



DEFENSE CONTRACT AUDIT AGENCY
DEPARTMENT OF DEFENSE
8725 JOHN J. KINGMAN ROAD, SUITE 2135
FORT BELVOIR, VA 22060-6219

IN REPLY REFER TO

PSP 730.5.A.1/2012-007

August 24, 2012
12-PSP-022(R)

MEMORANDUM FOR REGIONAL DIRECTORS, DCAA
DIRECTOR, FIELD DETACHMENT, DCAA
HEADS OF PRINCIPAL STAFF ELEMENTS, HQ, DCAA

SUBJECT: Assisting Contracting Officers in Establishing the Negotiation Objective for Significant DoD Service Contracts

Consistent with cost saving goals set forth in the Defense Authorization Act of 2012, the Director, Defense Procurement and Acquisition Policy (DPAP), issued a class deviation on June 6, 2012, implementing Section 808 of the Act. The class deviation memorandum directs contracting officers to establish a negotiation objective for noncompetitive and noncommercial 2012 and 2013 service contracts, task orders, and delivery orders having an estimated value greater than \$10 million, using labor rates and overhead rates not to exceed rates paid to the contractor for the same or similar services for 2010 (see enclosure).

Auditors should be responsive to requests for rate information in order to assist the contracting officer in complying with this directive. Auditors should use readily available information, which may include: contractor Fiscal Year 2010 final rates, the contractor's proposed incurred cost rates (accompanied with historical decrements for unallowable, unallocable, and unreasonable expenses), or other information that is available in the files. Auditors may need to obtain year end direct labor rates from the contractor, if not already in the permanent file.

Auditors should be alert for accounting changes, subsequent to 2010, that may impact the use of 2010 actual rates. Auditors should explain these changes, and if practical, furnish calculations to make the rate information comparable. All non-audited rate information (i.e., factual information from the permanent files) should be provided by memorandum following the guidance at CAM 9-107. Contracting officers do not require audited 2010 incurred cost rates to establish a negotiation objective.

If the contracting officer requests a proposal audit and the scope includes rates, auditors should plan and perform the audit procedures as they would do on any proposal examination (i.e. independently determine if the proposed rates comply with FAR Parts 15 and 31, CAS, etc.). Auditors should not view the directive as a rate cap nor as audit criteria (i.e. should not be used as a basis to question proposed rates). Any unaudited rate information previously furnished should not be included in the audit report.

August 24, 2012
12-PSP-022(R)

PSP 730.5.A.1/2012-007

SUBJECT: Assisting Contracting Officers in Establishing the Negotiation Objective for
Significant DoD Service Contracts

It should be noted, that the DPAP memorandum does not impose requirements on the prime contractor's negotiation objectives with its subcontractors. However, pursuant to FAR 15.404-3, the contracting officer is responsible for the determination of a fair and reasonable price for the prime contract, including subcontract costs. Therefore, the contracting officer may request rate information related to significant subcontractors.

CLOSING REMARKS

FAO personnel should direct questions regarding this memorandum to their regional offices, and regional personnel should direct any questions to Pricing and Special Projects Division, at (703) 767-3250 or e-mail at DCAA-PSP@dcaa.mil.

/s/
John C. Shire
Deputy Assistant Director
Policy and Plans

Enclosure:
a/s

DISTRIBUTION: E



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

JUN -6 2012

In reply refer to
DARS Tracking Number: 2012-O0008

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION AND PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

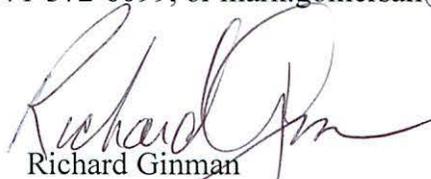
SUBJECT: Class Deviation—Limitation on Amounts Available for Contracted Services

Effective immediately, for any contract or task or delivery order for services with an estimated value in excess of \$10,000,000, in addition to the requirements of DFARS 215.406-1, Department of Defense contracting officers shall comply with the following requirements:

(1) Unless rates are otherwise established by law, negotiation objectives for labor rates and overhead rates not as yet formalized by the date of this deviation, for other than the acquisition of commercial items or competitively awarded contracts or task or delivery orders awarded to a contractor in fiscal year 2012 or 2013, shall not exceed labor rates and overhead rates paid to the contractor for the same or similar contract services performed under contract with procuring DoD component in fiscal year 2010; and

(2) Any contract or task or delivery order awarded to a contractor in fiscal year 2012 or 2013 that provides for continuing services at an annual price that exceeds the annual price paid by the DoD component concerned for the same or similar services in fiscal year 2010 shall be approved in writing by the Secretary of the Military Department or Head of the Defense Agency prior to contract award or order issuance.

This class deviation implements paragraphs (c)(1) and (c)(2) of section 808 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81), and remains in effect until incorporated in the FAR or DFARS, or is otherwise rescinded. My point of contact is Mr. Mark Gomersall, who may be reached at 571-372-6099, or mark.gomersall@osd.mil.


Richard Ginman
Director, Defense Procurement
and Acquisition Policy