OPNAV INSTRUCTION 4200.7A

From: Chief of Naval Operations

Subj: OPNAV REQUIREMENTS REVIEW BOARD AND CONTRACTING OFFICER REPRESENTATIVE WORKING GROUP

Ref: (a) Joint Assistant Secretary of the Navy (ASN (RD&A)/ASN (FM&C)) Memorandum “Contractual Services Guidance for Fiscal Year 2019” of 12 October 2018
(b) DoD Instruction 5000.74 of 10 January 2020
(c) Federal Acquisition Regulation (FAR), 16 February 2021
(d) Defense Federal Acquisition Regulation Supplement (DFARS), 15 January 2021
(e) Navy and Marine Corps Federal Acquisition Regulation Supplement (NMCARS), 18 December 2020
(f) 10 United States Code (U.S.C.), Section 2330, Procurement of Contract Services

Encl: (1) OPNAV Services Acquisition Guide

1. **Purpose.** To prescribe policy, responsibility and procedures to identify, review, validate, prioritize and approve Department of the Navy (DON) funded contractual services requirements for Office of Chief of Naval Operations (OPNAV) areas of responsibility. The objectives are: to ensure valid requirements are approved for procurements; to identify unneeded or low priority requirements that can be reduced or eliminated allowing savings transfer to higher priority objectives; to ensure requirements seeking approval for acquisition are compliant with applicable regulations, policies and guidance; to mitigate duplicative requirements; and to acquire services in the most efficient and effective manner possible.

2. **Cancellation.** This instruction replaces OPNAVINST 4200.7.

3. **Applicability.** This instruction applies to OPNAV Directorates for the procurement of services required to meet their mission(s). This instruction does not modify, delete or in any way relieve submitting Directorates from complying with all applicable acquisition laws, regulations, directives, policies, procedures, guidance and instructions established in references (a) through (f). Unless otherwise specified herein, the provisions of this instruction apply to all DON funded service requirements within OPNAV and service contracts with a total acquisition value at or above the Simplified Acquisition Threshold (SAT) (including options). Service contracts are defined in reference (c), Subpart 37.101, as a “contract that directly engages in the time and
effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply.” Contractual services are services acquired from private sector entities and have an alpha-numeric (i.e. “Services”) Product Service Code applied.

4. **Policy.** Reference (a) provided guidance on Service Requirements Review Boards (SRRBs) and established uniform guidance regarding validation of services requirements across the DON. This instruction establishes the Contracting Officer’s Representative (COR) Working Group Executive Chair and the COR Working Group as the OPNAV Requirements Review Board (ORRB) for OPNAV and implements reference (a).

5. **COR Working Group ORRB Process and Policy Requirements.**

   a. All requirements for service contracts with a total estimated contract value at or above the SAT over the life of the contract require review and approval within OPNAV. The COR Working Group is established to review all requirements and has approval authority for requirements with total contract value between the SAT and $1 million. The COR Working Group will provide comments and recommendations to the ORRB on requirements that exceed $1 million. The ORRB must review service requirements with total contract value that exceeds $1 million.

   (1) Contracts for services require ORRB and COR Working Group approval prior to submission of the Procurement Request, the approval of the acquisition strategy and issuance of funds unless the action is for a previously approved ORRB requirement (ex. Option Exercise).

   (2) The ORRB and COR Working Group is part of the requirements and funding planning process. Requiring Activities (N-Code or customer) should use available contract data to identify contracts and task orders that will expire within the fiscal year. Requirements for follow-on contracts and new task orders should be presented at the first ORRB and COR Working Group of the new fiscal year, or as soon as identified.

   b. ORRB and COR Working Group review and approval must consider mission need, workforce analysis, strategic alignment, relationship to other requirements, prioritization, market research and tripwires.

   c. Requiring Activities submitting services requirements for review at the ORRB and COR Working Group must submit an email to the N8 organization at ORRB_OPNAV_N8@navy.mil with a paragraph summary of the requirement, the labor categories expected and total overall dollar value for base and all options.

