1991 special review of CMD-RTP, they had noted a problem with the low number of proposals received for competitive awards at RTP.

While we were completing our fieldwork, the Director, OAM, asked the Competition Advocate to determine the number of proposals received for contracts awarded in 1992 and 1993 to assess the amount of competition for contracts awarded under full and open competition. The review included contracts awarded at all of the contracting divisions. The results of OAM's review generally agreed with our results. The review found that the Agency received two or more acceptable proposals for 69 percent of the contracts awarded under full and open competition procedures in 1992 and 1993.

The Agency regularly determines and assesses the percentage of its contracts that it awards through full and open competition as opposed to sole-source methods. Sole-source awards are reviewed to ensure that they are adequately justified. Prime contractor awards to subcontractors are reviewed to ensure that they are awarded competitively. Reviews to evaluate the results of EPA's competitive procedures would help ensure that EPA receives adequate competition for its competitively awarded contracts.

#### POST-AWARD ACTIONS NEEDED WHEN ONLY ONE PROPOSAL IS RECEIVED IN RESPONSE TO A SOLICITATION

The Agency has not consistently taken steps to analyze those situations where only one proposal was received for contracts awarded under full and open competition procedures. CMD personnel did not regularly contact representatives from companies to determine why the companies did not submit proposals. Also, CMD officials were not always informed as to why companies did not submit proposals for a particular solicitation. As a result, appropriate actions to improve competition for succeeding contracts could not be taken.

Chapter 10 of the Contracts Management Manual (1991 Edition) states that contract awards based on receipt of one proposal should be reviewed and the reasons for a single response documented. Follow-up actions should be made to ensure appropriate steps are taken to promote competition for future acquisitions of the same item or service.



EPAAR Subpart 1515.609 (c) (1990 Edition issued November 30, 1990) states:

When only one offer is determined to be in the competitive range, the Contracting Officer shall review the solicitation document to assure that it did not unduly restrict competition. The competitive range determination shall include a discussion of the relevant aspects of the solicitation.

We reviewed 11 procurements, 7 follow-on and 4 first-time procurements, that were awarded after receipt of one proposal each. The competitive range determinations included a discussion of the lack of competition for ten of the 11 contracts we reviewed. However, CMD-RTP personnel contacted prospective offerors to determine why they did not submit proposals for only 2 of the 11 contract awards. In most cases, CMD officials only reviewed the letters from companies that stated they were not submitting a proposal. However, these letters may not always provide an accurate description of why a company decided not to submit a proposal. These letters often did not state why the firm decided not to submit a proposal. If a reason was given, the existence of prior company commitments was a common explanation given for not submitting a proposal. In some cases, the reasons that these companies gave us (during interviews) for not submitting proposals were not the reason(s) stated in letters sent to CMD.

CMD-Cincinnati officials stated that while they periodically performed follow-up discussions, they were not documented. We interviewed 34 non-bidders for CMD-Cincinnati contracts to learn if they were contacted by EPA to find out why they did not respond to a solicitation. We found that 91 percent (31 of 34) said they were never contacted by EPA. None of the non-bidders for CMD-RTP contracts stated that they were contacted by EPA to determine why they did not respond to solicitations. Non-bidders expressed a hesitancy to initiate discussions with EPA over contracting concerns for fear of negatively affecting future opportunities to obtain contracts. Many non-bidders felt that the lack of follow-up discussions left a perception that EPA did not want competition. Some believed EPA was not interested in their views concerning the procurement process or reasons for not responding to a solicitation.

The Competition Advocate agreed that more follow-up should be completed and stated that he would like to review the COs' explanations as to receipt of only one proposal in solicitations. EPA could use the follow-up discussions to talk with offerors about specific factors they believed limited their ability to make a responsive proposal. This information could be used to develop approaches to eliminate factors limiting competition.

As a result of OIG concerns, CMD-Cincinnati implemented formal follow-up procedures for FY 1993 awards. A standard checklist is

now used to contact a sample of non-bidders to obtain their feedback on specific solicitations and the overall contracting process. In addition, CMD-Cincinnati recently identified all FY 1993 awards which were awarded based on a single responsive proposal for extensive follow-up. In these cases, CMD-Cincinnati sent a letter to every non-bidder for the award. Responses are being summarized and forwarded to the appropriate CO and program office for consideration in future solicitations. CMD-RTP had not taken any similar action to establish similar procedures by the end of our fieldwork. We believe procedures similar to the ones established in CMD-Cincinnati should be developed by the OAM and implemented by all contracting divisions.

#### AGENCY ACTIONS

On September 23, 1993, the Director, OAM issued a memorandum to OAM Division Directors, Headquarters Senior Resource Officials, and regional COs. This memorandum provided possible problems and solutions related to competition. The memorandum stated that managers and COs were expected to emphasize the procedures in FY 1994.

The memorandum provided several possible solutions for increasing the number of proposals received for EPA solicitations. This included several steps related to strengthening EPA's market research program. These steps included: (1) researching technological and market trends to determine existing sources of supply and to develop additional supplies to support the Agency's acquisition needs; (2) conducting surveys of present contractors, contractors who proposed and did not get an award, and future sources of supply to solicit their ideas on how EPA could increase competition for their contracts; (3) participating in industry sponsored symposiums and meetings with members of the contracting community; and (4) performing market surveys to identify potential sources, counseling contractors and advertising in trade journals to make them more aware of EPA's requirements.

The memorandum also outlined additional actions that could be taken to address competitive solicitations where only one proposal was received provided. Possible steps included: (1) having the Competition Advocate review all solicitations that were awarded based on only one proposal in the competitive range; and (2) developing a questionnaire to be sent to anticipated offerors who did not propose on the RFP to determine why they did not submit a proposal.

OAM has taken steps to implement some of the solutions outlined in the Memorandum. In November 1993, EPA issued The Cookbook, How to Get Contracts Awarded In EPA, a guidance document which was developed by a QAT composed of officials from OAM and the major program offices. The "Cookbook" was designed to be a guide for POs in preparing all the paperwork that the OAM requires for awarding

mission-support, LOE contracts. It includes steps to improve the Agency's planning and to provide more information to the contracting community. Effective in FY 1995, the "Cookbook" states that annual acquisition plans developed by the program offices will be published in the CBD in the first quarter of the FY. In April 1994, OAM plans to issue a call letter for program offices to identify contracts that will be recompeted in the next two years. The information will be published in the CBD. The information will also be put in an electronic bulletin board that can be directly accessed by the contracting community. In addition, OAM is in the process of revising Chapter 1 of the Contracts Management Manual which addresses the Agency's planning process.

The Agency has also taken actions to review types of contracts awarded and to improve the follow-up procedures for contracts awarded after receipt of only one competitive proposal. OAM has established a QAT to look at alternative contracting strategies such as making more multiple awards from a single RFP. Another QAT is reviewing "umbrella" contracts. OAM has also issued a draft procurement notice that would require the Competition Advocate to review and approve competitive range determinations when only one proposal makes the competitive range for a solicitation.

#### CONCLUSION

Though the Competition Advocacy Program has limited the number of contracts awarded under sole-source procedures, we identified several internal control techniques that should be improved to enhance competition for contracts awarded under full and open competition. For example, the Agency needs to identify and report to GSA those awards where only one proposal was received. The roles of the associate competition advocates should be expanded to assist the Competition Advocate in enhancing competition for solicitations awarded under full and open competition. The role of competition coordinators should also be expanded to assist the Competition Advocate in the development of strategies to improve competition for program offices throughout the Agency. A formal market research program or plan to identify new sources should be developed. Functional Reviews of Competition could be expanded to evaluate the number of awards for which only one proposal made the competitive range. Post-award contacts with non-bidding firms should be made to determine why proposals were not submitted for solicitations that received only one proposal.

Since we began our audit fieldwork in April 1993, EPA has initiated many actions which should help to increase the number of acceptable proposals received in response to full and open competition solicitations. A guidance document for POs was issued in November 1993 that provides information on how to award LOE contracts and includes steps which should increase competition when implemented. QATs are studying various ways to increase competition and the role of the Competition Advocate has been enhanced. Continuation of

these actions should further improve the competitiveness of the Agency's contract awards.

#### RECOMMENDATIONS

We recommend that the Assistant Administrator for Administration and Resources Management have the Director of OAM:

1. Evaluate the feasibility, including cost, of modifying the CIS to include the number of proposals received and the number of acceptable proposals received for each contract solicitation. The information regarding the number of proposals received should be communicated to the GSA. If it is not feasible to modify CIS;
  - a. Officially notify GSA that EPA's reported data is not accurate with regard to competitive actions that resulted in the receipt of only one proposal, and
  - b. Request that CMDs report to the Competition Advocate, the number of proposals received in response to every competitive solicitation within 30 days of the award.
2. Use the data collected on the number of proposals received for competitively awarded contracts to:
  - a. monitor the results of efforts to improve competition for contracts awarded under competitive procedures;
  - b. target future efforts in areas where the data shows that competition is lacking; and
  - c. select contracts to review as part of the Functional Reviews of Competition.
3. Expand the Competition Advocacy Program to include associate competition advocates and competition coordinators to assist in the competition advocate's efforts to enhance competition for contracts awarded under full and open competition. The Competition Advocate should work with the competition coordinators to establish and monitor the attainment of goals on the amount of competition received for the program office's contracts.
4. Issue guidance and procedures to strengthen the market research program and develop a market research plan that is evaluated and updated annually.
5. Where appropriate, publish advance pre-solicitation notices in the CBD and make available for comment draft RFPs for complex solicitations that have had inadequate competition in the past.

6. Report in the Functional Reviews and Annual Reports on Competition an assessment of the amount of competition for contracts awarded under full and open competition procedures.
7. Issue guidance instructing contracting offices to conduct post-award efforts to determine reasons for the receipt of only one proposal when it occurs. A plan to correct causes for the absence of proposals should be prepared for the follow-on contract award.
8. Evaluate the solutions outlined in the September 23, 1993, memorandum to determine implementation and monitoring responsibilities. Issue guidance where appropriate to clearly delineate procedures and responsibilities for implementing these actions.

#### AGENCY COMMENTS AND OIG EVALUATION

The Agency generally agreed with the findings and recommendations presented in this chapter. The Agency noted that although statistical analyses of competition had not been performed in the past, the Agency has always been committed to the objective of receiving the maximum number of proposals for its competitive awards.

The Agency's comments were responsive to our findings and recommendations. We believe their actions and planned actions should help to encourage greater competition for EPA contracts.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

Appendix I

MAR 24 1994

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

**MEMORANDUM**

**SUBJECT:** Competition in Contracting Draft Audit  
Report No. E1BMF3-24-0027-

**FROM:** Jonathan Z. Cannon  
Assistant Administrator (1102)

**TO:** Elissa R. Karpf  
Associate Assistant Inspector General  
for Acquisition and Assistance Audits (2421)

Thank you for the opportunity to review the February 1, 1994 draft audit report entitled Competition in Contracting prepared by the Office of the Inspector General. The Office of Administration and Resources Management (OARM) is in general agreement with the findings and recommendations of the report and recognizes the need for improved competition for Environmental Protection Agency's acquisitions. However, there are areas of the report which may be misleading and recommendations with which OARM does not fully agree. These specific concerns are discussed in Attachment A. Also included as Attachment B is the January 1994 Annual Report on Competition issued by the Office of Acquisition Management.

Please call Betty L. Bailey, Director of the Office of Acquisition Management, at 260-5020 if you would like to discuss these comments or need additional information.

Attachments



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**CHAPTER 1 - INTRODUCTION**

**BACKGROUND**

In Chapter 1, the description of the acquisition process seems to imply that it may sometimes be Agency practice to narrow the competitive range based on a re-scoring of revised technical proposals. The Agency does not narrow the competitive range unless best and final offers (BAFOs) have been requested, received and evaluated. If after evaluation of BAFOs, the Agency decides that further negotiations are necessary, the competitive range may be narrowed before resuming negotiations and asking for second BAFOs.

Note 1

The section states that the source selection official (SSO) is "usually a Contracts Management Division (CMD) Director or equivalent level official." This is inaccurate since the SSO can be the Contracting Officer (CO) depending on the dollar value of the acquisition.

Note 2

**SCOPE AND METHODOLOGY**

In the second paragraph of the scope and methodology section and elsewhere in the report, inappropriate references are made to competitively awarded "Small Business Administration (SBA) set-aside contracts." The Office of the Inspector General (OIG) may be referring to "small business set-asides" and not to SBA 8(a) contracts. This should be clarified.

