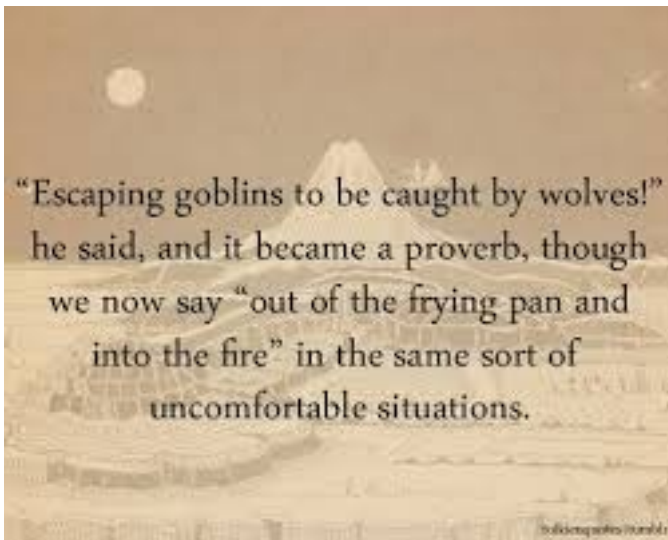


Out of the Frying Pan and Into ...

Written by Nick Sanders

Monday, 02 February 2015 00:00



The Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget plays a central role in shaping the policies and practices federal agencies use to acquire the goods and services they need to carry out their responsibilities. The OFPP oversees the development of acquisition regulations—the OFPP Administrator is the Chair of the FAR Council. The OFPP Administrator is also the leader of the Chief Acquisition Officer’s Council. The OFPP formulates and coordinates new acquisition legislation; it manages the government-wide procurement data system (FPDS). And it directs the activities of the Federal Acquisition Institute, whose objective is to improve the caliber and professionalism of the acquisition workforce. Oh, and the OFPP Administrator also chairs the Cost Accounting Standards (CAS) Board, as well.

You might say that the OFPP and its Administrator play a fundamental, a critical, role in determining how well (or how poorly) the Federal government acquires goods and services on behalf of the taxpayers.

Given the scope and importance of the position’s responsibilities, you’ve got to believe that it’s a tough job. It starts with a tough confirmation process and then we bet it gets even tougher from there. Joe Jordan went through that process and took on the responsibilities. He was confirmed in May, 2012 and, during his tenure, he successfully carried on the tradition of his OFPP predecessors. When he announced his departure some 18 months after he was confirmed, Federal Computer Week reported—

Since coming to OMB in 2011 from the Small Business Administration, Joe Jordan has been a

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tremendous asset to this institution and a key adviser to both me and former acting Director [Jeff] Zients. ... He has been a driving force behind administration procurement initiatives, including eliminating inefficiencies and buying smarter through strategic sourcing and shared services; improving contractor accountability and fighting waste, fraud, and abuse through the increased use of suspensions and debarments; stopping the excessive reimbursement for contractor executives; and making it easier for small businesses to contract with the federal government. I can't thank Joe enough for his outstanding public service, for his tireless efforts, and for the many contributions he has made over the years.

FCW was quoting, of course, from the press release issued by FedBid and written by its founder, Mr. Ali Saadat. Mr. Jordan left his position at OFPP in January, 2014 to head that company's public sector group. FedBid, which is divided into public sector and private sector support (with the private sector continuing to be led by Mr. Saadat), offers to create a digital marketplace where buyers can quickly and cheaply find qualified sellers, and where competitions can be held to efficiently select the low bidders. As we understand it, the fundamental means by which this is accomplished is the reverse auction. (We might be wrong about that, but that's our understanding.

Reverse auctions are not necessarily good things. We've addressed them [before](#). Even though the OFPP has been encouraging their use since 2004 (long before Mr. Jordan took the helm), we have heard rumblings that all is not pine-scented air fresheners in the State of Denmark (so to speak). In our article on reverse auctions ([link above](#)) we wrote—

The problem with reverse auctions is that they lack full transparency. The sellers know that *so mebody*

is underbidding their proposed price, but not necessarily who is doing so. This situation creates the opportunity for 'phantom bids' —

i.e.