   d. Tripwires. Defined in enclosure (1). When a tripwire is breached, the requirements owner must explain the breach in detail and provide approval from the requirements owners Flag or SES level prior to ORRB approval. See enclosure (1) for additional information.

   e. ORRB Frequency. ORRBs and COR Working Group must meet monthly with reporting to the COR Working Group Executive Chair. The COR Working Group Executive Chair will
review service contract requirements before submission to the contracting activity. Requiring Activities must plan and submit their requirements for ORRB and COR Working Group review per the Procurement Action Lead Times (PALT) of the contracting activity. For example, if the dollar value and type of procurement anticipated has a 280-day PALT and requires award by 30 September, the requirement should be submitted to the ORRB no later than the first quarter of that FY.

f. Emergent and urgent requirements will be addressed on a case-by-case basis via electronic or in-person boarding. See subparagraphs 5a(1) and 5a(2) for guidance on level of review.

6. Roles and Responsibilities.

a. COR Working Group Executive Chair Assistant Director, Programming Division (OPNAV N80B):

   (1) Ensure compliance with the policies, procedures, documentation and reports as required by references (a) and (b) and this instruction.

   (2) Serve as the Contractual Service Requirements Validation Authority in order to validate and verify services requirements except as noted herein, ORRB and COR Working Group policies and conduct and participate in ORRBs.

   (3) Chair the ORRB to include conduct of the ORRB, provide approval to proceed and fund service contract requirements.

b. COR Working Group Lead Contracts and Financial Management Division (OPNAV N803):

   (1) To provide oversight and coordination of the COR Working Group and the ORRB process through N80B by assigning serial numbers for all new efforts. Requests for serial numbers should be sent to the OPNAV N803 Branch Head for processing.

   (2) Facilitate the ORRB to include conduct of the ORRB, provide prioritization of service contract requirements and approval to proceed and fund.

c. COR Working Group Members. At a minimum, ORRBs must include all members of the COR Working Group as identified by each Deputy Chief of Naval Operations (DCNO) office. Board members must participate in ORRBs and represent their respective functional areas.

   (1) Each Directorate will nominate an O-6 or GS-15 to serve as a member of the COR Working Group for a minimum period of one year.

   (2) Other advisors or representatives such as OPSEC, industrial security, manpower, budget, and requirements stakeholders may be required to attend.
(3) Participation as an ORRB and COR Working Group member is considered an inherently governmental function and therefore is prohibited from being supported by a contractor. Additionally, contractors must not attend or be involved in the ORRB and COR Working Group or its processes due to the procurement-sensitive information involved.

d. **Requiring Activity (RA).** Per reference (a), the RA is responsible for submitting service requirements with a contract value greater than the SAT to the ORRB and COR regardless of the source of DON funding or contract vehicle chosen to deliver the service.

e. **Field Support Activity.** Washington must provide:

   (1) A representative to support discussions at the COR Working Group and ORRB.

   (2) Budgetary and fiscal advice regarding submitted requirements.

   (3) Ensure ORRB Serial Identification Number (SID) number and approval date on the funding document prior to releasing funds, verifying ORRB and COR Working Group approval.

7. **Reporting.** ORRB and COR Working Group Results. The COR Working Group Lead must document the results of each ORRB and COR Working Group (meeting minutes, action items and services record data) for command records, services requirement analysis and audit purposes.

8. **Records Management.**

   a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned per the records disposition schedules located on the Department of the Navy Assistant for Administration, Directives and Records Management Division portal page at https://portal.seanavy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx.

   b. For questions concerning the management of records related to this or the records disposition schedules, please contact the local records manager or the OPNAV Records Management Program (DNS-16).

9. **Review and Effective Date.** Per OPNAVINST 5215.17A, Director, Fleet Readiness (OPNAV N83) will review this instruction annually around the anniversary of its issuance date to ensure applicability, currency and consistency with Federal, Department of Defense, Secretary of the Navy and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 10 years, unless revised or cancelled in the interim, and will be reissued by the 10-year anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is
no longer required, it will be processed for cancellation as soon as the need for cancellation is known following the guidance in OPNAV Manual 5215.1 of May 2016.