Note 3

Footnote 3 at the bottom of Page 4 states that "... RTP could not locate the contract file for one of the contracts in our sample." This contract with Hewlett Packard (68D10005) was transferred to Region 6 to be administered on January 12, 1993. OARM regrets that the OIG was not so informed at the time of the review.

Note 4

**CHAPTER 2 - USE OF COMPETITIVE AWARD PROCEDURES DID NOT ALWAYS RESULT IN COMPETITIVE CONTRACT AWARDS**

OARM offers the following comments with regard to Chapter 2:

There is a sentence within the first paragraph on page 9 which states that, "The limited response for some of EPA's solicitations was largely a result of conditions related to these solicitations that favored incumbent contractors." While it may be appropriate to conclude that the conditions probably contributed to the lack of competition, OARM does not believe that the report supports this conclusion.

Note 5



**BARRIERS TO COMPETITION RESULT IN LIMITED NUMBER OF PROPOSALS**

Note 6

The last sentence of the first paragraph in this section is also conclusive. OARM suggests that the sentence be revised as follows: "These factors could be combined to limit the competition for some EPA contracts..."

**EPA NOT ASSURED THAT IT RECEIVED THE BENEFITS OF COMPETITION**

Note 7

This discussion refers to the "prices" the Government pays. Since the majority of the Agency's contracts (especially those repetitive requirements with broad statements of work) are cost reimbursement contracts, OARM believes that a discussion of "price" is inappropriate.

**CHAPTER 3 - CONDITIONS THAT LIMIT COMPETITION EXIST IN THE PROCUREMENT ENVIRONMENT****THE SIZE AND DIVERSITY OF LOE CONTRACT SOWs MAY LIMIT COMPETITION**

Note 8

On page 23, two distinct factors may have contributed to the extensive subcontracting discussed in this section. Contracts which require a large level-of-effort, regardless of whether the scope of work is broad, may lead to extensive subcontracting in cases where contractors are not able to or choose not to directly hire a large number of employees. A contract which involves a broad, diverse scope of work, covering many areas of expertise, may result in extensive subcontracting since no one contractor may have the required diversified staff.

Note 9

Efforts to segment large level-of-effort contracts into smaller contracts with fewer hours but the same statement of work may not result in less subcontracting due to the diversity of expertise required. In addition, such a practice creates duplicate or "parallel" contracts which may lead to "contract shopping" where Project Officers/Work Assignment Managers can choose the contractor they prefer for certain tasks.

**RFP EVALUATION AND SCORING CRITERIA CAN LIMIT COMPETITION**

Note 10

The section on key personnel and letters of commitment discusses how two Technical Evaluation Panels (TEPs) for two different Requests for Proposals (RFPs) evaluated offerors' hiring plans. While OARM agrees with the OIG that evaluation criteria should not unduly favor incumbents, the TEP in each case was required to score proposals based only on the criteria as set forth in the RFP. The report should reflect not that both TEPs should have considered a proposed hiring plan as a plus, but that the criteria in both cases should have been more explicit on how hiring plans were being used in the evaluation.

## Appendix I

### INDUSTRY PERCEPTIONS ABOUT THE STATUS OF INCUMBENT CONTRACTORS SOMETIMES LIMIT COMPETITION

Note 11

The section discussing the perception that EPA favored the incumbent contractor mentions that "one company official told us that the Agency's unwillingness to answer his written questions concerning a repeat procurement convinced him that the program office wanted to keep the incumbent contractor." The information requested may not have been releasable under the Freedom of Information Act. However, without specific details concerning the request, OARM cannot address the reasons for this reluctance.

### RECOMMENDATIONS - CHAPTER 3

OARM offers the following comments on the recommendations in this Chapter:

Recommendation 1: Evaluate large, complex contracts for the possibility of splitting them into smaller contracts. Use of multiple contract awards should be considered, whenever feasible, to accomplish this splitting and, thereby, encourage greater competition.

Response 1: OARM has some reservations about this recommendation although in some instances this approach has increased competition and broadened EPA's contractor base. OARM recommends that this strategy be used when other mechanisms for enhancing competition have been exhausted. It is sometimes more advantageous to package EPA's requirements in a manner that may result in a contract with numerous disciplines and large amounts of labor. Industry is sometimes more receptive to larger acquisitions and will compete more vigorously for these. It is also often necessary and preferable from a programmatic objective to have one contractor responsible for the total effort. OARM recommends that this be considered when developing EPA's requirements.

Note 12

Recommendation 2: Better publicize future EPA contracting opportunities to the contracting community. This could include attendance at industry trade shows and seminars, and publication of program office long-range procurement plans.

Response 2: OARM agrees with this recommendation. Relative to long range plans being published, the Office of Acquisition Management (OAM) has completed a Forecast of FY 94 contract requirements which can be obtained by prospective offerors. Furthermore, each fiscal year the Agency also makes available to industry the "Forecast of Contract and Subcontract Opportunities for 8(a) and Small Business." Finally, the Agency will continue to attend industry trade shows whenever possible.

## Appendix I

Second, the TEP Chairperson is responsible for convening the TEP, making logistical arrangements, chairing the meetings, and writing the report. The scores assigned to each offer must still be reached by consensus of the TEP. For scoring proposals, each TEP member is essentially equal in exerting influence over the other members.

Third, prohibiting the Project Officer from serving as the TEP Chairperson for a follow-on contract could hamper program office use of its resources significantly. The Project Officer is often the person most familiar with the technical requirements of the acquisition. Furthermore, the number of staff able to serve as the Chairperson may be limited depending on the program office workload at the time.

Note 14

In summary, OARM considers that requiring a minimum of one member of the TEP be from outside the program office will change the composition of the TEPs considerably, and reduce the appearance of favoritism for incumbents. The EPA policy revision will be issued by June 1, 1994.

### **CHAPTER 4 - COMPETITION ADVOCACY PROGRAM CAN BE STRENGTHENED TO PROMOTE COMPETITION FOR CONTRACTS AWARDED UNDER FULL AND OPEN COMPETITION PROCEDURES**

#### **SCOPES OF FUNCTIONAL REVIEWS SHOULD BE EXPANDED**

The third paragraph of page 53 states that the Agency was not aware of the extent or lack of competition received for solicitations under full and open competition until an analysis was performed by the Competition Advocate in August 1993. While a statistical analysis was not performed prior to that time, all acquisition personnel at EPA were fully in compliance with the Federal Acquisition Regulation (FAR) relative to competition and had continually made efforts to enhance competition. EPA has always been committed to receiving the maximum amount of proposals in response to solicitations. Acquisition plans will continue to specifically address the issue of competition and how competition for the particular requirement will be enhanced. The Agency has structured its statements of work and evaluation criteria to accomplish this objective. The Competition Advocate, in his January 1994 Annual Report on Competition, discusses where competition has been enhanced. This document is included as Attachment B.

The second paragraph on page 54 implies that Procurement and Contracts Quality Assurance Reviews (PCQARs) are required to address the extent of competition for full and open procurement actions. However the Agency's Competition Advocate through his functional reviews, approvals of acquisition plans and dialogue with Agency contract and program officials ensures that competition will be enhanced to its fullest extent.

Note 15

## Appendix I

Recommendation 3: Develop and issue policy and guidance concerning the preparation of technical evaluation criteria that: a) Limits the evaluation of personnel experience and availability to key personnel, the most important technical positions, and project groups, as necessary. b) Limits the use of letters of commitment and key personnel to those positions that are essential to performing the contract SOW. Allows for the use of other measures to show availability of personnel, such as hiring plans and evidence of successful hiring for other contracts. c) Establishes a policy for the percentage of points that can be awarded in the area of corporate experience and personnel experience and availability.

Response 3: In general, OARM agrees with the components of this recommendation but suggests further analysis prior to the issuance of policy directives. The Agency is reducing the use of key personnel as an evaluation factor. The requirement of numerous key personnel and letters of commitment give the incumbent a competitive advantage which can and must be negated. While OARM agrees that corporate experience should not be weighted at greater than 15% of the technical evaluation criteria, it does not necessarily agree that when the Agency is buying the expertise of personnel through level of effort contracts for professional services, no greater than 40% of the points should be allotted for proposed personnel qualifications. Under these types of level of effort contracts, the technical expertise of personnel becomes of prime technical importance and should be evaluated accordingly.

While OARM does not support a policy on the weighing of technical evaluation criteria, it will continue to evaluate the criteria to ensure that competition is enhanced to its maximum extent and the incumbent is not given an unfair competitive advantage. Attempts will be made to better define requirements which may help to structure the technical evaluation criteria to enhance competition.

Note 13

Recommendation 4: Add additional provisions to the planned EPAAR class deviation concerning the composition of TEPs. The deviation should establish a requirement that prevents the existing contract PO from serving as a member of the TEP for the follow-on award, while allowing the PO to serve as a technical advisor, when appropriate.

Response 4: OAM believes requiring a minimum of one member of the TEP be from outside the program office will be sufficient to address the appearance of favoritism for incumbents for the following reasons. First, only a minority of the follow-on contracts reviewed had the previous Project Officer as the Chairperson of the TEP. More significantly, none of the TEP members were from outside the requesting program offices.

Note 16

The Competition Advocate was misquoted by the OIG (the third paragraph on page 54) as stating that PCQARs had previously evaluated the extent of competition for competitively awarded contracts. The Competition Advocate was referring to the annual functional reviews performed by the Quality Assurance Branch prior to the creation of PCQARs.

#### RECOMMENDATIONS - CHAPTER 4

OARM offers the following comments on the recommendations in this Chapter:

Recommendation 1: Evaluate the feasibility, including cost, of modifying the CIS to include the number of proposals received and the number of acceptable proposals received for each contract solicitation. The information regarding the number of proposals received should be communicated to the GSA. If it is not feasible to modify CIS; a) officially notify GSA that EPA's reported data is not accurate with regard to competitive actions that resulted in the receipt of only one proposal and b) request that CMDs report to the Competition Advocate, the number of proposals received in response to every competitive solicitation within 30 days of the award.

Response 1: OARM will analyze the Contracts Information System (CIS) to determine if it is feasible to modify it to include fields for the number of proposals received from a competitive solicitation, the number of proposals in the competitive range, and whether the incumbent is to receive the award if the requirement is a follow-on effort. Since the Agency's new contracts information system, the Integrated Contract Management System (ICMS), is scheduled to become operative in FY 96, this may not be a cost effective endeavor. The ICMS will include these fields. The Agency will consult with the General Services Administration regarding the reporting requirements of the Competition in Contracting Act. The Agency will need clarification as to the need for data relative to "responsible" sources and the suggestion of number of "acceptable" proposals. OARM believes the intent is to gather information on a number of proposals received and the number of proposals in the competitive range. Data relative to whether the incumbent received a follow-on award would also be of value. These discussions will occur by July 1, 1994.

Note 17

Recommendation 2: Use the data collected on the number of proposals received for competitively awarded contracts to: a) monitor the results of efforts to improve competition for contracts awarded under competitive procedures; b) target future efforts in areas where the data shows that competition is lacking; and c) select contracts to review as part of the Functional Reviews of Competition.

## Appendix I

Response 2: OAM will collect and analyze this data. Prior to this, the Competition Advocate will perform a semi-annual analysis similar to the August 1993 effort.

Recommendation 3: Expand the Competition Advocacy Program to include associate competition advocates and competition coordinators to assist in the Competition Advocate's efforts to enhance competition for contracts awarded under full and open competition. The Competition Advocate should work with the competition coordinators to establish and monitor the attainment of goals on the amount of competition received for the program office's contracts.

Response 3: The Agency will formally designate Associate Competition Advocates at each contract operations division within OAM. Competition coordinators will continue to function in the major program offices and will be formally designated by the Agency. Once the ICMS is operative, there will be increased opportunities to set goals for the amount of competition received and increased dialogue between the Competition Advocate and the competition coordinators. Currently the Competition Advocate in conjunction with the competition coordinators set the goals. These are monitored monthly relative to amount of dollars spent through the competitive process. These formal designations will be completed by July 1, 1994.

Recommendation 4: Issue guidance and procedures to strengthen the market research program and develop a market research plan that is evaluated and updated annually.

