GSA Office of the Chief Acquisition Officer

GSA Acquisition Letter V-06-11

DEC 22 2006

MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES

FROM: EMILY W. MURPHY
CHIEF ACQUISITION OFFICER

SUBJECT: Establishment of the Civilian Board of Contract Appeals and the Termination of the General Services Board of Contract Appeals

1. Purpose. The purpose of this Acquisition Letter is to inform GSA contracting activities that the General Services Board of Contract Appeals (GSBCA) will cease to exist, and its cases, Board judges, and other support personnel will transfer to the new Civilian Board of Contract Appeals (CBCA) within the General Services Administration (GSA).

2. Background. Section 847 of the National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, established the CBCA within GSA to hear and decide contract disputes involving executive agencies (other than the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration, the United States Postal Service, the Postal Rate Commission, and the Tennessee Valley Authority) under the provisions of the Contract Disputes Act of 1978 and regulations and rules issued thereunder. Boards of contract appeals currently existing at GSA and the departments of Agriculture, Energy, Housing and Urban Development, Interior, Labor, Transportation, and Veterans Affairs will cease to exist on January 6, 2007.

3. Effective Date. Immediately.

4. Termination Date. This Acquisition Letter remains in effect until the General Services Acquisition Manual (GSAM) is amended.

5. Applicability. This Acquisition Letter applies to all GSA contracting activities.

6. Reference to regulations. FAR 33.2 and GSAM 533.70.

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405-0002
www.gsa.gov

7. Instructions/procedures.

a. Cases currently before a board of contract appeals affected by the legislation will be transferred to the CBCA on January 6, 2007, and reassigned CBCA docket numbers. Contracting Officers should review contract provisions, and language in contracting officer decision letters that may refer contractors to the GSBCA for dispute resolution, including alternative dispute resolution, and modify those provisions accordingly.

b. Contracting officers who are issuing final decisions in accordance with FAR 33.211 should alert contractors that appeals submitted on or after January 6, 2007, should be sent to the CBCA.

c. The CBCA will be located at 1800 M Street, N.W., Washington DC 20036. The CBCA's mailing address will be 1800 F Street, N.W., Washington DC 20405. The phone number of the Office of the Clerk of the CBCA will be (202) 606-8800. The CBCA's website will be www.cbca.gsa.gov.

8. Reference Documents:

General Services Administration Federal Register Notice published November 9, 2006 (71 FR 65825)

Civilian Agency Acquisition Council Letter 2006-05, Establishment of the Civilian Board of Contract Appeals and the Termination of the Board of Contract Appeals of Other Agencies, dated December 15, 2006

Attachments

respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791 and 42 U.S.C. 2000e–16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your agency. *See, e.g.*, 29 CFR part 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC–11) with the U.S. Office of Special Counsel at 1730 M Street, NW., Suite 218, Washington, DC 20036–4505 or online through the OSC Web site at *http://www.osc.gov.*

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

Additional Information

For further information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the appropriate offices within the FTC (*e.g.*, Office of EEO, Human Resources Management Office, or Office of the General Counsel). Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found on the EEOC Web site at *http://www.eeoc.gov* and on the OSC Web site at *http://www.osc.gov.*

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E6–19066 Filed 11–8–06; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[BCA 2006–N01]

Board of Contract Appeals; The Establishment of The Civilian Board of Contract Appeals and the Termination of The Boards of Contract Appeals of the General Services Administration and the Departments of Agriculture, Energy, Housing and Urban Development, Interior, Labor, Transportation, and Veterans Affairs

AGENCY: General Services Administration (GSA), Board of Contract Appeals.

ACTION: Notice.

SUMMARY: In section 847 of the National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109–163, Congress established the Civilian Board of Contract Appeals (CBCA) within GSA to hear and decide contract disputes involving executive agencies (other than the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration, the United States Postal Service, the Postal Rate Commission, and the Tennessee Valley Authority) under the provisions of the Contract Disputes Act of 1978 and regulations and rules issued thereunder. Boards of contract appeals currently exist at the General Services Administration and the departments of Agriculture, Energy, Housing and Urban Development, Interior, Labor, Transportation, and Veterans Affairs. Effective January 6, 2007, all of those boards in existence on that date will terminate, and their cases, Board judges, and other personnel will transfer to the new Civilian Board.

SUPPLEMENTARY INFORMATION: The legislation establishing the Civilian Board provides that the CBCA will have jurisdiction to decide contract appeals from any executive agency (other than the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration, the United States Postal Service, the Postal Rate Commission, and the

Tennessee Valley Authority). Cases currently before a board of contract appeals affected by the legislation will be transferred to the Civilian Board on January 6, 2007, and reassigned CBCA docket numbers. Agency acquisition personnel should review agency regulations, contract provisions, and language in contracting officer decision letters that may refer contractors to one of the affected boards of contract appeals for dispute resolution, including alternative dispute resolution, and modify those provisions accordingly.

The Civilian Board will also conduct other proceedings as required or permitted under statutes or regulations. Such other proceedings include the resolution of disputes involving grants and contracts under the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450 *et seq.* Because jurisdiction over these disputes is vested by statute, 25 U.S.C. 450m–1(d), in the Department of the Interior Board of Contract Appeals, section 847(e) of the National Defense Authorization Act for Fiscal Year 2006 reassigns that jurisdiction to the Civilian Board of Contract Appeals.