, bids submitted by Federal buyers whose sole intent it to generate "savings" for their agency by forcing the prices lower and lower.

How likely is the possibility of Government-submitted phantom bids? It's difficult to determine because the goal of such behavior is not to be the winning bidder but, instead, to be the *next higher*

bidder. That way their name won't be disclosed and nobody will know that the price was driven down by fraudulent bids. (The bids are fraudulent, of course, because the Government bidder has no intention of fulfilling the order. Indeed, the Government bidder *cannot*

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fulfill the order.)

In any case, Mr. Jordan departed OFPP for FedBid and almost immediately landed in hot water with the Veteran's Administration Office of Inspector General. Washington Technology [reported](#) in October, 2014, that the VA OIG issued audit reports that found –

- FedBid's claims of sizable savings generated by the reverse auctions the firm provides for federal contractors are overblown and misleading.
- Susan Taylor, deputy chief procurement officer at the Veterans Health Administration, was castigated for allegedly engaging 'in conduct prejudicial to the government when she pressured contracting staff under her authority to give preference to and award a task order for reverse auction services to FedBid Inc.
- Reverse auctions can inadvertently derail federal efforts to properly record contract documentation. They can unduly complicate the contracting process and limit competition by squeezing out potential vendors.
- The main purpose of reverse auctions -- to save money -- can be negated by multiple factors, including FedBid's fees and the Industrial Funding Fee customers paid to cover the General Services Administration's operation of the Federal Supply Schedules program.
- The formula that reverse auction providers use to calculate savings -- subtracting the final award price from the 'independent government cost estimate' -- was not reliable, in part because of frequent mismatches between that independent estimate (which is required by VA policy) and the target price set by agency contracting officers. In addition, contract prices represent funds obligated at the time a contract was awarded, but many purchases were not fully funded at that time, resulting in inflation of the reported savings.
- It took a while, but this week the US Air Force (*not* the Veteran's Administration) suspended FedBid and began debarment proceedings, based on "lack of business honesty or integrity" at the company, according to this [FCW story](#). Mr. Jordan issued a statement expressing his "disappointment" with the proceedings and stressing the company's continued cooperation with investigators and suspension/debarring officials. (As if the company had a choice) Mr. Jordan also noted that the respected law

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firm of Arnold & Porter had been hired to perform an independent investigation, and stated that no legal wrongdoing was found. Mr. Jordan also stated that “The company has also created an ethics and compliance steering committee that includes the chief compliance officer and the CEO, to oversee and implement changes in the company's ethics and compliance program, policies and training.”

The Washington Post [offered](#) more details, noting that the company is considered to have “deep ties to the Washington establishment.” The WaPo story discussed how FedBiz “mounted an aggressive campaign” to have a VA contracting moratorium, imposed by a “senior VA official,” overturned. WaPo reported—

‘Need to assassinate his character and discredit him,’ read an e-mail from a top executive in 2012, [according to the IG](#) . The firm also vowed to ‘unleash the hounds’ and ‘take off the gloves’ in its ‘storm the castle’ campaign to win back the business.

In another story, Federal Times [outed](#) the unnamed executive as being Glenn Richardson, the former FedBid President whom Mr. Jordan succeeded.

Importantly, that top (unnamed) executive issued those emails well before Mr. Jordan accepted his leadership position at FedBiz. Unfortunately for Mr. Jordan, he had to deal with the fall-out from the intemperate and ill-advised missives.

Mr. Jordan would seem to have his hands full trying to save his company and regain any semblance of a reputation for integrity and honest dealings. As we noted in our article on reverse auctions, there would seem to be opportunities for chicanery within the process itself,

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and only companies with sterling reputations for transparency and integrity should be involved. If FedBiz wants to continue to be a player in the reverse auction marketplace, Mr. Jordan will have to work some magic.

There's no question that the role of OFPP Administrator is a tough—yet critically important—role in the Federal acquisition environment. Mr. Jordan survived eighteen months at the helm of OFPP, with no ill effects to his reputation (as far as we can tell from a Google search). Now Mr. Jordan would seem to have an even tougher job in front of him, one that might make or break his career. Will he be known as the savior of the reverse auction, or the man who went from the frying pan into the fire of suspension and debarment?