Response 4: A "Forecast of FY 94 Contract Opportunities" is now available for prospective contractors and will be issued for each fiscal year. The Agency has also begun to strengthen its marketing program by revising Chapter 1 of the Contracts Management Manual entitled "Acquisition and Contract Management Planning." This planning system, available for FY 95, will enable the Agency to better disburse to industry information on the Agency's requirements and advertise these in the Commerce Business Daily (CBD). The Agency always meets the FAR requirement of CBD announcements for its requirements. It will continue on an on-going basis to investigate methods to aggressively provide information to prospective offerors when appropriate.

Recommendation 5: Where appropriate, publish advance pre-solicitation notices in the CBD and make available for comment draft RFPs for complex solicitations that have had inadequate competition in the past.

Response 5: The Agency has taken steps to obtain perspective offerors' comments when competition has been lacking in the past. Presolicitation notices have been used but are time consuming and

labor intensive and contrary to any current Agency streamlining efforts. The best method for obtaining advance comments is to issue a draft RFP and synopsize this in the CBD allowing any potential offeror to request a copy. The Agency will continue to consider appropriate methods of enhancing competition for all contract requirements.

Recommendation 6: Report in the Functional Reviews and Annual Reports on Competition an assessment of the amount of competition for contracts awarded under full and open competition procedures.

Response 6: OARM agrees that functional reviews should be expanded to include amount of competition received for the Agency's competitive acquisitions. The development of additional data fields within ICMS will greatly enhance the Agency's ability to gather statistics, set goals, and analyze trends.

Recommendation 7: Issue guidance instructing contracting offices to conduct post-award efforts to determine reasons for the receipt of only one proposal when it occurs. A plan to correct causes for the absence of proposals should be prepared for the follow-on contract award.

Response 7: OARM agrees that more follow-up steps could enhance its ability to determine why more proposals were not received from a competitive solicitation. It will investigate the procedures implemented in the Cincinnati Contracts Management Division for its use throughout the Agency. The Agency acquisition regulations will be amended by May 1, 1994 to strengthen the language required to justify why the solicitation was not restrictive although only one proposal was in the competitive range. Through this mechanism, the official contract file will contain documentation that competition was maximized.

Recommendation 8: Evaluate the solutions outlined in the September 23, 1993 memorandum to determine implementation and monitoring responsibilities. Issue guidance where appropriate to clearly delineate procedures and responsibilities for implementing these actions.

Response 8: The Competition Advocate, along with the rest of OAM, have taken steps to enhance competition. A December 1993 OIG report, entitled Competition in Superfund Contracting, (No. E15FF3-11-0020-4100111), stated that the Agency has been fairly successful in achieving competition for its Superfund contracts. Due to the favorable findings, this report was issued with no recommendations. Finally, on September 23, 1993, the OAM Director issued a memorandum to the OAM Division Directors, Headquarters Senior Resource Officials, and Regional Contracting Officers, listing possible problems and solutions related to competition. Appropriate guidance resulting from this memorandum will continually be issued.

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# Annual Report on Competition

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A report prepared pursuant to  
The Competition in Contracting Act of 1984  
(Public Law 98-369)



**U.S. Environmental  
Protection  
Agency**

January 1994

**Office of Administration and Resources Management  
Office of Acquisition Management  
Agency Competition Advocate  
Washington, D.C. 20460**

ENVIRONMENTAL PROTECTION AGENCY

ANNUAL REPORT ON COMPETITION

JANUARY 1994

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## EXECUTIVE SUMMARY

FY 93 Accomplishments

The Agency established specific Fiscal Year (FY) 93 competition goals for all major programs. These goals were met by all except one program who came within one percent of meeting its goals. Overall, EPA obligated 97 percent of its contract dollars on a competitive basis during FY 93 which was a one percent increase over FY 92. The EPA expended approximately 1.3 billion dollars during FY 93 through the acquisition process.

EPA obligated 99 percent of its contract dollars for contracts in excess of \$25,000 through full and open competition. Of the small purchase dollars (actions of \$25,000 or less), 69 percent were obligated competitively.

Promoting Competition

Acquisition and program personnel at all levels continued to challenge barriers to competition by utilizing innovative methods of competing the Agency's requirements and breaking apart requirements to allow industry to be more receptive to EPA's competitive solicitations. Restructuring statements of work and technical evaluation criteria are helping to reduce the "incumbent advantage".

Specific Program Accomplishments

The Agency has continued to enhance competition through the use of innovative procurement techniques. The "factory floor" team approach where the same members of the program office, contract office, general counsel, cost advisory office and the competition advocate plan in advance and carry the acquisition through until contract award has been utilized. Contract personnel have continually emphasized minimizing the incumbent advantage and breaking out statements of work to enhance competition. Long term contracting strategies have been utilized in the programs. Industry comments on proposed requirements have been requested when time permits and industry conferences have been attended to advertise EPA's requirements. Preproposal conferences are held to communicate to industry EPA's serious intentions for competition.

FY 94 Plans

EPA acquisition personnel and the ACA will continue to be involved early in the acquisition cycle. Early planning is essential to increasing and enhancing competition. Contract

personnel will again emphasize clear statements of work and unbiased technical evaluation criteria. Contracting Officers will analyze program contracting needs on a total program contracting strategy basis rather than on a contract by contract basis. The ACA will monitor expenditure of program funds to ensure that FY 94 competitive goals are met. Justifications for Other than Full and Open Competition and Acquisition Plans will continue to be critically reviewed prior to approval with the goal of obtaining better competitions and reducing the incumbent advantage in follow-on acquisitions. There will be more proactive measures to increase competition and a greater emphasis on documentation relative to why better competition was not obtained on individual acquisitions.

## ANNUAL REPORT ON COMPETITION

## I. INTRODUCTION

The Environmental Protection Agency (EPA) continues to be at the forefront of efforts to increase competition in Government contracting. The EPA has always emphasized competition in the acquisition of its requirements, resulting in impressive savings of taxpayer dollars and broadening the base of contractors with which the Agency contracts. The EPA expended a total of approximately 1.3 billion dollars for large and small purchases through the acquisition process during FY 93. This report, which is required by 41 U.S.C. 418, discusses FY 93 competition results, the role of the Competition Advocate, and actions underway to further increase competition and strengthen the industrial base.

## II. EPA ORGANIZATION

In December 1984, in accordance with the Competition in Contracting Act of 1984, the Director of the Procurement and Contracts Management Division appointed an Agency Competition Advocate (ACA) to promote full and open competition in the award of contracts. To aid the ACA, an associate competition advocate is located at each major contract activity and a competition coordinator represents each major EPA program. It is largely through adoption of this organizational structure that EPA was able to award 97 percent of its total contract dollars available for competition (including small purchases) through the competition process during FY 93, an increase of one percent from FY 92. The ACA's primary responsibilities are to:

- o Develop, direct and maintain the competition program to ensure that competition initiatives are incorporated and implemented at all levels.
- o Assure that oversight mechanisms are established to provide visibility on any problems or obstacles in obtaining competition.
- o Establish Agency competition goals on specific programs and monitor progress towards those goals on a monthly basis. In furtherance of these goals, maintain active liaison with competition coordinators and associate competition advocates.
- o Ensure that competition is planned early in the acquisition process to minimize factors inhibiting full

and open competition. Consider all reasonable competitive alternatives. Promote market research to identify competition potential in support of acquisition strategies before the procurement decision is irrevocably made. Ensure that individual acquisition plans are in concert with CICA and maximize competition.

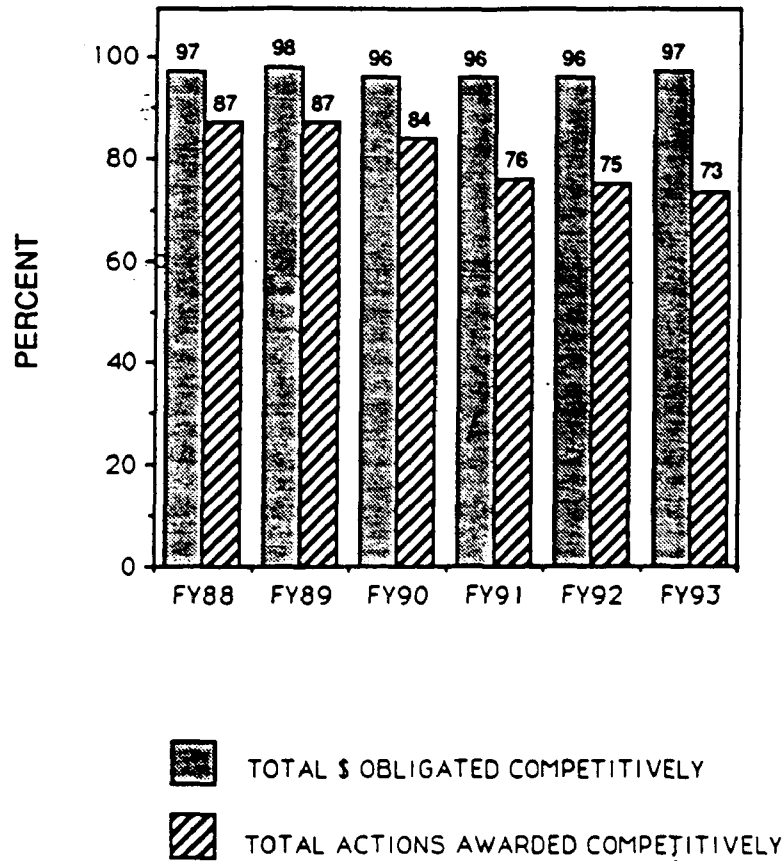
- o Review and approve/disapprove Justifications for Other than Full and Open Competition for proposed prime contracts exceeding \$100,000 and Determinations and Findings for exclusion of certain sources. JOFOCs of \$100,000 and less are reviewed through the functional review process at the operational level.
- o Serve as the EPA spokesperson for competition to industry, other Government agencies, and EPA program offices.

### III. COMPETITION RESULTS SINCE THE ENACTMENT OF THE COMPETITION IN CONTRACTING ACT OF 1984

The EPA has consistently maintained an outstanding performance in its award of contracts by the competitive process. Full and open competition has allowed the Agency to reduce overall costs for its requirements and broaden its contractor base. By having more qualified, interested firms participating in the contracting program, the Agency will continue to maintain an excellent competitive posture. EPA staff are convinced that competition provides lower costs, better cost control, higher quality, improved schedules, and a stronger industrial base. All these contribute to efficient use of taxpayer resources. The graphs on pages three and four of this report depict EPA's percentages of actions and dollars awarded competitively since FY 88. These percentages are based on EPA's data base as of January 19, 1994. Final data will not result in any significant changes in these graphs.

As in the past, these statistics are evidence that the Agency has recognized the need for and successfully achieved competition throughout EPA's programs. The Agency is continuously investigating new methods to competitively award contracts for its requirements and is obtaining greater response from the contracting community to its solicitations. The section on "Specific Areas in Which Competition has been Enhanced" provides impressive examples of innovative acquisition techniques.

