

Putting “Better Buying Power” Into Practice: DOD Issues Implementation Directive for Better Buying Power 2.0

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On April 24, 2013, Frank Kendall, the Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L), released a long-awaited Implementation Directive for the Better Buying Power (BBP) 2.0 initiative, which provides comprehensive guidance for Department of Defense (DOD) acquisition professionals for implementing the policies expressed in BBP 2.0 so as to achieve greater efficiency and productivity in all aspects of the DOD acquisition process. The initial framework for BBP 2.0 was first introduced by Mr. Kendall on November 13, 2012 and represented both a refinement of its predecessor, BBP 1.0 issued in September 2010, and a positive step forward in continuing to reform the DOD acquisition process to achieve greater efficiencies and bring products to the Warfighter faster. See Kara M. Sacilotto, "Better Buying Power 2.0: Opportunities for Industry and Challenges for DOD." The new Implementation Directive takes the BBP 2.0 framework one step further by providing additional guidance and identifying specific actions for agency acquisition professionals to take to implement each of the seven focus areas identified in the BBP 2.0 framework. The Directive also continues to emphasize the thoughtful application of key acquisition principles over a rigid adherence to rules and regulations. As Mr. Kendall states in the Directive, "BBP 2.0, like BBP 1.0, is not rigid dogma—it is guidance subject to professional judgment."

For each BBP 2.0 initiative, the Implementation Directive provides general application guidance, followed by a list of specific actions to be executed by acquisition personnel over the next few months. Some of the more notable actions include the publication of an initial

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"Report on the Performance of the Defense Acquisition System" by the Assistant Secretary of Defense for Acquisition's (ASD(A)) Acquisition Policy Analysis Center, which will allow DOD officials to measure the effect of policy choices and best practices across a broad range of acquisition institutions and programs, and revised guidance on the use of profit incentives in defense acquisition strategies.

In addition, the Implementation Directive provides guidance on when to use (and not use) a "lowest price technically acceptable" (LPTA) source selection method:

LPTA should not be used when the contractor's proposed technical approach requires a subjective judgment by the source selection authority as to the desirability of one offeror's proposal versus a competing proposal. Well-defined standards of performance and quality of services should be available to support the use of LPTA. When standards of performance and quality are subjective, another approach should be used. Professional services are often in this latter category.

To implement this guidance, the Implementation Directive instructs the Director of Defense Procurement and Acquisition Policy (DPAP) to incorporate guidance on use of LPTA into guidance being developed on contract type and incentive structures. It also mandates that the Director of DPAP revise the DOD Source Selection Guide to require Section M of the RFP and the Source Selection Plan to more accurately describe the characteristics of a technically acceptable solution in "lowest price technically acceptable" competitions.

On the other side of the spectrum, the Implementation Directive instructs DOD Components when using "best value" in competitive source selections "to quantify the value, in terms of the increased premium they will pay, for proposals above the threshold level of performance and to include this information in solicitations to industry." Other actions include a comprehensive review of DOD's small business performance goals and subcontracting program, and the issuance of guidelines for maintaining competitive environments between DOD suppliers.

To improve the professionalism of the acquisition workforce, which Mr. Kendall views as "the most important factor in the performance of the Defense Acquisition System," the Directive requires DOD Components to improve standards for key acquisition leadership positions and increase recognition of management excellence. Under the Implementation Directive, the ASD(A) and the Director of Human Capital Initiatives will provide a recommended policy memorandum that establishes core requirements and qualifications for key leadership positions. Functional leads will also define and finalize core competencies for each acquisition functional area, which will be used to evaluate performance. These initiatives seek to improve the quality and capability of the acquisition workforce in order to obtain the best possible value for the Government.

BBP 2.0 is emblematic of the sentiment expressed by Secretary of Defense Chuck Hagel, who stated in his first major policy speech that DOD needs "to continually move forward with designing an acquisition system that responds more efficiently, effectively and quickly to the needs of troops and commanders in the field." Of course, as Secretary Hagel recognized, proper reforms take time, flexibility, and "long-term budget certainty."

Thus, while Mr. Kendall's Implementation Directive is a welcome step forward for BBP 2.0 and the future improvement of the DOD acquisition system, implementing this Directive may prove difficult in light of sequestration. According to Secretary Hagel, "the cuts required by the sequester afford neither time nor flexibility," and thus significantly impact DOD's ability to pursue reform in a thoughtful, strategic manner. As a result, the successful implementation of the BBP 2.0 initiative will most likely prove challenging for as long as sequestration continues.