NEIL W. T. HOGG
Assistant DCNO, Integration of Capabilities and Resources

Releasability and Distribution:
This instruction is cleared for public release and is available electronically only via Department of the Navy Issuances Web site, https://www.secnav.navy.mil/doni/default.aspx.
OPNAV SERVICES ACQUISITION GUIDE

1. **Tripwires.** The purpose of this document is to provide updated policy in the planning and execution of service contract requirements and to provide some tools to assist in performing leadership oversight. The cost of services acquired should be appropriate relative to the level of expertise necessary for the task. Very senior level, highly qualified requirements will likely demand a higher cost than lower qualification requirements. Tripwires are a guide for the staff and involve senior leaders in the decision process. Tripwires are not intended to preclude execution, but instead to require higher-level concurrence or notifications before continuing to execute. These tripwires apply to all types of service contracts and have been identified herein.

2. **Scope.** These tripwires do not encompass all the areas of service acquisition which require oversight and risk management. However, this list is intended to raise awareness and accountability across both the requirements and acquisition communities and initiate the implementation of actions to improve government oversight, efficiencies and effectiveness.

3. **Sole Source and Bridge Contracting Actions.** A sole source contract is a contract for the purchase of supplies or services that is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source. Sole source contracts are appropriate when the item or service is available from only one source, public exigency or emergency will not permit a delay resulting from competitive solicitation, only one source is available to meet the requirement or when one of the other exceptions outlined in the Competition in Contracting Act applies. Bridge contracts are defined as sole source actions entered into with the incumbent contractor to maintain support when competitive procurement cannot be processed in time to meet the required award date. A sole source action requires a Justification and Approval, involves the negotiation of cost and is usually more costly due to a lack of competitive pricing.

4. For bridge contracts in support of OPNAV requirements:
   a. Bridge contracts must normally be limited to a maximum of six months in duration and will be approved by the cognizant Deputy Chief of Naval Operations. OPNAV N80B is authorized to waive the six-month cap and approve a bridge contract for no longer than 12 months. This 12-month limit must not be waived.
   b. Only one bridge contract may be authorized. Subsequent bridge contracts must not be awarded.
   c. Each bridge contract must be limited to no more than $3 million.
   d. For all bridge contracts, applicable justification documentation will include OPNAV division director and N-code signatures (for Justification and Approvals, the division director’s signature will appear under the technical cognizance section and N-code signatures will appear under the requirements cognizance section, paragraph 8, “Actions to Remove Barriers to
Competition”). The OPNAV N-code must provide a detailed explanation that includes a schedule for a competitively awarded follow-on contract.

5. **Best Value Source Selection Premiums.**

   a. In a best value competition, the government may be willing to pay a premium in order to obtain a higher rated level of support; however, the premium still must represent a good business decision for the government. The requirements office must provide sufficient technical requirements to allow for the differentiation of proposals necessary to perform a best value assessment. Poorly written requirements do not allow for adequate evaluations.

   b. Best value is a function of technical quality and cost trade-offs among competing proposals. Best value determinations are not made through mechanical calculations. As technical proposals approach equality, cost may become a more significant factor. The tripwire, described in paragraph 7 (a), addressing premium costs does not suggest that the determination to pay a greater than 10 percent premium is either prohibited or inappropriate, only that additional reviews may be required, as determined by the Procurement Contracting Officer (PCO) and Source Selection Authority (SSA). The decision to obtain further review is subject to rules regarding the protection of source selection information, as defined in reference (c) Subpart 3.104. The need for PCO and SSA higher-level review applies in instances where the total value of the procurement is greater than $10 million and the best value source selection dollar value premium is greater than 10 percent over lowest acceptable offer’s total evaluated cost and price.