# COMPETITIVE AWARDS FY88 - FY93

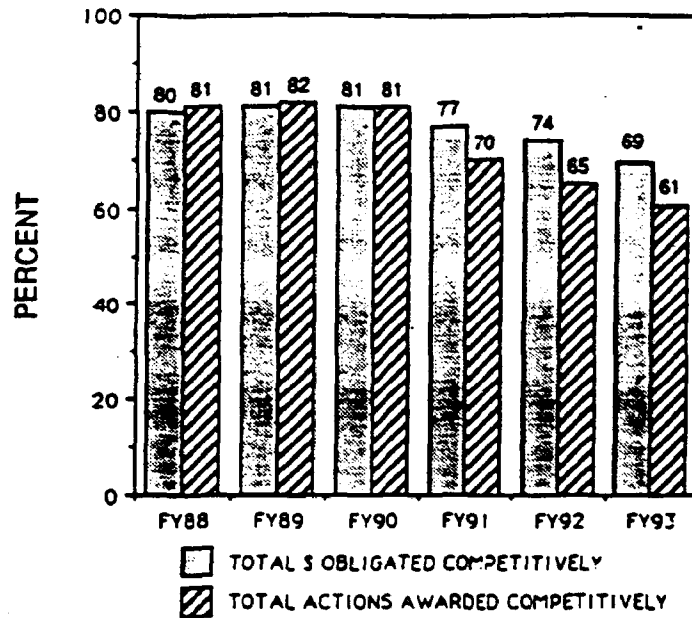


Based on statistics as of January 19, 1994

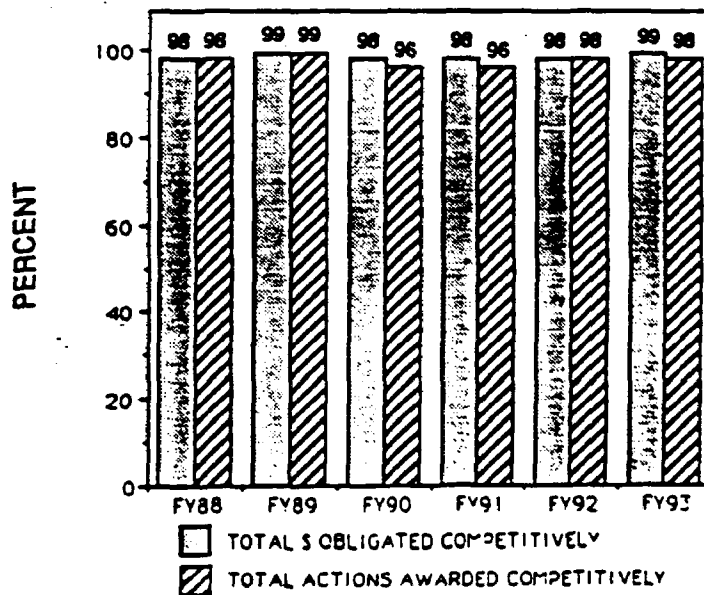


Appendix 1

**COMPETITIVE AWARDS \$25,000 AND BELOW**  
**FY88 - FY93**



**COMPETITIVE AWARDS OVER \$25,000**  
**FY88 - FY93**



Based on statistics as of January 19, 1994

**IV. PROMOTING COMPETITION**

Acquisition and program personnel at all levels continue to challenge barriers to competition. Section VII delineates specific areas in which competition has been enhanced in FY 93. Contract and Program Specialists continue to emphasize competition by:

- o Analyzing major acquisitions involving a number of separate tasks to determine the acquisition method best suited to enhance competition. This includes examining each task and determining whether to separate tasks or combine them, depending on which method is most likely to generate the most competition.
- o Improving the quality of specifications and statements of work, including in certain instances, publishing proposed requirements for public comment prior to issuance of a solicitation.
- o Encouraging advance planning involving the contracting officer and ACA. Competition is best achieved when planned for early in the acquisition cycle. In some instances, all fiscal year requirements are being reviewed at the beginning of the year to develop a total contract strategy for a particular technical program.
- o Researching technological developments and market trends to determine existing sources of supply and develop additional sources in support of the entire range of the Agency's acquisition needs.
- o Taking proactive measures to increase the number of proposals received. These include market surveys, counseling contractors to make them more aware of EPA's requirements, holding preproposal conferences to allow dialogue between the Government's contract and program personnel and the contractor community, conducting post-award surveys of non-bidders and holding general program requirements conferences.
- o Coordinating the activities of various subject matter specialists (engineers, attorneys, scientists, financial analyst, contract specialists) as necessary to carry out the plans and goals for increasing competition throughout the Agency.
- o Promoting competition at procurement conferences and training seminars, to program personnel, contracting operations, and small purchase activities.

Participants discuss results of the previous fiscal year and goals and plans for the next fiscal year. Question and answer sessions help to communicate the Office's competition philosophy and the requirements of the Federal Acquisition Regulation.

- o Disseminating written policies and procedures throughout the Agency. The ACA annually updates the pamphlet describing EPA's competition program, which is distributed to Agency personnel and to members of the contract community.
- o Stimulating greater competition in subcontracting. EPA conducted contractor purchasing system reviews at six major contractor facilities during FY 93. Approximately 12 reviews are planned for FY 94. A fundamental element of these reviews is the degree of competition exercised by prime contractors in their award of subcontracts. Contractor file documentation is reviewed to assure that competition is emphasized. Reviewers counsel contractors regarding the required documentation to support a subcontract award.

#### V. DOLLAR GOALS AND ACCOMPLISHMENTS FOR FY 93

Overall, EPA obligated 97 percent of its contract and small purchase dollars available for competition under full and open competition.

The Agency established specific FY 93 competition goals for all major programs. The ACA and the program competition coordinators mutually agreed to a percentage of dollars, ranging from 95 percent to 97 percent, that would be obligated for their requirements through full and open competition. The ACA reported progress toward these goals to each program monthly.

All except one program met their goals in FY 93. This program came within one percent of meeting its goal. EPA obligated 99 percent of its available dollars for contracts in excess of \$25,000 through full and open competition. The FY 93 percent remains exceptionally high and continues to reflect the emphasis placed by EPA personnel on awarding contracts through the competitive process.

Of the small purchase dollars (contract actions of \$25,000 or less) available for competition in FY 93, 69 percent of these dollars were obligated competitively. This percentage is consistent with EPA's past record and is considered excellent for the types of requirements purchased using this means.

Attached to this report is a chart of FY 93 statistics. It is presented in the format established by the Office of Federal Procurement Policy in a December 9, 1985 memorandum.

#### VI. JUSTIFICATIONS FOR OTHER THAN FULL AND OPEN COMPETITION

Only three percent of the Agency's obligated contract dollars were awarded without full and open competition. As in the past, EPA limited approvals of Justifications for Other than Full and Open Competition (JOFOCs) to those instances where, for example, the Agency had no other choice but to award on a noncompetitive basis. Situations when this occurs include if scientific objectives and Congressional mandates were to be achieved; when the public health and welfare was at stake; when time was of the essence to alleviate an immediate danger; or to allow additional time for the award of a follow-on contract. EPA will again strive to reduce noncompetitive situations in EPA during FY 94.

#### VII. SPECIFIC AREAS IN WHICH COMPETITION HAS BEEN ENHANCED

The Agency has enhanced competition in many areas during FY 93 including the following:

##### Headquarters ADP Procurement Branch

In FY 93, a critical decision was made to break into two parts what had been a single contract effort, the Records Management and Library Service contract. The follow-on procurement will make a logical split in these functions and provide for a greatly expanded environment for increased competition. This is especially important to the small business and small-business/disadvantaged business community. This contract is targeted for award in FY 94.

A similar type of breakout was also made for the requirements associated with the Office of Research and Development. In this area, EPA will pursue two separate contracts for different requirements. This approach also mitigates the conflict of interest issues that historically grow out of combinations of requirements under one prime contractor.

Another approach to increasing competition has been the movement away from competitive proposals resulting from a request for proposal to the sealed bid method in those instances where there are standard commercial items and pricing. Using the sealed bid method stimulates a wider field of offerors,

especially in the small business community. The simplification of the sealed bid method saves small business time and money in the procurement process, since the cost for proposal revisions and negotiations need not be incurred.

#### Headquarters Administrative Procurement Branch (APB)

The Office of Policy, Planning, and Evaluation (OPPE) experienced a lack of competition on some of their procurements over the last few years. In order to increase competition, the Administrative Placement Section and OPPE developed a procurement strategy that divides the work up into more narrowly defined technical areas to allow the smaller and more specialized firms to effectively compete. An example of this is the procurement for analytical support in the evaluation of the domestic and international implications concerning the quality of land and water resources.

The solicitation was issued with one statement of work to be used for three contract awards. The solicitation included, in effect, three different sets of technical evaluation criteria each emphasizing a special work area. The purpose of this approach was to allow firms with specialized expertise to compete and do well based on technical evaluation criteria giving greater weight to their area of expertise. In the past, firms with expertise across the entire spectrum of work areas had a real advantage and often received contract awards as a result of being the only offeror. The result of this strategy has been a significant increase in the number and quality of proposals.

#### Headquarters Purchasing and Contract Management Branch (PCMB)

The Purchasing and Contract Management Branch (PCMB) did not undertake any major initiatives for increasing competition in FY 93 in the small purchase arena. However, efforts aimed at other problems have served to increase competition. In order to improve EPA's process of continuing ongoing maintenance of office machinery (photocopy, fax, etc.), PCMB consolidated like items by type, make and model into unified requirements. In several cases competitive price reductions were obtained with this volume buying. In another case, work among GSA mandatory schedule holders was competed and resulted in a 5% price reduction off the GSA schedule price of over one million dollars for office furniture and equipment.

Superfund/RCRA Headquarters Operations Branch (SRHOB)Contract Award

During FY 93 the SRHOB Placement Section awarded seven contracts with a total value of \$93,285,727. Of the seven contract awards, two were 8(a) procurements and the rest were competitively let, including one small business set aside. It should be noted that 99.5 percent of contract dollars were awarded competitively.

A notable achievement was the competitive award of a small business set-aside for support for the National Priorities List. The three previous contracts for this requirement had been awarded on a sole-source basis to the same contractor. Through the successful use of a Commerce Business Daily (CBD) sources sought synopsis, the Contracting Officer was able to determine that adequate competition existed among the small business community and a competitive small business set-aside was utilized to meet the Agency's needs.

Ongoing Acquisition Planning Activities

During FY 93 important decisions concerning competition were reached during the early stages of acquisition planning on several large, complex procurements. Statements of work (SOWs) were examined and redrafted from the standpoint of breaking up umbrella-type requirements into smaller, more discrete efforts providing for greater competitive opportunities. In both SOWs and technical evaluation criteria, Agency-specific experience was minimized and generalized where possible to mitigate the advantages of incumbency. Similarly, technical evaluation criteria were scrutinized to ensure that comparable non-Agency experience was given equally credit during the technical evaluation of offers. Zonal requirements were designed to allow for the participation of smaller, regionally-based firms in the competition.

A benefit of the Agency's increasing sensitivity to issues relating to organizational conflicts of interest has been an increase in competitive opportunities for the private sectors. In order to ensure that contractor support is available to the Agency in the event a contractor develops a specific conflict of interest, individual requirements are frequently divided into multiple awards further enhancing competitive opportunities.

Initiatives Taken to Enhance Competition Under the Superfund Long Term Contracting Strategy (LTCS)

The Superfund LTCS encompasses five major contract classes which will provide contractor support to the three primary

programs, being Enforcement, Remedial and Emergency response. It is presently envisioned that each class of contracts will result in awards on either a regional basis or a regional zone basis. Specifically, the Response Action Contracts (RACs), Enforcement Support Services Contracts (ESS), and Superfund Technical Assessment and Response Team contracts (START) will be procured on a regional basis and the Emergency ERRS and Regional Oversight Contracts (ROCs) will be processed on a regional or zonal basis.

To date Requests for Proposals (RFPs) have been issued for RAC and ESS contracts. Overall, we consider competition for these procurement to be excellent for the following reasons:

- The geographical area of performance is limited to an EPA region thereby enabling mid-sized firms that are not nationally based companies to focus on a discrete geographic area.
- A preproposal conference was held for each contract class to allow offerors an opportunity to ask questions or obtain clarifications regarding any aspect of the RFP. This enables offerors to obtain a more thorough understanding of the Agency's technical and business requirements.
- Finally, the period for proposal preparation and submission has been expanded from the traditional thirty day response time to forty-five days for ESS and sixty days for RACs. Additional time for proposal preparation allows offerors the time to establish teaming arrangements and develop a comprehensive proposal which thoroughly addresses all aspects of the evaluation criteria. Thus, more time ideally translates into better planning and preparation.

#### Cincinnati Contracts Management Division

Cincinnati Contracts Management Division (CCMD) has conducted a number of presolicitation conferences in order to increase contractor interest and enhance competition. Examples of these types of presolicitation conferences were the conferences for seven special equipment buys (up to six million dollars) in support of the Office of Air and Radiation's (OAR) Office of Mobile Sources laboratory at Ann Arbor, Michigan. These presolicitation conferences were also conducted on several Office of Water (OW) programs. These include the EPA Standing Committee on Improving Contract Management's "Factor Floor" project for the development of Effluent Guidelines for the Metal Industry and the seven solicitations that constitute the previous single contract supporting the National Pollutant Discharge Elimination System (NPDES).

CCMD issued draft statements of work (SOW), technical evaluation criteria, conflict of interest provisions, estimated level of effort (LOE) and skill mix to industry, on nine Office of Water solicitations, requesting their questions, comments and responses to the proposed procurement packages. The responses were incorporated into the final package prior to the actual release of the solicitations requesting contractor's proposals.

When only one offer was received on competitive solicitations, letters were sent to each company on the source list that did not respond to the solicitation. The letters requested reasons for not responding to the solicitation as well as suggestions to make the solicitation more competitive in the future. Responses were shared with the local Small and Disadvantaged Business Utilization Specialist (SADBU) and the supported Program Office.

