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Competition Advocate Report FY 2019

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U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
USAID Annex, M/MS/IRD, Room 2.4.0A
Washington, DC 20523
Fax: (202) 216-3070
[USAID FOIA Public Access Link](#)

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June 17, 2020

TRANSMITTED VIA EMAIL

Re: FOIA Request No. F-00106-18
Final Response

The U. S. Agency for International Development (USAID) regrets the delay in responding to your Freedom of Information Act (FOIA) request. Unfortunately, USAID is experiencing a backlog of FOIA requests. Please know that USAID management is very committed to providing responses to FOIA requests and remedying the FOIA backlog.

This is the final response to your March 16, 2018 Freedom of Information Act (FOIA) request to the U.S. Agency for International Development (USAID). You requested a copy of the 10 (ten) most recent annual reports of the “advocate for competition” for USAID.

For your information, Congress excluded three (3) discrete categories of law enforcement and national security records from the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all of our requesters and should not be construed as an indication that excluded records do, or do not, exist.

USAID conducted a comprehensive search of the Bureau for Management, Office of Acquisition and Assistance (M/OAA) for documents responsive to your request. The search produced a total of eight (8) pages. Of those pages, we have determined that all eight (8) pages of the records are releasable in their entirety. M/OAA noted that all reports for prior years were presented orally, and no other hardcopy or electronic reports were located.

If you require any further assistance or would like to discuss any aspect of your request, you may contact Lezlie Colbert, the assigned FOIA Specialist by phone on (202) 916-4665 or at LColbert@usaid.gov. You may also contact USAID’s FOIA Public Liaison, Christopher Colbow, at foia@usaid.gov.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services offered:

Office of Government Information Services
National Records and Archives Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
E-mail: ogis@nara.gov
Telephone: (202) 741-5770; toll free at 1-877-684-6448
Fax: (202) 741-5769

You have the right to appeal this final response. Your appeal must be received by USAID no later than 90 days from the date of this letter. In order for it to be considered an official appeal, please address and send directly to the FOIA Appeal Officer:

Deputy Director, Office of Management Services
U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
USAID Annex, M/MS, Room 10.8.OD
Washington, DC 20523

If you wish to fax your appeal, the fax number is (202) 916-4990. Both the appeal and envelope should be marked "**FOIA APPEAL**." Please include your tracking number F-00106-18 in your letter.

There is no charge for this FOIA request. As this concludes the processing of your request, it will be closed. Thank you for your interest in USAID.

Sincerely,

Adam Abdi

for

Christopher Colbow, Chief
FOIA Public Liaison
FOIA Officer/Agency Records Officer
Bureau for Management
Office of Management Services
Information and Records Division

Enclosures: Responsive Records (8 pages)

U.S. Aid for International Development
Competition Advocate Report
Fiscal Year 2019

Executive Summary:

Pursuant to the Federal Acquisition Regulation (FAR) Subpart 6.5 this Annual Report is prepared by the Agency Competition Advocate for the Senior Procurement Executive and Chief Acquisition Officer to assess the state of competition within the Agency.

Competition increases the likelihood of efficiencies and innovation, therefore, in order to achieve the Agency's mission, competition is promoted to the maximum extent practicable to reduce costs, motivate better contractor performance and innovation, and promote transparency and ensure public trust.

In Fiscal Year 2019, the Agency continued its commitment to promoting competition by competing 94.9% of the total obligated value. The Chief Acquisition Officer/Senior Procurement Executive (SPE) works with senior Agency officials to ensure the Agency maintains emphasis on competitive business practices. One of the most effective approaches to overcoming barriers and enhancing competition at the Agency continues to be the participation of senior acquisition officials during the Acquisition planning phase and acquisition review processes.

The M/OAA Director of Accountability, Compliance, Transparency and Systems (ACTS) serves as the Agency Competition Advocate and champions competition opportunities in support of the Agency's mission and ensures that competition data is reported accurately and timely to the Federal Procurement Data System. In addition, our Washington and Overseas operating unit officials work closely with their program offices and the Office of Small and Disadvantaged Business Utilization to promote competition and ensure maximum competitive opportunities are afforded to small business.

This Competition Advocate Report outlines the Agency's efforts to promote competition and initiatives to mitigate barriers to competition. This report represents a summary of practices used in the Agency and includes examples, as appropriate

I. Overview

Introduction

Federal Acquisition Regulation (FAR) Subpart 6.5 requires the Agency Competition Advocate to prepare an annual competition report for the Senior Procurement Executive and Chief Acquisition Officer to assess the state of competition within the Agency including the identification of best practices, removal of impediments, and recommendations to improve the acquisition process through increased competition. This submission satisfies the FAR requirement for an annual competition report and addresses questions intended to help assess competitive practices as articulated in the

July 18, 2008, Office of Federal Procurement Policy memorandum entitled *Effective Practices for Enhancing Competition*.

