GCA REPORT

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NEW DEVELOPMENTS

Administration Withdraws Rule Changes on Travel and Relocation Costs

Less than two weeks before it was about to issue a new rule that would allow "reasonable" travel and relocation costs on government contracts, the administration decided to delay issuing the changes in the face of pressure from government employee groups and lawmakers. The proposed rule would have substituted the requirements to follow federal travel regulation per diem rates and the various requirements of the relocation cost principle with rules of "reasonableness". Before issuance, five senators criticized the government-wide rule for allowing federal contractors to be reimbursed "significantly in excess" of those available to federal workers. The American Federation of Government Employees issued more criticism calling the proposal "a naked grab" at the Treasury by "pro-contractor elements" in the Clinton Administration. The Defense Contract Audit Agency also contributed to the opposition stating the change would result in $130 million in increased contractor relocation reimbursement.

Proposal on Multiple Award Contracts

Responding to considerable criticism that award of multiple award contracts (1) do not necessarily generate any business in spite of often significant up-front investment and (2) lack of competition for task orders is common, the FAR Council is proposing a new government-wide rule. Addressing poor estimates on quantity needed and low minimum orders, the contracting officer is to establish a reasonable maximum quantity to order using such techniques as market research, trends on similar contracts, surveys of users, etc. The CO will also be instructed to set a minimum quantity to order that is to be more than the current nominal quantity now commonly used. To enhance competition for individual orders, each awardee is to have a fair opportunity to be considered for task orders exceeding $2,500. The CO may still exercise broad discretion in developing appropriate procedures to ensure fair competition but must discontinue using "preferred awardees", devise selection procedures that would ensure fair consideration for all contractors holding a MAC, state those procedures in the solicitation and must consider price or cost under each order.

Decision Made on Deferred IR&D Costs

Reversing an earlier decision to eliminate the "Deferred R&D" cost principle, the FAR Council is proposing a new rule intended to "clarify and simplify" it. FAR 31.205-48 currently bars contractors from recovering research and development costs (including capitalized amounts) incurred before the award of a particular contract unless it is otherwise an allowable precontract cost. The cost principle also prohibits contractors from allocating to any contract costs that exceed the price of a fixed price contract or grant. The FAR Council was going to eliminate it because they thought the precontract cost principle (FAR 31.205-32) covered those aspects related to precontract costs and the excess over price was covered by the "losses on other contracts" cost principle (FAR 31.205-23). The new decision eliminates references to the precontract cost because it does cover those aspects but the excess over price provision stays since it is now viewed as quite different than a loss on a contract.

The cost principle was developed to counter prior cases that ruled R&D costs incurred over and above a fixed price R&D contract could be allocated to future contracts. Several cases reasoned there were costs that exceeded fixed price contracts or grants that were not "losses" but were incurred costs that were reasonably expected to lead to future profitable production contracts. The cases ruled that as long as they were genuinely incurred on R&D projects and were capitalized to be written off over subsequent periods they should be allocable and allowable on future contracts. Regulators disagreed and thought such costs should be unallowable and explicitly added in the R&D cost principle "when costs are incurred in excess of either the price of a contract or amount of a grant for research and development effort, such excess may not be allocated as a cost to any other Government contract." The FAR

Council fears that eliminating this sentence would allow contractors to recover these costs since the Courts have ruled that costs in excess of contract or grant prices do not represent losses.

DCAA Issues Guidance on Review of Other Transactions Expenses

(Editor's Notes. We have often reported on Other Transactions and how they are becoming a more frequently used vehicle to bring in new participating companies to develop new technologies for government and commercial use. To encourage more commercial firms to participate, Other Transactions are designed to significantly reduce the procurement and accounting requirements normally imposed on those receiving government funds. Our firm has participated in some of these highly successful ventures as independent reviewers and we strongly recommend that government audit agencies such as DCAA not be asked to audit participants since such action will certainly discourage extensive participation.)

The Defense Contract Audit Agency issued new guidance to its auditors in February on evaluating "other transaction agreements" (OTA) used by the Defense Department for its research and prototyping projects even though OTAs are not subject to normal government accounting and auditing requirements. The new DCAA guidance, which is the fourth memorandum in the last two years, supersedes previous guidance and includes an enclosure for performing agreed-upon procedures to evaluate OTAs.