CCMD worked with the local SADBU and various program offices to breakup large procurements which were perceived as inhibiting competition. The single \$92 million Office of Water (OW) contract was broken into a total of eight contracts of various sizes. Some were set aside for small business while others were limited to 8(A) firms. The OW Factory Floor project which consisted of 1 contract to support development of "Effluent Guidelines for the Metal Industry" has been broken into three solicitations. The Office of Solid Waste and Emergency Response (OSWER) Response, engineering and analytical contract was trimmed from \$188 million to just over \$100 million. The services which were trimmed out are being solicited under a number of new smaller, narrower focused solicitations where greater competition is expected.

In some cases where a new competitive strategy has not been fully developed, CCMD awarded shorter "Bridge" contracts to cover the period from the end of the expiring contract to the award of a competitive follow-on contract. This was done for the Office of Research and Development (ORD) for the on-site technical support at Vint Hill, VA where a "Bridge" contract was awarded for a period of only 18 months, rather than the customary 60 months, to allow time to further develop long range requirements and a competitive strategy. The on-site technical support contract for the Environmental Research Laboratory at Corvallis, Oregon was also awarded as a "Bridge" contract for only 21 months to allow additional time to further develop a long range competitive strategy. Even the "Bridge" contract has already been reduced by 40% of its original size and has been broken into several smaller competitive solicitations.

CCMD has decreased the number of key personnel specified in the technical evaluation criteria. An example of this is in the on-site technical support contract for the Environmental Research



Laboratory at Corvallis, Oregon where the number of key personnel on the previous competitive contract was 73 and has been reduced on the current solicitation to just 4. CCMD has also changed the number of points for various technical evaluation criteria. The percentage of points for key personnel has been lowered to no more than 15% while there has been an increased concentration on the corporate and management plans. This has been done to increase competition by reducing the inherent advantage of the incumbent.

#### **Research Triangle Park - Contracts Management Division**

To enhance competition on small business set-asides for requirements that historically had one small business offeror, the incumbent was called and asked to provide names of potential sources. The suggested sources were called to determine capability and interest. Given favorable responses, the procurement was advertised as a competitive business set-aside. An example of this was RFP D30005M1, "General Support for the Office of Environmental Engineering and Technology Demonstration." The original RFP in 1991 resulted in one offer. This most recent solicitation resulted in ten small business offers.

Capabilities of current small business team subcontractors have been reviewed to determine possibilities for scope of work break-outs or small business set-asides for follow-on acquisitions. This procedure resulted in five competing offers under Acquisition No. D201848M1 as a small business set-aside. No competition had been achieved against a large business incumbent contractor under a prior acquisition handled as full and open competition.

Scopes of work which were bundled were broken up into separate, distinct requirements so that more than one contract resulted. Acquisition No. D301463M1 was a follow-on effort where the statement of work for the previous procurement had been broken-up into six major areas. This acquisition included a partial small business set-aside and resulted in seven contracts supporting various air pollution control programs.

Sources were obtained from other federal agencies. For example, the National Institute of Environmental Health Sciences (NIEHS) has similar research and on-site support requirements and is located at RTP. RTP conferred with NIEHS regularly to expand the source list by adding companies which submitted offers to NIEHS for similar acquisitions. (Example: Counseling contract, RFP D300248M1)

Statements of Work were reviewed and revised as necessary to assure that they were clear, concise, and not restrictive or biased towards a particular offeror or the incumbent. Each procurement was also reviewed to assure that the technical evaluation criteria were not restrictive.

Small business trade-fairs were attended. CMD-RTP also sponsors and co-sponsors several small business events on an on-going basis. The acquisition forecast for small businesses and 8(a) contractors and the active contracts list were provided to requestors, distributed to walk-in visitors, and made available at trade fairs. These documents provided expiration dates of existing contracts which enabled interested offerors to explore in advance the resources, teaming arrangements, and feasibility of submitting an offer on a follow-on contract.

The Small Business Administration (SBA) Procurement Automated Source System (PASS) was searched for additional sources. CMD-RTP has in-house capability to access the PASS. Firms were added to solicitation source lists to generate interest and encourage competition.

Pre-bid conferences were held when it was believed that they would increase competition. During FY 93, RTP received two proposals in response to a solicitation for Modeling, Monitoring Systems and Quality Assurance. On a subsequent solicitation, D300119M1, with somewhat the same requirements, a pre-bid conference generated additional interest which resulted in attendance by fourteen firms and five offers.

Requirements of \$10,000 - \$25,000 were posted on a bid board which is located in the lobby of the EPA-RTP Administration Building. This posting allowed business representatives who visited the facility an opportunity to obtain information on small purchase requirements. Additionally, it allowed companies who are not on the EPA source list to also have an opportunity to submit an offer. Technical/programmatic reference materials are also made available to offerors in the EPA library to assist them in preparing proposals and to reduce the advantage of incumbency.

A determination and Finding (D&F) to exclude sources was approved to award two contracts for Region I under Solicitation No. D200158L1. This allowed for back-up contract support in instances of organizational conflicts of interest and also helped maintain a competitive base. A D&F to exclude sources was prepared for Acquisition No. D300134M1. This is an attempt to develop competition where there has been diminishing competition in the past. Additionally, a partial small business set-aside has been recommended for this acquisition.

# VIII. PLANS FOR INCREASING COMPETITION IN FY 94

EPA personnel will take the following actions to increase competition in FY 94:

- Analyze major acquisitions involving a number of separate tasks to determine the acquisition method best suited to enhance competition.
  - Break apart requirements where competition would be enhanced by doing so.
  - Award more than one contract to develop sources. The Agency may receive improved quality and at less costs to the government.
  - Award smaller and in some instances site specific contracts to spread EPA's requirements over a broader base of contractors.
- Improve the quality of specifications and statements of work including in certain instances publishing proposed requirements for public comment prior to issuance of a solicitation.
  - Statements of work must be closely reviewed to ensure that they are not restrictive and the incumbent does not have an unfair competitive advantage above that inherent in being the current contractor.
  - Evaluation criteria must be scrutinized to ensure that they are not favorable to any one contractor. Do not assign too much weight on factors such as corporate experience or past experience specifically unique to the requirement if general requirements will allow EPA to accomplish its objectives.
- Encourage advance planning involving the contracting officer, project officer, Office of Small and Disadvantaged Business Utilization representative, Agency Competition Advocate, and any other concerned party.
  - The Agency must develop a "user friendly" advance planning system to forecast what is to be contracted for in the upcoming years.

- Competition is best achieved when planned for early in the acquisition cycle.
- This system will also allow set asides for 8(a) and small business participation.
- Advance planning documentation procedures are presently being revised and will be available FY 95.
- Research technological developments and market trends to determine existing sources of supply and develop additional sources to support the Agency's acquisition needs.
  - Package EPA requirements in a manner that will have more appeal to industry's capabilities.
  - Advertise EPA's acquisition in the Commerce Business Daily and where applicable trade journals and other media.
  - Conduct surveys of present contractors, contractors who proposed and did not get an award, and future sources of supply to solicit their ideas on how EPA may increase their competition.
- Take proactive measures to increase the number of proposals received.
  - Perform market surveys, counsel contractors to make them more aware of EPA's requirements and hold preproposal conferences to allow dialogue between the Government's contract and program personnel and the contractor community.
  - Attend industry sponsored symposiums and meetings and participate in these forum to communicate EPAs requirements to be contracted for in the relatively near future.
- Establish the requirement that a detailed explanation must be incorporated into the official contract file relative to how well the contracting officer considers that competition was obtained.
  - Develop a questionnaire to be routinely sent to anticipated offerors who did not propose on a RFP inquiring why they did not submit a proposal.

- If adequate competition is not obtained, review all documentation, statements of work and evaluation criteria to ensure we were not restrictive in any way.
- Continue the establishment of program goals relative to how many dollars are to be spent competitively and monitor these goals monthly.
  - Goals should be discussed at a minimum at an annual meeting where the advance planning documents are discussed.
  - The competition advocate will meet with program officials and contract personnel to ensure that competition goals are met and the Agency's competition philosophy is being carried out.
- Promote the values of competition at EPA procurement conferences and training seminars, to program personnel, contract operations, and small purchase activities.
  - Participants discuss results of the previous fiscal year competition goals and plans for the next fiscal year.
  - Establish question and answer sessions to help communicate the OAM's competition philosophy and the requirements of the Federal Acquisition Regulation throughout the Agency.
  - Trends for the type of competition we are getting should be discussed and problems identified.
  - Competition overall and competition in the competitive range should be considered and it's relative importance evaluated.

FY 1993 COMPETITION STATISTICS<sup>1</sup>

## CONTRACTS

| PROCUREMENT<br>ACTIONS<br>OVER \$25,000 | NUMBER<br>OF<br>ACTIONS | PERCENTAGE<br>OF<br>AVAILABLE<br>ACTIONS | DOLLAR<br>OBLIGATIONS<br>(\$000) | PERCENTAGE<br>OF<br>AVAILABLE<br>DOLLARS |
|---|-------------------------|--|----------------------------------|--|
| I. Actions Available<br>for Competition |                         |  |                                  |  |
| A. Actions Competed                     | 8,193                   | 98                                       | 1,083,892                        | 99                                       |
| B. Actions Not<br>Competed              | 170                     | 2  | 15,468                           | 1  |
| C. Total Available                      | 8,363                   | 100                                      | 1,099,360                        | 100                                      |
| II. Actions Excluded <sup>2</sup>       | 761                     | XXXX                                     | 63,394                           | XXXX                                     |
| III. Total Actions                      | 9,124                   | XXXX                                     | 1,162,754                        | XXXX                                     |

## SMALL PURCHASES

| PROCUREMENT<br>ACTIONS<br>\$25,000 AND BELOW | NUMBER<br>OF<br>ACTIONS | PERCENTAGE<br>OF<br>AVAILABLE<br>ACTIONS | DOLLAR<br>OBLIGATIONS<br>(\$000) | PERCENTAGE<br>OF<br>AVAILABLE<br>DOLLARS |
|--|-------------------------|--|----------------------------------|--|
| I. Actions Available<br>for Competition      |                         |  |                                  |  |
| A. Actions Competed                          | 10,576                  | 61                                       | 54,527                           | 69                                       |
| B. Actions not Competed                      | 6,639                   | 39                                       | 24,564                           | 31                                       |
| C. Total Available                           | 17,215                  | 100                                      | 79,091                           | 100                                      |
| II. Actions Excluded <sup>3</sup>            | 26,503                  | XXXX                                     | 7,793                            | XXXX                                     |
| III. Total Actions                           | 43,718                  | XXXX                                     | 86,884                           | XXXX                                     |

1. Based on preliminary statistics available as of January 19, 1994.

2. Includes awards made under the 8(a) set-aside program.

3. Represents open market purchases of \$1,000 and below, which are not required to be competed under the Federal Acquisition Regulations.

OIG COMMENTS ON THE ASSISTANT ADMINISTRATOR'S RESPONSE TO THE  
DRAFT REPORT

The Assistant Administrator's response to the draft report is shown in Appendix I. The following notes refer to specific sections of the Assistant Administrator's response (the note reference numbers below correspond with note reference numbers which we have placed in the left margin of Appendix I).

- Note 1      We eliminated the sentence that referred to the narrowing of competitive ranges after receipt of revised technical proposals.
- Note 2      We changed the wording in the final report to state that the source selection official is usually a contracting officer or higher level official.
- Note 3      We have changed the wording in the final report so that the cited phrases read "small business set-asides."
- Note 4      We have revised footnote 3 to reflect information subsequently received that the missing contract file was transferred to Region 6 on January 12, 1993, for administration purposes.
- Note 5      We have revised subject sentence to reflect that the limited response was attributable, in part, to conditions related to these solicitations.
- Note 6      We have revised subject sentence to reflect that these factors may combine to limit competition.
- Note 7      Although the effects of competition on price may be more pronounced for fixed-price contracts than cost-reimbursement contracts, we believe cost-reimbursement contracts can still benefit from the price effects of competition. The FAR makes several references to fair and reasonable prices for cost-reimbursement contracts. For example, FAR 15.803(c) states that price negotiation is intended to permit the CO and the offeror to agree on a fair and reasonable price. The Government's negotiation position would benefit from the presence of several competitive proposals. In addition, competing companies may incur and/or propose different costs. A competitive environment may force companies to cut overhead costs resulting in lower G & A expenses. In addition, companies can propose lower fees (profit) than their competitors.