Background

USAID leads next-generation, locally-powered programs to enable the creation of transformational, durable solutions among all sectors of development. USAID applies open innovation principles and works to partner directly with local governments, private sector and civil societies.

Partnering and procurement are central to how USAID does its work. During FY19, the Agency worked towards its A&A strategy that builds upon Effective Partnering and Procurement Reform (EPPR) to support the *Journey towards Self-Reliance* through staff and partner empowerment to produce results-driven solutions responsive to partner country needs and priorities. These efforts are designed to build capacity and commitment based on creative and entrepreneurial approaches. Our A&A strategy will move USAID beyond traditional approaches and embrace greater collaboration, co-design, and co-financing to improve current models of partnering. By triggering the streamlining of our procurement processes, and use of new and innovative methods of collaboration, the A&A strategy represent a shift away from traditional approaches that can unduly constrain our staff and partners. While still stressing the fundamentals, the reforms will foster more flexibility, adaptability, and creativity as USAID works with its partners to design and deliver initiatives worldwide that produce measurable results.

USAID also has implemented Category Management (CM) solutions across its Missions, Bureau's and Independent Offices. USAID's Competition Advocate serves as USAID's lead to support and implement the CM principles across USAID. USAID works directly with OMB and GSA to coordinate, report, develop and apply CM principles across our Agency. Our Agency goal is to leverage the government's large purchasing power to buy common goods and services more like an enterprise to eliminate redundancies, increase efficiency, and deliver more value to taxpayers. The Competition Advocate reports CM progress monthly, quarterly and annually to OMB. CM is also tracked at the executive level as it is both an Agency Priority Goal (APG) and a Cross-Agency Priority (CAP) Goal.

Strategically, our A&A offices aim to provide information and tools to maximize competitiveness and support leadership. In FY19 approximately one-third of the Agency's A&A dollars were expended through contracts. Within the Agency, each Mission is authorized to operate a contracting office and there is one contracting office in Washington that supports Missions, Bureaus and Independent Offices. The Agency's In FY2019, the Agency's Acquisition Workforce consisted of 664 certified FAC-C's, with 13 expired and 74 certifications revoked. For COR's, there were 3,725 certified COR's with 19 certifications expired and 570 certifications were revoked. There were also 13 certified FAC-P/PM's with 14 certifications expired and 2 were revoked.

The responsibilities associated with acquisition and assistance (A&A) range from the very beginning of project design through implementation and closeout of programs. The design, competition, award, and administrative oversight of our programs is a shared responsibility among technical, program, and A&A professionals. These responsibilities are carried out within a significant regulatory and policy context to demonstrate results and ensure accountability. In FY19, the Agency has experienced a growth in new staff as well as many significant and fast paced changes and initiatives. Concurrently, we have undertaken a number of improvements focused on training, templates, and guidance as well as streamlined processes.

The M/OAA Director of Accountability, Compliance, Transparency and Systems (ACTS) is designated as the Agency Competition Advocate responsible for promoting the acquisition of commercial items, promoting full and open competition, challenging requirements that are not stated in terms of functions to be performed, and challenging barriers to the acquisition of commercial items and full and open competition. The Competition Advocate is primarily supported by systems, policy, training, an evaluations team, the contract review board and a cost and audit support team. In addition, each Mission with authority to operate a contracting office has a designated competition advocate responsible for promoting competition at the operating unit level.

II. Assessment of Competition Results and Trend Data

Reviewing the data as reported to the Federal Procurement Data System over the past five years, the Agency's competition results and trends are positive. Our commitment to promoting competition and improving the environment that fosters competitive accomplishments is thriving. The New Professional Development and Training Office Collects and shares competitive best practices, and conducts training in acquisition planning and market research.

A. Trend Data

During FY 2019, USAID's total obligated value for its acquisition contracts was \$5.54 billion through 15,625 actions.

Of the new award actions, only 11 were non-competed for a total obligated value of \$12,256,547.00. This non-competitive obligated value represents only 0.21 percent of the total obligated value for contract awards for FY 2019.