OTAs are procurement instruments defined as "transactions other than contracts, cooperative agreements and grants" and are being used throughout government. They are typically cost sharing arrangements where contractors contribute some of the costs ("in-kind contributions") and government pays the participant some share of costs (typically 50/50). Agreed-upon procedures are evaluations of limited information such as verification of labor rates or invoices and auditors typically disclaim audit opinions. Highlights of the guidance are:

1. Auditors should verify the portion of costs claimed by participants include only costs incurred after the date of the OTA.

2. In-kind contributions can also include such items as real property, equipment, supplies and other property. Auditors are asked to evaluate the value of in-kind contributions and determine if they are reasonable and allowable.

3. If the contractor accounts for the OTA as an independent research and development project (which is quite common), costs allocated to government contracts must comply with allowability provisions of FAR and DFAR such as FAR 31.205-18, "IR&D and bid and proposal costs." The guidance goes further and states though OTAs are not subject to cost accounting standards, if the IR&D costs associated with the OTA are included in an overhead or G&A pool, then allocation to other government contracts must follow CAS standards such as 418 and 402.

4. When an OTA is awarded to a contractor currently doing substantial business with the government, the auditor should determine if the incurred costs are accounted for using established accounting practices. Though OTAs are not subject to normal government accounting requirements but only need to comply with generally accepted accounting principles (GAAP), DCAA warns that GAAP provides little guidance on government contract accounting, especially on cost allocation.

5. OTA billings are typically based on incurred costs or payable milestones. The auditor is to confirm the milestone was accomplished and sometimes they are subject to adjustment based on actual costs incurred. In such cases as well as billings based on incurred costs, the auditor is to compare billed costs to incurred costs for each milestone as well as compare total billed costs to total incurred costs.

CAS Board Implements CAS Coverage Changes

The Cost Accounting Standards Board issued an interim rule implementing the changes made by the FY 2000 Defense Authorization Act. The rule applies government-wide and:

- Doubles the threshold for full CAS coverage from $25 million to $50 million
- Exempts contractors from CAS coverage unless they receive a single $7.5 million "trigger" contract
- Exempts firm fixed price contracts awarded on the basis of adequate competition without submission of certified cost or pricing data and
- Allows agencies to waive CAS applicability to contact values at less than $15 million with companies who sell primarily commercial items or to higher value contracts when necessary to meet agency needs.

Industry Puts Forth Its Wish List

A consortium of industry groups has sent its legislative package to Congress. Though we usually report on rule changes and proposals, we thought our readers would be interested in the priorities industry will be pushing

for this year especially since various government agencies have voiced support for them at various times. Some include:

1. Contract Types. Authorize use of additional contract types such as time-and-material and labor-hour contracts in commercial item acquisitions.

2. Commercial Services. Expand the current pilot program of eliminating barriers to the sale of commercial services that are not in direct support of commercial items.

3. Defective Pricing. Eliminate all defective pricing remedies in contracts for commercial items.

4. Domestic Source for Commercial Items. Exempt commercial items from all domestic source product preferences and source restrictions.

5. Multiyear Contract Authority. Stabilize funding by repealing statutes impeding multiyear contracting authority, extending the 5 year limit of multiyear contracting for goods and services to 10 years and eliminate continued annual authorization or funding requirements by granting multiyear program authority.

6. Organization Conflict of Interest. Limit instances of where COI apply, assert a preference for mitigation over divestment, encourage COs to address COI issues early in the procurement and provide a mechanism for contractors to appeal CO decisions.

BRIEFLY…

DFAS to Reject Invoices Not Compliant with Electronic Funds Transfer Rules

Defense Comptroller William Lynn is dissatisfied with the Defense Department's failure to pay contractors and vendors via Electronic Funds Transfer and has ordered the Defense Finance and Accounting Services to return contracts and invoices that are not compliant with EFT rules. In order to implement the EFT requirements of the Debt Collection Improvement Act of 1996, DOD developed EFT clauses and mandated contractors register in the Central Contractor Registration database. Now, when the EFT clause is missing or the contractor has not complied with CCR, DFAS is instructed to return the invoice back to the buying agency to amend the contract and/or have the contractor register.