Advance estimates of cost may not be valid indicators of final cost in all cost-reimbursement contracts. However, in a competitive environment a company would need to be concerned about controlling costs and avoiding excessive overruns on its cost-reimbursement contracts. Office of Federal Procurement Policy Letter No. 92-5 establishes requirements for evaluating contractor past performance and using past performance information in the selection process. This letter states that included in a contractor's past performance is "...the contractor's record of containing and forecasting costs on any previously performed cost reimbursable contracts." Accordingly, a history of excessive overruns should negatively effect a firm's chances for subsequent cost-reimbursement contracts when competing against equally qualified companies that do not have a history of excessive overruns.

Over time, as knowledge about the work requirements of some cost-reimbursement contracts increases, these contracts could be converted to fixed-price. The Standing Committee on Contracts Management (now called the Resource Management Committee) recommended that EPA use contract types other than cost-reimbursement contracts where appropriate. In response to that recommendation, the Agency plans to select a candidate to pilot multiple awards which will include use of hybrid contracts; i.e., LOE contracts with work assignments issued on either a cost-reimbursement or fixed-price basis.

Note 8      We agree that these two separate factors can increase the use of subcontracting. We have added descriptions of these factors in the final report.

Note 9      We agree that splitting contracts by simply creating smaller contracts with fewer hours may not necessarily reduce subcontracting. We also agree with the Assistant Administrator's concerns about "parallel" contracts. However, splitting can be accomplished through other means than just breaking up the number of labor hours required. For example, large contracts can be split along geographical boundaries when applicable, such as the Superfund program has done. In addition, multiple contract awards do not have to exclusively be "parallel" awards. We noted that OAQPS, on more than one occasion, awarded multiple contracts based on a single RFP in which the SOW was split into distinct (not parallel) sections.



- Note 10      We recognize that TEPs are required to follow the evaluation and scoring plan as outlined in the RFP. However, our point was that we believe the Agency should be more consistent in the way that similar evaluation criteria are treated for similar contract awards. We have added language to our final report that clarifies our position.
- Note 11      In reviewing this contract file, we saw no indication that the information requested was not releasable under the Freedom of Information Act (FOIA). An amendment to the RFP for this award indicated that some questions were not answered because these questions "invited" EPA to write the offeror's proposal for them. The amendment stated that EPA was looking for creative thought in the proposals. The amendment did not mention releasability under FOIA as a reason for not disclosing the information.
- Note 12      We do not believe our recommendation is inconsistent with the Assistant Administrator's preference to use multiple contract awards as an option. Our recommendation stated that "...multiple awards should be considered, whenever feasible..." Accordingly, we have not changed the wording of our recommendation in the final report.
- Note 13      We did not recommend that EPA institute a policy that 40 percent of the total points be used as a limit for personnel qualifications. Our draft report indicated that 40 percent was used for illustration purposes. We believe the actions taken and planned by the Agency will be adequate provided they concentrate on the evaluation areas of key personnel, corporate experience, and personnel experience and availability. We revised the final report to recommend that EPA monitor and evaluate these areas to ensure that incumbent contractors are not given an unfair advantage.
- Note 14      We agree with the Agency's planned revision to require that at least one member of a TEP to be from outside the procuring office. We believe that in some instances more than one TEP member should be from outside the procuring office. ORD's Office of Environmental Processes and Effects Research has issued guidance requiring at least two members be from outside the procuring office when panels are comprised of five

or more members. We believe EPA's policy should adopt this approach. We have revised our recommendation in the final report to reflect this position.

- Note 15 The final report indicates that Procurement and Contracts Quality Assurance Reviews (PCQAR) are not required to address the extent of competition.
- Note 16 We deleted this statement from our final report. However, our review of PCQARs showed that past reviews looked at the extent of competition for competitively awarded contracts while a recent review did not.
- Note 17 We agree that such clarification should be obtained. Based on our review of reporting guidance issued by GSA, they only require information based on the total number of proposals received. However, we agree that information on the number of proposals in the competitive range is valuable information and that it would be beneficial to include in EPA's planned ICMS, whether or not this information is required for CICA purposes.

**GLOSSARY OF ACRONYMS AND ABBREVIATIONS**

|       |   |  |
|-------|---|--|
| ACS   | - | Automated Contract System                              |
| APDS  | - | Automated Procurement Data System                      |
| CICA  | - | Competition In Contracting Act of 1984                 |
| CBD   | - | Commerce Business Daily                                |
| CIS   | - | Contract Information System                            |
| CMD   | - | Contracts Management Division                          |
| CO    | - | Contracting Officer                                    |
| CS    | - | Contracting Specialist                                 |
| D & F | - | Determinations and Findings                            |
| EPA   | - | Environmental Protection Agency                        |
| EPAAR | - | Environmental Protection Agency Acquisition Regulation |
| FAR   | - | Federal Acquisition Regulation                         |
| FPDS  | - | Federal Procurement Data System                        |
| FY    | - | Fiscal Year  |
| G & A | - | General and Administrative                             |
| GAO   | - | General Accounting Office                              |
| GSA   | - | General Services Administration                        |
| ICMS  | - | Integrated Contract Management System                  |
| JOFOC | - | Justification for Other Than Full and Open Competition |
| LOE   | - | Level of Effort  |
| NIH   | - | National Institute of Health                           |
| OAM   | - | Office of Acquisition Management                       |
| OAQPS | - | Office of Air Quality & Planning Standards             |
| OIG   | - | Office of Inspector General                            |
| OPPE  | - | Office of Planning, Policy and Evaluation              |
| ORD   | - | Office of Research and Development                     |
| PCQAR | - | Procurement and Contracts Quality Assurance Review     |
| PO    | - | Project Officer  |
| QAT   | - | Quality Action Team                                    |
| RFP   | - | Request for Proposal                                   |
| RTP   | - | Research Triangle Park, NC                             |
| SBA   | - | Small Business Administration                          |
| SOW   | - | Statement of Work                                      |
| TEP   | - | Technical Evaluation Panel                             |

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PRIOR OIG/GAO REVIEWS WITH CONTRACT COMPETITION FINDINGS

1. Status of EPA's Contract Management Improvement Program, GAO/RCED-87--68FS issued January 1987. EPA appointed an Agency competition advocate. In addition, EPA assigned 5 associate competition advocates from its 3 major procurement operations and 11 program competition coordinators from its major programs to assist the agency competition advocate in removing barriers to competition.
2. Report on Audit of EPA's Planning, Negotiating, Awarding and Administering of ERCS Contracts, Report No.E5E26-05-0101-61508 issued September 1986. Better planning and more aggressive actions by procurement officials were needed in order to increase competition for these Superfund contracts. EPA maintained two large multi-regional zone contracts that were so demanding and large that very few companies could compete.
3. Survey of the Alternative Remedial Contracting Strategy: Contract Bidding and Award Process, Report No. E1SGB9-11-0021-0100274 issued April 1990. The ARCS program was structured to ensure a much larger number of contracts than existed under the previous system of three large contracts (one nationwide and two zone contracts). EPA met an overall goal of increased competition in awarding 45 ARCS contracts to 23 firms.
4. Followup Audit of EPA's Negotiation, Award and Management of Contractor-Owned Equipment on Emergency Response Cleanup Services Contract, Report No. E1SHD1-06-5054-2100292 issued March 1992. EPA downsized the scope of some of its Generation II ERCS contracts. These smaller scope regional and site-specific contracts did attract many new contractors. However, competition was still limited on the larger Generation II zone contracts.
5. Sample Management Office, Report No.E1SKF1-03-0065-2100666 issued September 1992. There was a lack of competition for the most recent contracts to operate the Sample Management Office. The current contractor was the only firm to submit a proposal for the last solicitation. Only the incumbent and one other firm had submitted proposals for the two previous solicitations. Continued increases to both the contract term and the contractor's duties helped decrease competition for these follow-on contracts.

6. ORD Environmental Research Laboratory, Athens, Georgia, Report No. E1XMG2-04-0102-3400007 issued November 1992. Long-term on-site contractor relationships provided incumbent contractors and their personnel a competitive advantage through the experience they gained in certain research projects. This close relationship created a contractor monopoly that precluded, or at a minimum inhibited future "open" competition for providing on-site contract support.
7. Management of Extramural Resources, Office of Research and Development Environmental Research Laboratory, Athens, Georgia, Report No. E1JBF2-04-0300-3100156 issued March 1993. Several factors in the RFP evaluation criteria made it extremely difficult for other firms to compete for the Lab's on-site support contract. The technical evaluation criteria of personnel qualifications made up 65 percent of the available evaluation points. In addition, offeror's were required to submit commitment letters for key personnel and a start-up plan which would ensure full operations within 30 days of award.
8. Survey Report on Contracting Activities at Environmental Research Laboratory - Corvallis, Report No E1JBG2-10-0080-3400019 issued February 1993. There was a lack of competition for the Lab's on-site support contract. Over 150 RFPs were issued and only the incumbent contractor submitted a proposal. Some potential offerors for the current contract indicated that the RFP was in part unduly restrictive because of the large number of specified key positions (33 out of 113) which required resumes and letters of commitment. The large number of employees located on-site and the expert knowledge in the Lab's activities by the incumbent contractor appeared to limit the competition since no other offeror submitted a proposal. The incumbent contractor's extensive involvement in technical and administrative support may adversely affect the openness and fairness of future competition.
9. Survey of Contracting Activities at Environmental Monitoring Systems Laboratory Las Vegas, Nevada, Report No. E1JBG2-09-0329-3400041 issued March 1993. Two of the Lab's major support contracts were awarded to the same incumbent contractor after receipt of only two proposals in each case. For one contract it appeared that the diversity of required contract services was one of the causes for the limited number of proposals received in response to the RFP. This contract required support for five major program areas. The extensive number of key personnel specified in the RFP may

have limited competition for the other major contract. At the pre-proposal conference, prospective offerors raised concerns about the number of key personnel specified in the RFP. The number specified was reduced to 23 from 31 after this conference. Apparently, the reduction in the number required was not sufficient to encourage companies to submit offers. Only two proposals were received for this award and only the incumbent's proposal made the competitive range. Some TEP members indicated that the key personnel requirement limited competition for the contract.

10. Management of Extramural Resources at the Environmental Research Laboratory, Narragansett, Rhode Island, Report No. E1JBF2-01-0275-3100236 issued June 1993. The designation of key personnel favored the incumbent contractor in the award of an operations and maintenance contract. The RFP's key personnel clause listed all five of the contract's positions as key positions. Two firms contacted by our auditor's expressed reservations about the clause. The appearance of favoritism to incumbent contractors in the award of other laboratory contracts may have been a factor in the lack of competition for other contracts awarded under full and open competition.

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**SCHEDULE OF RTP FY 1991-92 CONTRACTS REVIEWED**

