

COMPETITIVE CONTRACTING IN THE SERVICES SECTOR

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The authors investigated whether competed service-sector contracts with a single-offer award or sole-source award indicate a lack of qualified firms or significant barriers to entry. They concluded that the number of service-sector contracts receiving only a single offer is about half as large as the data appear to suggest and that the use of short-term contracts and modifications to fill the gap in services between the end of one contract and the beginning of the next is a significant source of sole-source contracts.

The presumption established in the Federal Acquisition Regulation (FAR) is that federal contracts should be awarded on a competitive basis whenever possible and that competed contracts should be available to multiple offerors. This presumption applies to all Department of Defense (DoD) contracts for services.

The data on competition in the services sector raise some questions. In FY 2008, DoD committed approximately \$200 billion¹ in contracts for services. More than \$28 billion of this total consisted of competed contracts that attracted only a single offer. Moreover, nearly \$26 billion in DoD service contracts were awarded sole source. Together, these two categories accounted for \$54 billion in FY 2008—or over 25percent of the total volume of DoD spending on service contracts in that year.

In 2009, the DoD Office of Industrial Policy asked IDA to examine DoD contracts for services that (1) are competed but that receive only a single offer and (2) are sole source. We were asked to determine whether the prevalence of single-offer and sole-source contracts for DoD services represents an industrial base concern, such as a lack of qualified firms or significant barriers to entry.

This paper focuses on two findings of the IDA study that highlight the necessity of carefully reviewing top-level statistics before drawing conclusions regarding the level of competition in DoD service contracts. We found that (1) the prevalence

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¹ A \$13.9 billion data error was discovered after the FY 2008 data set was frozen. Although the error results in an overstatement of service contracts and competed contracts with multiple offers, it does not qualitatively or substantively change our conclusions.

of competed DoD service contracts receiving a single offer is only about half as large as the data cited previously appear to suggest and (2) a significant number of sole-source DoD service contracts are bridge contracts—short-term contracts that fill the gap in services between the end of one competed contract and the beginning of the next.

SINGLE OFFERS—THE PROBLEM IS NOT AS LARGE AS IT SEEMS TO BE

Our baseline plan for this paper was to do a thorough statistical analysis of the available data to test various explanations that have been offered for single offers on competed contracts and the underlying reasons for sole-source contracts. Although we did the analysis, a close examination of that data revealed that the problem—an absence of competition for DoD service contracts—is only about half as large as the data appear to suggest.

This misperception of the size of the problem occurs because of the character of Multiple Award Indefinite Delivery Vehicle (IDV) task orders. An IDV contract does not specify the specific service or actual quantity required. Instead, it provides a quantity range or general description of required services. Actual awards under an IDV occur in two stages. The first stage for a services IDV is a competition to establish a pool of contractors qualified to provide services under the IDV. The data that we examined indicate that there is always competition at this stage and that several firms are usually selected.

The second stage is the issuance of a task order by the contracting agency for specific quantities or a particular service. It is typical for many task orders to be issued under a single IDV. All of these task orders are open to competition by the qualified bidders. When only one of the qualified firms bids on the task order, it is recorded in the relevant database as a competed contract that received only one offer. In FY 2008, such task orders accounted for \$10.9 billion.

Characterizing the single offers on Multiple Award IDV task orders as having received no competition is inaccurate since the selection of the pool of firms eligible to bid on the task orders was based on an IDV competition with multiple offers. Although it is difficult to quantify the benefit, to the extent that firms believe that other qualified firms will bid on the Multiple Award, the benefits of the competition for the master IDV contract convey to the task orders.

We therefore characterize the single-offer Multiple Award IDV task orders as having received some competition. In short, the fact that a single offer was made does not necessarily mean that the competitive process was ineffective. Firms have limited resources with which to prepare bids and proposals—a time-consuming and costly process. Firms are selective, choosing proposals for which they believe they have a competitive advantage. These subjective expectations are, in part, a result of the firms' beliefs about which other firms will bid the project. For these reasons, the number of offers may not be a sufficient metric

to determine the level or effectiveness of the competition.

Broad Agency Announcements (BAAs) or Small Business Innovation Research solicitations (SBIRs) for Research, Development, Test, and Evaluation (RDT&E) awards present a similar situation. We estimate that \$3 billion in apparent RDT&E single-offer contracts are responses to BAAs and SBIRs. Although BAAs and SBIRs are considered competitive solicitation procedures, they are a fundamentally different type of competition and often appear as single-offer contracts in the data, regardless of the number of offers received.

As was noted previously, in FY 2008, about \$28 billion of contracts (including task orders) that DoD offered for competition attracted only a single bidder. Of this total, about \$14 billion were accounted for by contracting processes that involved some significant competition—\$10.9 billion in IDVs and \$3 billion in BAAs and SBIRs. Recognizing this adjustment reduces by half—to \$14 billion—the value of competed contracts that received only one bid.

SOLE SOURCE—THE CAUSE IS MORE DOD POLICIES AND PRACTICES THAN INDUSTRIAL STRUCTURE

In FY 2008, of the \$202 billion in DoD contracts for services, sole-source contracts account for \$25.9 billion. In our research, we investigated underlying causes, beyond the stated FAR exceptions, that may be drivers for the number of sole-source contracts.

We found that the use of short-term contracts to fill the gap in services between the end of one contract and the beginning of the next accounts for a significant amount of sole-source contracts. These bridge contracts, as they are called, are due to delays in the acquisition process from various sources:

- The requiring agency—changes to the requirements or not having the requirements documents prepared on schedule;
- The contracting office—the discovery that the planned contract vehicle cannot be used or a problem at any of the several review and approval boards that constitute the process; and
- Other sources—protests of the contract award.

To analyze this issue, we collected Justification and Authorization (J&A) documents from the FedBizOpps website from March through September 2009. Of the non-competed contracts for DoD services posted during this period, nearly one in four was a bridge contract.

The value of these short-term contracts appears to be small, about 10 percent of the total sole-source J&As for those contracts for which we were able to obtain the values. However, the use of bridge contracts represents a potentially large cost to DoD due to process inefficiencies. This cost must include the costs of preparing and administering the bridge contracts at the requiring agency, the contracting office, and

the contractor. In addition, the use of bridge contracts adds to the workload for the limited DoD contracting workforce because these contracts must be put in place and administered along with the eventual competed contracts for the required services.

SUMMARY

In FY 2008, DoD committed approximately \$202 billion in contracts for services. Competed contracts that attracted only a single offer accounted for over \$28 billion. Nearly \$26 billion in DoD service contracts were awarded sole source. Together, these two categories accounted for \$54 billion in FY 2008—or over 25 percent of the total volume of DoD spending on

service contracts in that year. Does this represent a problem with competition on services contracts?

Single offers on competed contracts probably do not represent a problem. Of the \$28 billion in apparent single-offer contracts, we show that half received some competition and we find no clear systemic cause for the remaining \$14 billion. The usual suspects of set-asides and contract structure do not explain single offers.

For sole-source contracts, however, the answer is yes. Policies and procedures used by DoD increase the time required to do a competition. This approach can increase the use of bridge contracts, which are costly to DoD.

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Competitiveness in the Services Sector: Understanding the Contracting Data

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