

~~SECRET//TK//REL TO USA, FVEY~~

MEMORANDUM FOR RECORD

Organizational Conflict of Interest (OCI) Determination

RFP NRO000-14-R-0099 (100 Gbps Ethernet Encryptor)

24 April 2014



(b)(3)

(1). (U) A description of the review of related NRO acquisitions for potential or actual bias, unfair competitive advantage, and impaired objectivity.

~~(S//TK//REL TO USA, FVEY)~~ Background: The 100G Ethernet Encryptor (100G EE) contract will design, develop and achieve certification of a high speed (100 gigabits per second) cryptographic product to encrypt and decrypt strategic network communications, in support of the NRO Infrastructure Service Provider (NISP) [redacted] NISP requirements are the primary driver for the 100G EE [redacted]

(b)(3)



(b)(1)  
(b)(3)

(U) We have reviewed this acquisition for potential or actual OCI. We analyzed the nature of the work to be performed on this contract in order to identify and evaluate potential OCI. A search for related NRO acquisitions indicated there were no related acquisitions in the NRO. COMM/IAO has formally briefed the proposed acquisition to the principal NRO customer (NISP) as well as to other internal/external stakeholders. COMM/IAO also reviewed internal research efforts as well as those sponsored by other NRO directorates (including AS&T) and Intelligence Community organizations, and concluded that no related acquisitions were being pursued. The work to be performed under this contract does not involve those services – such as management support or technical direction – where one typically finds potential OCI. It is not anticipated that any actions taken or relationships established under this contract will give rise to OCI issues either at present or in the future.

(U) However, in November 2013, NSA/IAD representatives advised NRO that they were considering a Commercial COMSEC Evaluation Program (CCEP) agreement with an interested vendor to develop a 100G encryptor. A CCEP agreement establishes a bilateral, non-contractual relationship between NSA/IAD and a vendor whereby the vendor develops and produces an IA product at its own risk and expense, and NSA may certify the product. Because the vendor pays for the CCEP development, neither the user nor NSA/IAD has any control of the technical requirements and development schedule. Furthermore, a vendor may choose to walk away from the CCEP agreement at any time, subject to a 30-day notice. For these reasons, COMM concluded that pursuing a CCEP development for its 100G EE requirement would not meet NRO mission needs and chose to continue its competitive acquisition effort.

(U/~~FOUO~~) During the period November 2013 through December 2013, immediately after hearing of NSA's intent to pursue a CCEP agreement for a 100G encryptor development, COMM/IAO requested that any NSA/IAD personnel (advisors) directly involved with the

~~SECRET//TK//REL TO USA, FVEY~~

~~SECRET//TK//REL TO USA, FVEY~~

potential CCEP effort recuse themselves from involvement with the NRO 100G EE acquisition. COMM/IAO also received both verbal and email confirmation (ref email from [redacted] Dec 20, 2013) that NSA/IAD had not shared – nor would it share – any details regarding NRO’s 100G EE acquisition during its CCEP discussions with vendors. Internal to COMM/IAO, no NSA field personnel [redacted] involved with the 100G EE acquisition have been involved – or will be involved – with the CCEP development, nor will those personnel share any 100G EE acquisition information with NSA/IAD personnel involved with the CCEP development.

(2). (U) *An assessment of the degree of OCI risk associated with the work to be performed and a determination that no OCI issues exist for the effort.*

(U) The degree of OCI risk associated with the work to be performed on this effort is very low based on the following. COMM/IAO reviewed its contractual and organizational relationships – including those of its SETA support staff – for potential conflict with the 100G EE acquisition, and concluded that there are no relationships that present OCI concerns.

(U//FOUO) COMM/IAO has not participated in any CCEP discussions with vendors, and has made it clear that any potential NRO acquisition is separate from NSA/IAD’s CCEP development, and will continue to do so when the acquisition is posted to the ARC. Although NRO has shared draft 100G EE acquisition documents with NSA/IAD, NRO has received both verbal and en(b)(3) 50 USC ± 3605 confirmation (ref email from [redacted] Dec 20, 2013) that NSA/IAD has not shared any details during its CCEP discussions with vendors. Internal to COMM/IAO, no NSA field personnel [redacted] involved with the 100G EE acquisition have been involved – or will be involved – with the CCEP development, nor will those personnel share any 100G EE acquisition information with NSA/IAD personnel involved with the CCEP development.

(U//FOUO) Furthermore, the technical requirements for each effort are derived through entirely separate paths. To illustrate, after receiving COMM DMP approval in September 2013 to proceed with the 100G EE acquisition, COMM/IAO released a Request for Information (RFI) to industry to highlight NRO’s interest and to gauge industry’s ability to deliver certain technical capabilities. That RFI included a partial list of requirements, many of which were derived from the publicly available Ethernet Security Specification (ESS) v1.0. Those requirements have since become the basis of the 100G EE Technical Specification that was released as part of the draft Request for Proposals [redacted]

[redacted] However, as COMM has no control or guarantee that a CCEP development will meet NRO technical or schedule requirements, it is not a viable option for satisfying mission needs.

(U) To mitigate any perceived unfair advantage to vendor(s) pursuing the NSA/IAD CCEP development and interested in NRO’s 100G EE acquisition, COMM/IAO released a draft RFP that will include the technical specification and requirements for its desired 100G EE solution. COMM/IAO solicited feedback from all vendors on the proposed requirements. Furthermore, COMM/IAO explicitly stated in its draft RFP that its acquisition is separate and independent from any NSA/IAD CCEP development, and that no NRO COMM IAO 100G EE acquisition information has been or will be provided to vendors through NSA/IAD’s CCEP development or any other reason.

~~SECRET//TK//REL TO USA, FVEY~~

~~SECRET//TK//REL TO USA, FVEY~~

(U) Therefore, it is determined that no OCI issues exist for the effort. This 100G EE requirement was developed by the NRO to satisfy an internal mission need, whereas the potential CCEP development is managed only by the vendor and NSA/IAD with no NRO participation. That separation of responsibilities extends to NSA field personnel [redacted] in COMM/IAO that (b)(3) 50 USC + 3605 involved with the 100G EE acquisition, as they have no involvement in the CCEP development. Although both developments may use the same ESS v1.0 standard as the basis for requirements, that does not imply the two efforts present an inherent OCI, particularly as the standard is publicly available to all potential offerors.

[redacted]

Contracting Officer Technical Representative

[redacted]

Contracting Officer  
Chief, IAO Contracts

(b)(3)

~~SECRET//TK//REL TO USA, FVEY~~