| <u>CONTRACT<br/>NUMBER</u> | <u>DOLLAR VALUE</u>  | <u>NUMBER OF<br/>PROPOSALS<br/>SUBMITTED</u> | <u>NO. OF<br/>PROPOSALS<br/>IN THE<br/>COMP. RANGE</u> | <u>AWARD TO<br/>INCUMBENT</u> | <u>PROGRAM<br/>OFFICE</u> |
|----------------------------|----------------------|--|--|-------------------------------|---------------------------|
| 68D20134                   | \$75,607,960         | 2  | 2  | YES                           | ORD-AREAL                 |
| 68D10135                   | \$69,370,613         | 1  | 1  | YES                           | OSWER                     |
| 68D20056                   | \$67,387,498         | 1  | 1  | YES                           | ORD-HERL                  |
| 68D20185                   | \$52,521,791         | 3  | 2  | YES                           | OAR-ORP                   |
| 68D10117 (1)               | \$37,009,257 SOW-A   | 7  | 4  | YES                           | OAR-OAQPS                 |
|                            | SOW-C                | 4  | 3  |                               |                           |
| 68D10158                   | \$31,947,490         | 3  | 3  | NO                            | OSWER                     |
| 68D20010                   | \$30,644,944         | 2  | 2  | YES                           | OPPTS                     |
| 68D20155                   | \$28,106,650         | 1  | 1  | YES                           | OAR-ORP                   |
| 68D20159 (2)               | \$19,636,373 SOW-2   | 6  | 4  | NO                            | OAR-OAQPS                 |
|                            | SOW-3                | 7  | 4  | NO                            | OAR-OAQPS                 |
| 68D20160 (2)               | \$19,286,170 SOW-2   | (6)  | (6)  | NO                            | OAR-OAQPS                 |
|                            | SOW-3                | (7)  | (7)  | NO                            | OAR-OAQPS                 |
| 68D10115 (1)               | \$18,771,256 SOW-B   | 5  | 4  | YES                           | OAR-OAQPS                 |
| 68D20163                   | \$17,691,953         | 10   | 7  | YES                           | OAR-OAQPS                 |
| 68D10116 (1)               | \$15,250,003 SOW-B   | (8)  | (8)  | YES                           | OAR-OAQPS                 |
| 68D20131                   | \$15,155,997         | 4  | 2  | YES                           | OAR-ORIA                  |
| 68D20172                   | \$11,977,314         | 3  | 1  | YES                           | OAR-OMS                   |
| 68D10003                   | \$10,919,677         | 2  | 1  | YES                           | OARM-NCPD                 |
| 68D10009                   | \$9,551,816          | 2  | 1  | YES                           | ORD-AREAL                 |
| 68D20175                   | \$8,699,226          | 1  | 1  | YES                           | OPPTS                     |
| 68D10104                   | \$5,834,812          | 5  | 2  | NO                            | OAR-OAQPS                 |
| 68D20186                   | \$5,630,885          | 1  | 1  | YES (9)                       | ORD-AEERL                 |
| 68D20181                   | \$8,699,226          | 5  | 3  | NA                            | ORD-AEERL                 |
| 68D10031                   | \$5,397,090          | 3  | 3  | YES                           | ORD-AEERL                 |
| 68D20063                   | \$5,274,768          | 6  | 5  | NA                            | ORD-AEERL                 |
| 68D10146                   | \$4,888,608          | 2  | 2  | NA                            | ORD-AEERL                 |
| 68D20059                   | \$4,617,936          | 3  | 3  | YES                           | OAR-OAQPS                 |
| 68D10126                   | \$3,751,730          | 6  | 2  | NO                            | OTS-HERD                  |
| 68D20189                   | \$3,582,878          | 4  | 2  | NO                            | OAR-OAQPS                 |
| 68D20057                   | \$3,226,490          | 5  | 4  | YES                           | OPPTS-OPPT                |
| 68D10143                   | \$3,098,356          | 3  | 2  | YES                           | OAR-OAQPS                 |
| 68D10134                   | \$2,920,873          | 3  | 1  | NA                            | OPP                       |
| 68D20182                   | \$2,725,280          | 2  | 2  | NO                            | OPPTS-OPPT                |
| 68D10125                   | \$1,579,750          | 2  | 2  | NA                            | OAR-OAQPS                 |
| 68D10152                   | \$1,578,897          | 7  | 3  | NA                            | (10)                      |
| 68D10105                   | \$1,188,522          | 1  | 1  | YES                           | OARM                      |
| 68D20148                   | \$1,079,945          | 10   | 4  | NA                            | ORD-AEERL                 |
| 68D20190                   | \$855,133            | 4  | 2  | NA                            | ORD-AEERL                 |
| 68D10149                   | \$1,156,639          | 1  | 1  | NA                            | ORD-AEERL                 |
| 68D10014 (3)               | \$692,906            | 2  | 2  | YES                           | OTS-HERD                  |
| 68D20151                   | \$431,020            | 1  | 1  | YES                           | OAR-OMS                   |
| 68D20009                   | \$399,624            | 9  | 8  | NA                            | ORD-AEERL                 |
| 68D10142                   | \$309,497            | 4  | 3  | YES                           | OAR-OAQPS                 |
| 68D10160 (4)               | \$145,000            | 1  | 1  | NA                            | ORD-AREAL                 |
| 68D10133                   | \$97,065             | 4  | 3  | NO                            | OARM-NDPD                 |
| 68D20179                   | \$60,450             | 2  | 2  | NA                            | Region 10                 |
| 68D20184 (5)               | \$51,000             | 5  | NA   | NA                            | OARM                      |
| <u>45</u>                  | <u>\$608,910,368</u> | <u>3.67</u>                                  | <u>2.48</u>  |                               |                           |

**FOOTNOTES:**

- (1) = Multiple awards were made from one RFP. Two awards were made for each SOW section.  
One contractor could not win both awards for the same SOW section.
- (2) = Multiple awards were made from one RFP. Two awards were made for each SOW section.  
One contractor could not win both awards for the same SOW section.
- (3) = Technical score of challenger was significantly lower than the incumbent.
- (4) = Only 1 proposal was submitted but it did not contain a technical proposal.  
However, EPA negotiated with this offeror and awarded them the contract.
- (5) = Sealed bid contract award.
- (6) = See SOW-2 for Contract Number 68D20159.
- (7) = See SOW-3 for Contract Number 68D20159.
- (8) = See SOW-B for Contract Number 68D10115.
- (9) = This was contract was for phase 2 of a pilot project. We classified this as awarded  
to the incumbent since the contractor that performed phase 1 won phase 2.
- (10) = Provides support to several EPA Headquarters offices.

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SCHEDULE OF CINCINNATI FY 1991-92 CONTRACTS REVIEWED

| <u>Contract<br/>Number</u> | <u>Dollar<br/>Value</u> | <u>Number of<br/>Proposals<br/>Submitted</u> | <u>Number of<br/>Proposals<br/>in the<br/>Comp.Range</u> | <u>Award to<br/>Incumbent</u> | <u>Program<br/>Office</u> |
|----------------------------|-------------------------|--|--|-------------------------------|---------------------------|
| <u>Negotiated</u>          |                         |  |  |                               |                           |
| 68C20121                   | 43,101,822              | 4  | 4  | NA                            | OW-OSWER                  |
| 68C10005                   | 37,200,541              | 2  | 1  | Y                             | ORD-ERL-N                 |
| 68C20108                   | 24,709,683              | 4  | 4  | N                             | ORD-RREL                  |
| 68C20134                   | 23,496,380              | 2  | 2  | Y                             | OW-OCPD                   |
| 68C10006                   | 18,582,680              | 1  | 1  | Y                             | OW-OWRS-ITD               |
| 68C10024                   | 16,833,253              | 2  | 2  | Y                             | ORD-ERL-A                 |
| 68C10022                   | 16,007,547              | 3  | 2  | Y                             | ORD-EMSL                  |
| 68C10008                   | 15,231,067              | 1  | 1  | Y                             | OW-OMEP                   |
| 68C20113                   | 13,630,970              | 2  | 2  | NA                            | OW-OGWDW                  |
| 68C20145                   | 9,796,841               | 2  | 1  | Y                             | OAR-NVFEL                 |
| 68C10055                   | 5,854,715               | 2  | 1  | Y                             | OAR-ECTD                  |
| 68C20102                   | 5,383,150               | 3  | 2  | NA                            | OW-OWEC                   |
| 68C20100                   | 4,942,834               | 2  | 2  | N                             | OARM                      |
| 68C10040                   | 4,469,886               | 8  | 5  | NA                            | ORD-CERI                  |
| 68C10029                   | 4,468,776               | 5  | 2  | N                             | ORD-EMSL-LV               |
| 68C10078                   | 4,435,950               | 4  | 3  | N                             | ORD-ECAO                  |
| 68C10004                   | 4,225,626               | 2  | 2  | Y                             | ORD-ECAO                  |
| 68C10047                   | 3,941,050               | 8  | 1  | NA                            | OW-OSWER-ITD              |
| 68C10062                   | 3,903,467               | 5  | 2  | NA                            | OAR-MVEL                  |
| 68C10030                   | 3,681,710               | 2  | 2  | Y                             | ORD-ECAO                  |
| 68C10035                   | 3,607,190               | 8  | 6  | N                             | OW-OWRS-ITD               |
| 68C20103                   | 3,379,876               | 5  | 3  | N                             | ORD-EMSL-CIN              |
| 68C20144                   | 3,257,109               | 2  | 1  | Y                             | OAR-MVEL                  |
| 68C10045                   | 3,246,166               | 8  | 4  | N                             | ORD-EMSL-LV               |
| 68C10018                   | 3,234,585               | 8  | 2  | NA                            | ORD-CERI                  |
| 68C10059                   | 2,954,873               | 2  | 2  | Y                             | OAR-STSB                  |
| 68C10032                   | 2,893,330               | 2  | 1  | Y                             | OW-OGWDW                  |
| 68C20112                   | 2,647,744               | 4  | 3  | NA                            | OW-ITD-OWRS               |
| 68C20109                   | 2,603,102               | 4  | 3  | NA                            | OW-ITD-OWRS               |
| 68C20101                   | 2,554,490               | 4  | 3  | NA                            | ORD-EMSL-LV               |
| 68C10068                   | 2,549,719               | 3  | 2  | N                             | ORD-RREL                  |
| 68C10011                   | 2,516,214               | 4  | 2  | Y                             | ORD-ERL-N                 |
| 68C10080                   | 2,480,684               | 7  | 6  | Y                             | ORD-ERL-CIN               |
| 68C10079                   | 2,315,958               | 1  | 1  | NA                            | OAR-MVEL                  |
| 68C20139                   | 2,254,775               | 6  | 4  | NA                            | OW                        |
| 68C10002                   | 2,061,036               | 4  | 1  | NA                            | ORD-ERL-N                 |
| 68C10001                   | 1,925,486               | 5  | 2  | Y                             | OW-ODW                    |
| 68C10044                   | 1,870,480               | 2  | 2  | Y                             | ORD-ERL-ADA               |
| 68C20148                   | 1,850,503               | 3  | 2  | NA                            | ORD-RREL                  |
| 68C20132                   | 1,809,148               | 5  | 3  | N                             | OW-OGWDW                  |
| 68C10061                   | 1,716,000               | 11   | 7  | NA                            | OAR-MVEL                  |
| 68C10034                   | 1,521,822               | 1  | 1  | NA                            | ORD-ERL-D                 |
| 68C20111                   | 1,440,450               | 4  | 3  | NA                            | OW-ITD-OWRS               |
| 68C10033                   | 886,617                 | 1  | 1  | N                             | OW-OWRS                   |

## SCHEDULE OF CINCINNATI FY 1991-92 CONTRACTS REVIEWED

| <u>Contract<br/>Number</u> | <u>Dollar<br/>Value</u> | <u>Number of<br/>Proposals<br/>Submitted</u> | <u>Number of<br/>Proposals<br/>in the<br/>Comp.Range</u> | <u>Award to<br/>Incumbent</u> | <u>Program<br/>Office</u> |
|----------------------------|-------------------------|--|--|-------------------------------|---------------------------|
| 68C10051                   | 770,130                 | 5  | 3  | NA                            | OW-OSWER                  |
| 68C10050                   | 736,720                 | 5  | 3  | NA                            | OW-OWRS                   |
| 68C20140                   | 695,601                 | 1  | 1  | Y                             | ORD-EMSL-CIN              |
| 68C20125                   | 617,046                 | 2  | 2  | Y                             | OAR-MVEL-ECTD             |
| 68C10049                   | 610,200                 | 5  | 3  | Y                             | OW                        |
| 68C10036                   | 380,000                 | 1  | 1  | NA                            | ORD-EMSL-LV               |
| 68C10046                   | 344,043                 | 1  | 1  | Y                             | ORD-ERL-ADA               |
| 68C10014                   | 318,476                 | 2  | 2  | NA                            | ORD-ERL-GB                |
| 68C10084                   | 287,709                 | 3  | 3  | NA                            | OARM-EPAB-FMSD            |
| 68C20106                   | 238,000                 | 4  | 1  | NA                            | OAR-NVFEL-AA              |
| 68C10019                   | 225,000                 | 2  | 2  | NA                            | ORD-EMSL-CIN              |
| 68C10042                   | 212,868                 | 3  | 1  | NA                            | ORD-ERL-A                 |
| 68C20117                   | 207,000                 | 2  | 1  | NA                            | ORD-EMSL-LV               |
| 68C20152                   | 176,799                 | 3  | 3  | NA                            | ORD-ERL-ADA               |
| 68C20127                   | 140,683                 | 3  | 3  | NA                            | ORD-EMSL-LV               |
| 68C20131                   | 105,600                 | 2  | 2  | NA                            | ORD-ERL-A                 |
| 68C10071                   | 97,830                  | 1  | 1  | NA                            | OAR-MVEL                  |
| 68C10013                   | 89,500                  | 2  | 2  | NA                            | ORD-RREL                  |
| 68C20138                   | 88,993                  | 1  | 1  | NA                            | ORD-RREL                  |
| 68C10073                   | 87,800                  | 2  | 2  | NA                            | ORD-ERL-GB                |
| 68C10020                   | 75,822                  | 7  | 2  | N                             | ORD-EMSL-CIN              |
| 68C10028                   | 73,660                  | 2  | 2  | NA                            | OAR-MVEL                  |
| 68C20142                   | 68,874                  | 1  | 1  | NA                            | ORD-ERL-COR               |
| 68C20114                   | 66,800                  | 2  | 2  | NA                            | OAR-MVEL-AA               |
| 68C10076                   | 65,515                  | 2  | 2  | NA                            | ORD-RREL                  |
| 68C20146                   | 60,681                  | 9  | 9  | NA                            | ORD-ERL-ADA               |
| 68C20126                   | 58,097                  | 1  | 1  | NA                            | ORD-ERL-COR               |
| 68C10053                   | 53,600                  | 1  | 1  | NA                            | ORD-ERL-GB                |
| 68C20116                   | 53,312                  | 2  | 2  | NA                            | ORD-EMSL-LV               |
| 68C10081                   | 52,733                  | 2  | 2  | NA                            | ORD-ERL-D                 |
| 68C20137                   | 51,056                  | 1  | 1  | NA                            | ORD-EMSL                  |
| 68C20135                   | 44,675                  | 1  | 1  | NA                            | ORD-ERL-C                 |
| 68C10075                   | 34,600                  | 5  | 5  | NA                            | ORD-EMSL-LV               |
| 68C20118                   | <u>31,389</u>           | <u>2</u>                                     | <u>2</u>   | NA                            | ORD-ERL-A                 |

|       |               |     |     |          |
|-------|---------------|-----|-----|----------|
| Total | \$328,696,117 | 256 | 178 | YES = 21 |
|       |               |     |     | NO = 11  |
|       |               |     |     | NA = 46  |

|                    |      |      |
|--------------------|------|------|
| Average (78 items) | 3.28 | 2.28 |
|--------------------|------|------|

