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*Mission and Installation Contracting Command*



# Role of the Task/Delivery Order Ombudsman

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# Ombudsman's Role

- Regulatory Background:
  - IAW FAR 16.505--Ordering (a)(10)(i) Protest is not authorized in connection with the issuance of an order under a task or delivery order except...(B) *A protest of an order valued in excess of \$10m.*
  - Complaints associated with task/deliver order awards valued =/<\$10m must be filed with the Agency's Ombudsman
    - FAR 16.505--Ordering (b)(2)(ii)(D)(6) *TO/DO Ombudsman.* The ombudsman must review complaints from contractors and ensure they are afforded **a fair opportunity to be considered**, consistent with the procedures in the contract.
  - IAW FAR 16.504(a)(4) A solicitation and contract for an indefinite quantity must—(v)include Ombudsman contact information





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# Ombudsman's Role

- Guiding Principles when Evaluating Complaints:
  - What might the General Accountability Office (GAO) do?
  - Did the Agency (i.e. MICC-Fort Anyplace) structure the Request for Task Order Proposal (RTOP) in accordance with regulatory guidelines and IAW the terms and conditions basic contract?
  - Did the Agency evaluate proposals in accordance with the evaluation criteria stated in the RTOP?
  - Was that evaluation well reasoned and documented? (see AFARS 5116.505-90)
  - Authority and scope of analysis is limited to “fair opportunity” to compete for the specified task order.





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# Ombudsman's Role

- You've decided to submit a complaint. Now What?
  - Submit a reasoned and detailed Complaint Memorandum with documentation fully supporting each assertion to the Ombudsman via email in .docx or .pdf with attachments as soon as possible.
  - Acknowledgement  $\leq$  5 Business Days
    - Neither Award nor Performance Halted
  - Initial determination may take weeks...or months
  - If corrective action (CA) is recommended, KO given short suspense to submit reconsideration to PARC for final disposition.
    - Details of CA not provided IAW FOIA Exemption 5
  - If no such request received, CA is binding





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# Ombudsman's Role

- What are the likely outcomes?
  - No Corrective Action (CA) Required
  - No CA with Advisory Recommendations to Agency
  - Corrective Action...a partial list...
    - Overturn initial award, then award to Complainant
    - Re-evaluate task order proposals IAW the Agency's stated evaluation criteria
    - Re-evaluate the requirement, then re-compete
- When will Corrective Action be implemented?
  - Depends on a number of factors including: nature of proposed CA, Agency's need date, criticality of service, timeliness of decision.
- Informal inquiries are welcome!





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# Questions?

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