J&A Authority	How many in FY 2019
4 FAR 8.405-6(a)(1)(i)(C)	9
3 FAR 8.405-6(b)	1
1 FAR 16.505(b)(2)(i)(C)	20

In 2019, USAID processed a total of 30 Justification and Approval (J&A) for FY 2019 that used the following authorities for other than full and open competition relating to commercial items:

- 4 FAR 8.405-6(a)(1)(i)(C) Interest of Economy and Efficiency, new work is a logical follow-on to original FSS Order: 9
- 3 FAR 8.405-6(b) product peculiar to one manufacturer: 1
- 1 FAR 16.505(b)(2)(i)(C) Interest of Economy and Efficiency-Logical Follow-on to an Order: 20

These acquisitions followed the Federal Acquisition regulations, the AIDAR and the ADS. Each action was justified and approved in accordance with Agency policy.

Opportunities and Actions Taken to Acquire Commercial Items

The Agency has taken the following actions to acquire commercial items to meet the needs of the agency:

- Conducted effective and efficient market research to identify commercial item opportunities and standard commercial practices;
- Emphasized advanced forecasting through the Agency's Forecasting and Acquisition Planning System;
- Regularly reviewed program office spend plans entered into the Forecasting and Acquisition Planning System to identify requirements that could be met using commercial items; and
- Expanded collaborative partnerships with Implementing Partners through meaningful exchanges at industry days and conferences.
- Application of Category Management principles and processes.

b. Opportunities and Actions Taken to Achieve Full and Open Competition and Increase the Acquisition of Commercial Items

In 2019, USAID developed an Acquisition and Assistance Plan which is regularly updated with planned A&A Actions. This Plan enables senior Agency managers to gain insight to all planned A&A actions for the year, guides the Agency's development of procurement actions to meet USAID Forward goals, feeds our business forecast, enables Acquisition Workforce (AWF) members to gain a better understanding of their portfolios and to plan workloads more efficiently through the fiscal year. The Plan is updated regularly and provides a snapshot of each Operating Unit's -- and the overall Agency's -- planned procurements to facilitate the planning process. The A&A Planning process ensures that there is sufficient time to competitively award Agency requirements.

The Agency aggressively pursues full and open competition by soliciting sources on the Federal Business Opportunities website, taking advantage of multiple award schedules, and challenging restrictions to full and open competition. The Agency has taken the following actions to achieve full and open competition in contracting operations:

- Required market research documentation become part of the contract file;
- Scrutinized sole source justifications to ensure they fully support the action;
- Publicized open market procurements over \$25,000 in FedBizOps to comply with FAR requirements and achieve maximum competition;
- Required Program-level reviews to evaluate the A&A strategy of proposed actions and promote the use of competition;
- Utilized the internet to assist in market research, requirements definition, development of acquisition strategies, and preparation of acquisition plans; and
- Increased communications and exchanges with Implementing Partners and hosting Industry Day events and pre-proposal conferences; and

c. Actions Taken to Challenge Requirements when the Functions to be Performed are not Clearly Stated

Performance-based acquisitions are promoted and used to the maximum extent practicable. The Contract Review Board (CRB) provides assistance to Agency procurement officials by identifying potential issues and recommending risk mitigation measures for Agency acquisitions of \$25 million and above. The CRB seeks to improve the quality of USAID's development and to strengthen the performance of the Agency's staff by providing procurement related technical assistance. During FY 2019 the CRB reviewed a total of 59 procurement actions with a total estimated value of approximately \$8.9 billion.

At the Pre-solicitation stage, the Board reviews the acquisition package to ensure that the solicitation is seeking functions to be performed or performance required. Incorrect packages are returned to the CO for correction. The CRB noted improvements at the Pre-Solicitation stage in distinguishing the differences between a SOO and a SOW within the documents submitted.

The CRB seeks to achieve the following objectives in support of its mission:

1. Improve the quality of the Agency's development work by providing procurement related technical assistance during the entire pre-award process;
2. Strengthen the performance/understanding of the Agency's technical and procurement staff;
3. Identify and address procurement actions/arrangements/processes which may increase the likelihood of unsuccessful contract performance;
4. Reduce the risk of entering into contract arrangements which may result in unnecessary cost risks in the form of protests, claims or disputes, and to strengthen the Agency's position whenever one of these actions occur; and
5. Track CRB results and communicate best practices and lessons learned to the Agency's procurement professionals.

The CRB advised COs to consider Category Management when planning a new solicitation. The CRB also advised COs to consider performance-based contracting and continued to encourage COs to use a SOO-based method where appropriate. The CRB participated in the EPPR Working Group for Change in Circumstance, in which CRB Board Members drafted the final content on the crisis modifier, options, and single-award IDIQs. The CRB also participated as a core member in the EPPR Cost Evaluation Working Group to draft Cost, Too Much of a Good Thing? The CRB also presented on this topic at the May 2019 A&A Conference.