SCHEDULE OF CINCINNATI FY 1991-92 CONTRACTS REVIEWED

| <u>Contract<br/>Number</u>     | <u>Dollar<br/>Value</u> | <u>Number of<br/>Proposals<br/>Submitted</u> | <u>Number of<br/>Proposals<br/>in the<br/>Comp.Range</u> | <u>Award to<br/>Incumbent</u> | <u>Program<br/>Office</u> |
|--------------------------------|-------------------------|--|--|-------------------------------|---------------------------|
| <u>Sealed Bid</u> <sup>1</sup> |                         |  |  |                               |                           |
| 68C10083                       | \$1,101,951             | 5  | -  | NA                            | OARM-FAC-ADA              |
| 68C20130                       | 763,683                 | 3  | -  | NA                            | ORD-ERL-D                 |
| 68C10085                       | 763,000                 | 4  | -  | NA                            | OARM-FAC-GB               |
| 68C20149                       | 349,466                 | 19   | -  | NA                            | ORD-ERL-A                 |
| 68C10052                       | 288,000                 | 2  | -  | YES                           | OAR-MVEL                  |
| 68C20143                       | 263,600                 | 2  | -  | NA                            | ORD-ERL-D                 |
| 68C20133                       | 261,667                 | 4  | -  | NA                            | ORD-ERL-D                 |
| 68C10016                       | 234,000                 | 5  | -  | NA                            | OARM-EPAB-FMSD            |
| 68C10003                       | 173,368                 | 1  | -  | NA                            | OARM-EPAB-FMSD            |
| 68C10048                       | 116,075                 | 2  | -  | NA                            | OARM                      |
| 68C10021                       | 114,488                 | 9  | -  | NA                            | OARM-EPAB-FMSD            |
| 68C20123                       | 109,375                 | 1  | -  | NA                            | OARM-EPAB-FMSD            |
| 68C10009                       | 83,322                  | 3  | -  | NA                            | OARM-EPAB-FMSD            |
| 68C10069                       | 78,000                  | 4  | -  | NA                            | OARM-EPAB-FMSD            |
| 68C10015                       | 75,377                  | 2  | -  | NA                            | OARM-EPAB-FMSD            |
| 68C10070                       | 74,211                  | 14   | -  | NA                            | OARM-EPAB-FMSD            |
| 68C10026                       | 66,265                  | 4  | -  | NA                            | OARM-FAC                  |
| 68C20129                       | 62,225                  | 2  | -  | NA                            | ORD-ERL-A                 |
| 68C20124                       | 59,850                  | 1  | -  | NA                            | ORD-ERL-D                 |
| 68C10031                       | 54,340                  | 4  | -  | NA                            | OARM-FAC                  |
| 68C20147                       | 49,550                  | 2  | -  | NA                            | OARM-EPAB-FMSD            |
| 68C10067                       | 38,329                  | 2  | -  | NA                            | OARM-EPAB-FMSD            |
| 68C10007                       | 22,370                  | 2  | -  | NA                            | OARM-EPAB-FMSD            |
| 68C10057                       | <u>22,000</u>           | <u>12</u>                                    | -  | NA                            | OARM-EPAB-FMSD            |
| Total                          | \$5,224,512             | 109  |  | YES = 1<br>NO = 0<br>NA = 23  |                           |

Average (24 items) 4.54

<sup>1</sup> Sealed Bid awards are based solely on price competition. Therefore, a competitive range is not established.

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## SUPERFUND FY 1991 AND 1992 CONTRACTS REVIEWED

| <u>Contract<br/>Number</u> | <u>Dollar Value</u>  | <u>Number of<br/>Proposals<br/>Submitted</u> | <u>No. of<br/>Proposals<br/>In The<br/>Comp. Range</u> |
|----------------------------|----------------------|--|--|
| 68W10007                   | \$18,200,000         | 3  | 3  |
| 68W10008                   | \$150,000            | 3  | 2  |
| 68W10012                   | \$56,900,000         | 3  | 2  |
| 68W10016                   | \$3,500,000          | 4  | 1  |
| 68W10021                   | \$7,500,000          | 3  | 3  |
| 68W10022                   | \$12,000,000         | 12   | 6  |
| 68W10023                   | \$9,900,000          | 7  | 4  |
| 68W10035                   | \$125,100,000        | 3  | 2  |
| 68W20003                   | \$6,200,000          | 7  | 4  |
| 68W20005                   | \$8,700,000          | (1)  | (1)  |
| 68W20030                   | \$16,500,000         | 4  | 2  |
| 68S14001                   | \$26,400,000         | 2  | 2  |
| 68S14002                   | \$22,300,000         | 6  | 5  |
| 68S14003                   | \$23,200,000         | (2)  | (2)  |
| 68S14004                   | \$24,100,000         | (2)  | (2)  |
| 68S14005                   | \$23,900,000         | (2)  | (2)  |
| 68S29005                   | \$685,000            | 2  | 2  |
| 68S23002                   | <u>\$147,900,000</u> | <u>4</u>                                     | <u>2</u>   |
| Totals                     | \$533,135,000        | 63   | 40   |
| Averages                   |                      | 4.5  | 2.9  |

## FOOTNOTES:

(1) = Single solicitation resulted in the award of contracts  
68W10003 and 68W10005.

(2) = Single solicitation resulted in the award of contracts  
68S14002, 68S14003, 68S140004, and 68S14005.

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**COMPETITION HISTORY FOR RTP CONTRACTS THAT  
RECEIVED ONLY ONE PROPOSAL (1)**

| <u>Contract<br/>Number</u> | <u>Contract<br/>Value</u> | <u>Number of Proposals Received</u> |                           |                               | <u>No. of Years<br/>Incumbent<br/>Contractor In Place</u> |
|----------------------------|---------------------------|-------------------------------------|---------------------------|-------------------------------|---|
|                            |                           | <u>Current<br/>Contract</u>         | <u>Prior<br/>Contract</u> | <u>Preceding<br/>Contract</u> |   |
| 68D10135                   | \$69,370,613              | 1                                   | 5                         | N/A                           | 6   |
| 68D20056                   | \$67,387,498              | 1                                   | 2                         | 2                             | 15  |
| 68D20155                   | \$28,106,650              | 1                                   | 5                         | 4                             | 9   |
| 68D00110                   | \$14,535,657              | 1                                   | 1                         | 1                             | 18  |
| 68D20175                   | \$8,699,226               | 1                                   | 3                         | 2                             | 4   |
| 68D00114                   | \$6,886,269               | 1                                   | N/A                       | N/A                           | N/A   |
| 68D20186                   | \$5,630,885               | 1                                   | N/A                       | N/A                           | N/A   |
| 68D10105                   | \$1,188,522               | 1                                   | 1                         | 1                             | 19  |
| 68D10149                   | \$1,156,639               | 1                                   | N/A                       | N/A                           | N/A   |
| 68D20151                   | \$431,020                 | 1                                   | 3                         | 1                             | 7   |
| 68D10160                   | <u>\$145,000</u>          | 1                                   | N/A                       | N/A                           | N/A   |
|                            | <u>\$203,537,979</u>      |                                     |                           |                               |   |

**FOOTNOTE:**

(1) = Schedule includes negotiated awards only.

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**COMPETITION HISTORY FOR CINCINNATI CONTRACTS  
THAT RECEIVED ONLY ONE PROPOSAL (1)**

| <u>Contract<br/>No.</u> | <u>Contract<br/>Value</u> | <u>Number of Proposals Received</u> |                           |                               | <u>No. Years<br/>Incumbent<br/>Contractor<br/>In Place</u> |
|-------------------------|---------------------------|-------------------------------------|---------------------------|-------------------------------|--|
|                         |                           | <u>Current<br/>Contract</u>         | <u>Prior<br/>Contract</u> | <u>Preceding<br/>Contract</u> |  |
| 68C10006                | \$18,582,680              | 1                                   | 1                         | NA                            | 6  |
| 68C10008                | \$15,231,067              | 1                                   | 2                         | 3                             | 10   |
| 68C10033                | \$886,619                 | 1                                   | 4                         | NA                            | 5  |
| 68C10046                | \$344,043                 | 1                                   | 2                         | 2                             | 7  |
| 68C20140                | <u>\$659,599</u>          | 1                                   | 4                         | 1(2)                          | 4  |
|                         | <u>\$35,704,008</u>       |                                     |                           |                               |  |

**FOOTNOTES:**

(1)= Schedule includes negotiated awards only.

(2)= This was an 8(a) sole source procurement.

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**Summary of Company Interview Results**

| <b><u>Reasons For Not Submitting<br/>Proposals for Sample RFPs</u></b>                        | <b><u>Number of Responses 1/</u></b> |                             |
|---|--------------------------------------|-----------------------------|
|   | <b><u>RTP 2/</u></b>                 | <b><u>Cincinnati 3/</u></b> |
| Didn't have required expertise  | 10                                   | 7                           |
| Didn't do type of work requested  | 7                                    | 8                           |
| Incumbent too strong  | 6                                    | 6                           |
| Excessive personnel requirements (e.g.,<br>experience, availability, number of key personnel) | 5                                    | 5                           |
| Looking for subcontracting opportunities  | 5                                    | 4                           |
| Not enough time to submit a proposal  | 4                                    | 2                           |
| Believed EPA did not want competition   | 4                                    | 6                           |
| RFP requirements (non-personnel)  | 3                                    | 4                           |
| Not interested  | 3                                    | 2                           |
| SOW too large   | 2                                    | 5                           |
| Potential conflict of interest  | 2                                    | 2                           |
| Cost of preparing a proposal  | 3                                    | 1                           |
| <br>  |                                      |                             |
| <b><u>Factors Which Limit Competition</u></b>   | <b><u>RTP 4/ Cincinnati</u></b>      |                             |
|   |                                      |                             |
| Not enough information provided   | 9                                    | 5                           |
| SOWs too large  | 7                                    | 11                          |
| EPA preference for incumbents   | 7                                    | 20                          |
| No advance notices (i.e., prior to required CBD<br>synopsis)                                  | 5                                    | 10                          |
| Not enough time to submit proposals   | 4                                    | 8                           |
| Too much emphasis on experience   | 3                                    | 6                           |
| Lack of pre-proposal conferences  | 3                                    | 4                           |
| Pre-proposal conferences not effective  | 2                                    | 0                           |
| Too much emphasis on key personnel  | 2                                    | 6                           |
| Proposal requirements too voluminous  | 2                                    | 5                           |
| Award process too long  | 1                                    | 6                           |

**FOOTNOTES:**

1/ = Some companies provided more than one reason or factor.

2/ = Based on interviews with 52 companies.

3/ = Based on interviews with 34 companies.

4/ = 12 companies could not comment due to lack of experience with EPA.

9 companies stated that there were no problems.

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