Such other proceedings also include the resolution of disputes between insurance companies and the Department of Agriculture's Risk Management Agency (RMA) involving actions of the Federal Crop Insurance Corporation (FCIC) pursuant to the Federal Crop Insurance Act, 7 U.S.C. 1501 *et seq.* These disputes were formerly resolved by the Department of Agriculture Board of Contract Appeals, and it is anticipated that this authority will be transferred to the Civilian Board of Contract Appeals under an agreement with the Secretary of Agriculture, as permitted under section 42(c)(2) of the Office of Federal Procurement Policy Act, 41 U.S.C. 438(c)(2).

In addition, other proceedings that the Civilian Board will conduct include several types of cases heard by the General Services Board of Contract Appeals by delegation from the Administrator of General Services. It is anticipated that, effective January 6, 2007, the Administrator of General Services will redelegate those cases to the Civilian Board of Contract Appeals. Those cases include the following:

— Pursuant to 31 U.S.C. 3726(i)(1), requests by carriers or freight forwarders to review actions taken by the Audit Division of the General Services Administration's Office of Transportation and Property Management.

— Pursuant to 31 U.S.C. 3702, claims by Federal civilian employees against the United States for reimbursement of (1) expenses incurred while on official temporary duty travel and (2) expenses incurred in connection with relocation to a new duty station.

— Pursuant to section 204 of the General Accounting Office Act of 1996, Pub. L. 104–316, requests of agency disbursing or certifying officials, or agency heads, on questions involving payment of travel or relocation expenses that were formerly considered by the Comptroller General under 31 U.S.C. 3529.

The offices of the Civilian Board of Contact Appeals will be located at 1800 M Street, NW, 6th Floor, Washington, DC 20036. The mailing address of the Civilian Board will be 1800 F Street, NW, Washington, DC 20405. The phone number of the Office of the Clerk of the Board will be (202) 606–8800; the facsimile number will be (202) 606–0019. The internet address of the Civilian Board's Web site will be *www.cbca.gsa.gov.*

FOR FURTHER INFORMATION CONTACT Margaret S. Pfunder, Chief Counsel, GSA Board of Contract Appeals, telephone (202) 501–0272, internet address *margaret.pfunder@gsa.gov.*

Dated: November 2, 2006.

Stephen M. Daniels,

Chairman, Board of Contract Appeals, General Services Administration.

[FR Doc. E6–18982 Filed 11–8–06; 8:45 am]

BILLING CODE 6820–AL–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New.

Title of Information Collection: Evaluation of the National Abstinence Media Campaign: Focus Group.

Form/OMB No.: 0990.

Use: The National Abstinence Media Campaign (NAMC) is a media campaign to encourage and help parents to communicate with their children about the need to avoid premarital sexual intercourse. The purpose of this information collection is to conduct focus groups and qualitative analyses of the NAMC.

Frequency: Reporting on Occasion.

Affected Public: Individuals or Households.

Annual Number of Respondents: 128.

Total Annual Responses: 128.

Average Burden per Response: 2 hrs.

Total Annual Hours: 256.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received with 60-days, December 29, 2006 and directed to the OS Paperwork Clearance Officer at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Research and Technology, Office of Resource Management, Attention: Sherrette Funn-Coleman (0990–NEW), Room 537–H, 200 Independence Avenue, SW., Washington DC 20201.

Dated: October 30, 2006.

Mary Oliver-Anderson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E6–18963 Filed 11–8–06; 8:45 am]

BILLING CODE 4151–05–P

DEC 15 2006

CIVILIAN AGENCY ACQUISITION COUNCIL LETTER 2006-05

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM: RALPH DESTEFANO
CHAIRMAN
CIVILIAN AGENCY ACQUISITION COUNCIL

SUBJECT: Establishment of the Civilian Board of Contract Appeals and the Termination of the Boards of Contract Appeals of Other Agencies

Effective January 6, 2007, most civilian agency boards of contract appeals in existence on that date will terminate, and their cases, Board judges, and other support personnel will transfer to the new Civilian Board of Contract Appeals (CBCA) within the General Services Administration (GSA).

Section 847 of the National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, established the CBCA within GSA to hear and decide contract disputes involving executive agencies (other than the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration, the United States Postal Service, the Postal Rate Commission, and the Tennessee Valley Authority) under the provisions of the Contract Disputes Act of 1978 and regulations and rules issued thereunder. Boards of contract appeals currently existing at GSA and the departments of Agriculture, Energy, Housing and Urban Development, Interior, Labor, Transportation, and Veterans Affairs will cease to exist on January 6, 2007.

Cases currently before a board of contract appeals affected by the legislation will be transferred to the CBCA on January 6, 2007, and reassigned CBCA docket numbers. Agency acquisition personnel should review agency regulations, contract provisions, and language in contracting officer decision letters that may refer contractors to one of the affected boards of contract appeals for dispute resolution, including alternative dispute resolution, and modify those provisions accordingly.

Contracting officers from agencies impacted by the creation of the CBCA who are issuing final decisions in accordance with FAR 33.211 should alert contractors that appeals submitted on or after January 6, 2007, should be sent to the CBCA, even if their agency regulations have not yet been updated to reflect the board of contract appeals change. The CBCA will be located at 1800 M Street, N.W., Washington DC

20036. The CBCA's mailing address will be 1800 F Street, N.W., Washington DC 20405. The phone number of the Office of the Clerk of the CBCA will be (202) 606-8800. The CBCA's website will be www.cbca.gsa.gov.

Additional information about the termination of agency boards of contract appeals and the establishment of the CBCA is provided in the attached copy of the notice published in the Federal Register on November 9, 2006.

Attachment