

Guidelines

INFRASTRUCTURE COMMITTEE

GUIDELINES ON THE USE OF BASIC ORDERING AGREEMENTS (BOAs)

ORIGINAL: ENGLISH NOTICE 28 February, 1997 AC/4-N(96)3(3rd revise)
NOTE BY THE SECRETARY Reference: AC/4-N(96)3(2nd revise); -DS(97)05 item IV.2.(a)

1. As recorded at reference, the Infrastructure Committee agreed, with two minor amendments, the text of the second revise version of the subject guidance document. Final approval of the amended document was made the subject of a short Silence Procedure.
2. As silence was not broken, the Committee is now considered to have formally noted the document and agreed the other actions proposed in para. 12 thereof. The attached third revise, which incorporates the agreed amendments, thus represents the approved final version of the Guidelines on the Use of Basic Ordering Agreements (BOAs).
3. This document is circulated for information and record purposes,

(Signed) L. P. MACDONALD
NATO, 1110 Brussels.

INFRASTRUCTURE COMMITTEE

GUIDELINES ON THE USE OF BASIC ORDERING AGREEMENTS (BOAs)

Report by the International Staff

18th February 1997

- a. AC/4-DS(95)21.1.3
- b. AC/4-DS(95)27.IV.2.(a)
- c. AC/4(WG29)DS/140
- d. AC/4-DS(95)25.IV.2.(a)
- e. AC/4-D(95)002
- f. AC/4-DS(96) 10 & 11
- g. Italian Delegation Notes dated 26 March 1996
- h. UK Delegation INFRA 1/5 dated 10 April 1996
- i. German Delegation letter dated 12 December 1996
- j. Italian Delegation SF0409 dated 27 January 1997

INTRODUCTION AND BACKGROUND:

1. The Committee has been invited on several occasions to grant exemption from International Competitive Bidding (ICB) and to authorize procurement of equipment using the Basic Ordering Agreements (BOAs) which the NATO C3 Agency (NC3A) has established with several vendors. This resulted in a request at reference (a) to brief the Infrastructure Committee (IC) about the subject. NC3A presented the briefing at reference (b), the view foils were reproduced as Annex V to reference (b). Following discussion at reference (b) the International Staff was invited, together with NC3A, to further investigate under which circumstances BOA could be a cost effective procurement method and to report their findings to the Committee. The staff has actively pursued this task and invited NC3A to present the briefing to the Working Group of National ADIP Experts (WG 29) at the January 1996 meeting. The discussion in the WG resulted in some recommendations which are recorded in reference (c). Following further meetings between NC3A and the staff, the first coordinated report was presented to the Committee at reference (f). The initial exchange of views at the meeting and the following inputs at references (g) to (j) resulted in the final document which is presented herewith-

DEFINITION:

2. A detailed description of BOAs is given in Annex V to reference (b) but, in essence:

"A Basic Ordering Agreement is the primary part of a two-stage contracting procedure whereby:

(a) the contract is negotiated and placed centrally with a supplier for a special range of goods. All basic contract provisions are agreed including prices or a definitive pricing methodology.

(b) individual orders for retail quantities may then be placed against the central contract by local offices for local delivery.

3. BOAs are not new. Equivalent arrangements exist in many countries. For example, in the United States they are called "System Contracts" and in the United Kingdom "Demand Ordering or Enabling Contracts".

GUIDELINES:

4. General:

(a) The International Staff, supported by WG 29 proposes, in paragraphs 5 to 8 below, four criteria (or rules) which must all be met. before the use of BOAs can be considered.

(b) It must be remembered that it remains the prerogative of the Committee to agree the application of these guidelines for each and every project. It should, furthermore, be understood that the application will ultimately depend on the type of commodity to be procured.

(c) These guidelines have been developed for projects for which the NATO C3 Agency is Host Nation (HN). This does, however, not preclude other Host Nations from using these BOAs as well.

5. The Commodity rule:

(a) It follows from the definition at pare 2 that BOAs can only be applied for Commercial-Off-The-Shelf products whether they are Hardware, Software or services. A list of product categories which are considered to be candidates for BOA application is attached as Annex 1.

(b) A typical example is the procurement of Personal Computers where the innovation cycle and the price reduction is so fast that even an accelerated ICB process would provide the second last generation of equipment at prices overtaken by events.

(c) In principle, BOAs are applicable for all quantities of the above mentioned equipment. It is felt, however, that the Committee may be reluctant to apply this rule for high values. That is why the staff proposes to introduce a financial ceiling.

6. The Financial rule:

(a) Invitations for ICB for projects of value 40.000 IAU or less have, in the past, received no tender (reference (d)). Line items of that cost, (plus the annual inflation factor) can, therefore, generally be considered for BOA application.

(1) This financial ceiling must, however, be seen in view of the total project value, since there could well be a project comprising several line items which, together, could form a substantial project for which ICB would be more appropriate.

