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This document summarizes:

Mutek, Michael W. “Government Concerns over Contractor Team Formation: Is the Message Consistent?” *The Procurement Lawyer* Winter 2005: 3-8.

Government officials looking to solve complex problems face important choices as they try to both encourage high quality organizations to collaborate in producing the best possible solutions, and also insure sufficient competition to bring about the best result.

In this article, Michael W. Mutek looks at two government documents, which focus on opposite sides of this coin. The first is the July 2004 Wynne memorandum, “Selection of Contractors for Subsystems and Components,” which encourages competition by giving credit to contractors who use competition to assemble teams. This can help limit in-house bias because companies must look at outside companies in order to foster competition. The second document is the May 2004 National Reconnaissance Office (NRO) rule, which prohibits exclusive teaming. This document limits competition because without exclusive teaming, there is less free flow of information and less trust between team members, which ultimately will discourages teaming. These two documents give inconsistent messages to the industry.

Mutek focuses on the details of each document and the possible problems that may arise with them in order to help explain the inconsistencies. There are two major problems that come out of the Wynne Memorandum. The first is that though the requirements try to foster competition, they do not recognize the strong competitive forces that usually exist and do not differentiate between these competitive situations and sole source situations. Secondly, according to the article, the memo does not give sufficient credit to the subjective factors—such as trust from previous working relationships—that come into play when choosing a teammate.

Mutek sees different problems with the NRO rule. This document prohibits exclusive teaming, which is defined as when “two or more companies agree—in writing, through understandings, or by any other means—to team together to pursue an NRO procurement program, and further agree not to team with any competitors for that program.” The lack of trust that develops from this prohibition could limit teaming and competition all together.

These documents send inconsistent messages to the industry. While the Wynne memorandum fosters team formation, the NRO rule may inhibit it. Mutek suggests that the industry support the Federal Acquisition Regulation policy, which states, “Government will recognize the validity of the contractor team arrangements” and that the “Government will not normally require or encourage the dissolution of the contractor team arrangements.”