The CRB continued in its ongoing support in providing technical assistance to Operations and the Missions through regularly responding to emails, holding in-person meetings, providing resource and reference materials, and organizing team calls with A&A staff worldwide.

The CRB continued to focus on strengthening the technical capacity of local staff. The CRB reached out to FSN Fellows located in Washington and offered FSN Fellows the opportunity to observe and in some cases participate in CRBs. A number of FSNs informed the CRB that they found this experience to be extremely valuable.

The following actions are being taken to challenge requirements when the functions to be performed are not clearly stated:

- Established more collaborative partnerships with all stakeholders to ensure that requirements are stated in terms of functions to be performed, performance required, or essential physical characteristics;
- Provided training to acquisition and program office staff on writing effective performance work statements; and
- Partnered with customers to restructure requirements in a way that supports increased competition and expands the range of products and services available.

d. Condition or Action that has the Effect of Unnecessarily Restricting the Acquisition of Commercial Items or Competition in Contract Actions

There are limited circumstances where the Agency has restricted competition. To keep these actions to an absolute minimum, the Agency requires robust market research, advanced acquisition planning and acquisition training for all A&A staff.

Specific restrictive conditions include:

- Competition may be restricted in requirements for Information technology infrastructure for legacy systems in order to ensure information technology standards are maintained for compatibility across systems and system components, maintain warranties, and assure proper system maintenance and oversight;
- Competition may be reduced for follow-on procurements that support development programs; and
- Competition may be limited in requirements for highly specialized technical services that require selected expertise.

e. Competition Advocate Activities

The Competition Advocate is responsible for promoting the acquisition of commercial items and full and open competition, challenging requirements that are not stated in terms of functions to be performed, performance required or essential physical characteristics, and challenging barriers to the acquisition of commercial items and full and open competition. In an effort to streamline procurement processes, The ACA through PDT issued a series of Agency Acquisition and Assistance (A&A) Templates for use by both technical officers and contracting professionals to assist in awarding actions. These templates streamline and standardize Agency A&A-related practice, reduce Procurement Action Lead Time (PALT), and create a common reference point for Agency A&A documents. The templates provide a comprehensive set of standardized tools, which range from cost guidance to sample acquisition and assistance documents. The guidance and documents are designed to provide a clear sense of compulsory framework and requires the staff to consider requirements in terms of functions to be performed.

Another key area that the Competition Advocate has supported is the New Partner Initiative (NPI). Which as the title alludes, is related to identifying, engaging and leveraging new partners to work with and support the USAID mission objectives.

f. Other ways in which the Agency has emphasized acquisition of commercial items and competitions such as training and research

In 2019, we continued to emphasize that both USAID Washington and mission staff consider SBAIC members when conducting market research on upcoming procurements and, very importantly, advocated to establish a USAID mission small business goal, now in force for 2019 as a small business performance indicator for overseas missions.

Our Professional Development and training Division initiated A&A training in procurement planning.

USAID continues to leverage its US Global Development Lab. The Lab is an entity within USAID that seeks to increase the application of science, technology, innovation and partnerships to achieve, sustain and extend the Agency's development impact to help hundreds of millions of people. This requires our COs/AOs to work closely with our colleagues across the Agency in the pre-planning stages of an acquisition and to fully understand and embrace the requirement and to efficiently and competitively bring the requirement to fruition.

g. Initiatives that ensure task orders and delivery orders greater than \$1M issued under IDIQs are properly planned, issued and comply with FAR 8.405 and 16.505.

In FY19, The ACA, through the Evaluation Division reviewed procurement systems in 6 Missions and 2 Bureaus. USAID worldwide procurement system reviews comply with guidance from the Government Accountability Office's (GAO) "Framework for Assessing the Acquisition Function at Federal Agencies" and the Office of Federal Procurement Policy (OFPP), designed to assess the strengths, weaknesses and best practices of various acquisition lifecycle functions. The process ensures effective and efficient spending of public funds through fundamental reforms by making procurement more effective in support of mission accomplishments. We assessed various functions completed during the acquisition and assistance lifecycle to include compliance with federal and AIDAR regulatory policies, contract and assistance file reviews and interviews with those individuals with designated/delegated acquisition and assistance roles and responsibilities to include officials within the Missions and Washington Divisions. One of the many areas reviewed is multiple awards and their compliance with Federal Regulations and we did not find any irregularities or areas of non-compliance.