(b) The use of BOAs for higher cost items is possible, if urgency or other practical considerations so require and if the other conditions are met.

(1) Urgency is defined in the same way as in the urgent requirements procedure at reference (e), namely a military requirement which is urgent because of operational, safety, economic or environmental considerations.

7. The Competition rule:

(a) The essence of NATO procurement procedures is competition. The use of BOAs does not necessarily violate this principle.

(b) NC3A will strive to have more than one BOA in place for each commodity. For each procurement under BOA the agency will compare the relevant BOAs and select the lowest offer on the basis of the actual prices quoted by the companies. Thus the procurement resembles a procurement under limited competition, except that the bidding has been done in advance.

(c) If the procurement is driven by urgency (see para 6(b)) the selection of a bid will be driven by the contractors ability to deliver the goods to a certain place within a suspense date, rather than simply the price. Thus there are still elements of competition.

(d) The suspense date mentioned above is mandatory and cannot be extended. In the event a specific suspense date has not been met normal contracting practices, procedures and clauses as foreseen under the general provisions of the Basic Ordering Agreements will be applied as appropriate to each order contract. The NC3A will inform the Committee when such cases occur;

(e) From the above it follows that NC3A will seek wide participation of vendors in BOAs. (if there is only one BOA available the procurement method is "sole source using BOA" and will so be mentioned in the staff report).

8. The Quick Response Rule:

(a) It will not be cost effective from a life cycle cost point of view to procure equipment under a BOA if this equipment cannot be supported (maintained) in a quick response manner where the equipment is being used.

(b) NC3A is, therefore, to the extent possible, encouraged to negotiate BOAs which will provide, when required, a quick response capability for after sales support. The after sales support may be provided directly by the contractor. Alternatively, the contractor may recommend or identify firms that provide after sales support on the contractor equipment. The response criteria to be included in BOAs should provide for a minimum after sales maintenance and service call response time and a minimum parts repair or replacement delivery time.

(c) It follows that not every BOA has to have NATO-wide validity as it is the case with multinational vendors. This would restrict the BOA to the big international competitors which is not intended.

9. Support to Emerging Business:

Where feasible, NC3A and other host nations are encouraged to establish BOAs or BOA-type arrangements with emerging small businesses. The objective should be to support the innovativeness and entrepreneurship of small enterprises. The scope of effort and complexity of these BOAs should be commensurate with the capabilities and after sales support capacity of the perspective contractors.

IMPLEMENTATION:

10. In order to make best use of the BOAs in accordance with the guidelines listed above,

(a) NATO C3 Agency will:

- * produce a purchasable products list. an example of which is attached to this document;
- * Invite national delegations at NATO to solicit participation of their national industry,
- * repeat the above actions in annual intervals,
- * ensure that no eligible vendor is excluded from the possibility to negotiate a BOA with the NC3A;
- * report any difficulty in exercising these guidelines to the Infrastructure Committee.

(b) Nations will:

- * encourage their national industry to participate in the BOA programme,
- * certify that the nominated candidates are eligible for the envisaged type of business,
- * ascertain that it is understood that the initiative has to be taken by the potential vendor.

CONCLUSION:

11. The use of BOAs can accelerate the procurement of certain items. It allows limited competition (between BOAs for the same item). It creates no additional bid preparation costs which have to be amortised over sales volume, since it is an existing mechanism. It should, therefore, be applied to the extent possible under the conditions laid down in this document. However, BOAs must be non-discriminatory and all Nations' industries must be given the opportunity to participate.

RECOMMENDATION:

12. In view of the above the Infrastructure Committee is invited to:

- (a) note this report;
- (b) agree to the conditions for the use of BOAs (paras 5 to 8);
- (c) confirm the NC3A commitment (para 10 (a));
- (d) invite the Nations to play their rôle (para 10 (b)).

(Signed) R.F. NEITZEL

Signals Section
Attachment: Product Categories

Product Categories

Communication Equipment



LAN Bridges	Hubs	Repeaters
Communication Systems	Modems	Telephone Equipment and PABXs
Cables, Connectors, Converters	Multiplexors	Transceivers/Transmitters Receivers/Antennas
Encryption Devices	Pagers & Public Address Systems	UPS
Facsimile Equipment	Remote Monitoring Devices	Video Conferencing

ADD Equipment

CAD Systems	Jukeboxes	Scanners
CM-ROMs	Notebooks	SCSI Host Adapters
Computer Systems	Optical Systems	Storage Systems Servers

Data Networking Products	Plotters	Tape Back-up Systems
Desktops	Printers	Workstations
Security Guard Devices	Routers	

Software

Antivirus Software	Groupware	Network operating System
Application Software	Mapping Software	Terminal Emulation Software
Database Software	Modelling & Simulation Software	UNIX Operating System
Decision Support Tools	Network Management Software	Utilities Software
Document Management Systems		

Services

Consultancy	Maintenance
Engineering Services for Integration and Installation	Studies