6. **Other Direct Costs (ODC).**

   a. While a service contract is appropriate when the primary purpose is to perform an identifiable task, materials are often required to perform these services. It may be appropriate for a service contractor to procure materials under a service contract; however, there are a number of considerations that enter into developing an appropriate strategy to meet any requirement.

   b. ODCs are intended to include travel and incidental miscellaneous expenses required and generally consumed in performance of the service. They are not intended to hide expensive consultants or subcontractors or for the government to purchase material by circumventing existing policies and procedures. Deputy Assistant Secretary of the Navy (Acquisition and Logistics Management) memorandum dated 15 May 2007 emphasizes “the need to ensure that service contracts are not improperly used to acquire products or facilities not required for, or incidental to, performance of those services.”

   c. The required actions are as follows:

      (1) Prior To Award. If ODCs are estimated greater than 10 percent of the total labor value or $1 million (whichever is lower) for any given contract, then the rationale for the ODC requirements must be provided to the PCO and the methods for monitoring these ODC charges
must be documented in the Quality Assurance Surveillance Plan. It is expected that individual task orders under indefinite delivery, indefinite quantity services contracts may have a disproportionate (i.e., greater than 10 percent) amount of ODCs included; however, in these instances justification and rationale must be included in the acquisition strategy. When excessive ODCs are comprised of material items, an explanation as to why these costs are not specifically defined and managed as supply items must be provided and documented. Generally speaking, travel and conference fees associated with representing the OPNAV staff at professional or technical conferences is not an acceptable ODC.

(2) Post Award. The COR must monitor monthly the use of ODCs.

7. Labor Rates and Performance.

   a. Prior to Award. When multiple labor categories are contemplated in satisfying a services requirement, fully burdened labor rate caps should be applied to each standard labor category. Per the Service Contract Act, the PCO must perform a cost realism analysis when the proposed fully burdened labor rates are in excess of the rates shown in the table below:

<table>
<thead>
<tr>
<th>Labor Field</th>
<th>Annual Rate (Fully Burdened)</th>
<th>Hourly Rate (Fully Burdened)</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Level Executive/Technical Support</td>
<td>$450,000</td>
<td>$250</td>
</tr>
<tr>
<td>White Collar Support</td>
<td>$240,000</td>
<td>$115</td>
</tr>
<tr>
<td>Blue Collar Support</td>
<td>$95,000</td>
<td>$46</td>
</tr>
</tbody>
</table>

   b. Post Award. The COR must monitor monthly actual spend data and notify the PCO and OPNAV requirements manager if the amount on the invoice does not match the amount awarded in the contract, including all modifications.

8. Subcontractors.

   a. Post award due diligence is required to monitor any proposed additions of subcontractors beyond those included and evaluated as part of the initial award. The government cannot be perceived as exerting improper influence on the prime contractor to contract with specific subcontractors. The government does not have privilege of contract with the subcontractor, only with the prime. It is the prime’s responsibility to propose a team to accomplish the requirements, and it is the prime’s responsibility to select additional subcontractors if it becomes necessary to supplement the team.
b. The required actions are as follows:

(1) When applicable, the proposed subcontractor addition must be reviewed first by the PCO to ensure the contractor has provided the required documentation (per reference (c) Subpart 44.201) and that the information clearly presents the business case for the addition of the subcontractor(s). If the PCO is comfortable with the business case presented by the contractor, the PCO must pass the request on to the COR, who must receive concurrence from the OPNAV requirements manager (or equivalent requirements holder). OPNAV requirements manager concurrence may be elevated to higher levels as determined or specified by the cognizant Deputy Chief of Naval Operations.

(2) The COR must remain vigilant in order to identify subcontractor changes or additions that may not be covered by the contract or task order, including all modifications, or may present potential organizational conflict of interest issues.

9. **One Bids.**

   a. Effective competition is one of the most powerful tools the government has to affect real efficiency and do more with less. Single offers, or “one bids,” can be the result of several factors: inadequate time to prepare a proposal, poorly described defined requirements or evaluation factors that appear to be tailored to an incumbent or target a specific contractor.

   b. When a solicitation results in a single bid offer, the PCO must either re-solicit the requirement or enter into negotiations, the result of which will be reflected in the business clearance memorandum.

   c. One bid received under a competitive solicitation must be reported by the PCO to the cognizant OPNAV requirements manager.