Property Rule Finally Proposed

A long awaited government-wide rule intended to make it easier for contractors to manage government property entrusted to them has been put forth. The proposed rule will give contractors the option of managing government property under a "standard process based system" or using the same practices they use on their own property. They can use either system at a particular site. If they use their own system the new rule will impose increased liability for property loss, damage or destruction costing less than $1 million. The revised rule will also (1) give contractors title to special tooling and special test equipment costing less than $5,000 (2) eliminate requirements to track, report and inventory property costing less than $5,000 (3) retain the requirement for accounting for low value property at contract end (4) eliminate most facilities clauses while creating one clause covering fixed price and cost type contracts and (5) make it easier for contractors to use government property from one contract to another.

DOE Plans to Scrap its Cost Principles

The Energy Department March 13 proposed to eliminate most of the cost principles contained in the Department of Energy Acquisition Regulations (DEARs) because they largely duplicate those found in the government-wide Federal Acquisition Regulation.

DOD Suspends SDB Price Adjustment for One Year

Effective February 24, use of the price evaluation adjustment for small disadvantaged businesses have been lifted for all DOD contracting activities for one year. DOD is prohibited from using price adjustments as a tool to award more SDBs when it has achieved its 5 percent goal for contracting with SDBs. In FY 1999, 6 percent of DOD's prime contract dollars and 5.7 percent of its subcontract dollars went to SDBs.

CASES/DECISIONS

Low Bid Based on Actual Not Potential Orders

The FBI asked for separate bids on base work and three additive items. Award was to be made to the lowest responsible bidder and the FBI reserved the right to order all, some or none of the additive work. Tompkins Co. submitted the lowest total bid (including all additive items). Because of funding restrictions, the FBI ordered only the base and one additive item. Grimberg protested pointing out it submitted the lowest bid for the work actually ordered.

The GAO sided with Grimberg, stating the low bid is determined by the actual work ordered by the

government not on items that could be ordered if there was not a funding limit (John C. Grimber Co. GAO B-284013).

Award on Price is OK when Technical Ratings are Equal

(Editor's Note. Though solicitations often tout the importance of technical capabilities, best value and past performance over low price, most contractors express the opinion that price is key especially in highly competitive industries where many companies have a high level of technical competence resulting in equal technical ratings. The following case illustrates the truth of this opinion.)

NASA sought quotes for commercially available liquid oxygen and liquid nitrogen in an indefinite delivery, indefinite quantity contract where the cited evaluation factors in order of importance were technical capability, price and past performance. The CO found the quotes technically equal and made the selection based on price. When an offeror protested, the GAO denied the protest stating that just because the solicitation emphasized technical merit over price, it did not preclude making award to the lower-priced firm, all other things being equal (MG Industries, GAO, B-283010.3).

"Benefit to Contract" Not Customer is Criteria of Allowability

(Editor's Note. The following case is in marked contract to the Northrup case we have been reporting on in recent issues of the GCA REPORT and GCA DIGEST. In that case, the government ruled G&A legal cost in defending a wrongful dismissal was unallowable because "the government did not benefit". The following case makes clear the criteria should be "benefit to the cost objective", usually the contract, and not to the "customer.")

The contractor claimed legal costs for defending a case against a subcontractor who was terminated for default. The government argued the contractor should not be able to recover the costs because (1) it was solely responsible for the subcontractor's defective performances and (2) the government neither contributed to the subcontractor's non-conforming performance nor benefited from the subcontractor's defective work.

The Appeals Board disagreed with the government, asserting the litigation indisputably involved contract work performed under the contract and therefore the costs were allocable to the contract. Also, it was reasonable for the contractor to defend itself when a contractor's performance is nonconforming. Interestingly, the Board did not discuss the Northrup case but instead relied on *Jana Inc.* which held legal fees incurred by an awardee in defending against a bid protest were reasonable, allocable to the contract and not prohibited under the then current cost principles (protest costs are now unallowable). In Jana, the board rejected the government's argument that expenditures did not benefit contract work (Information Systems and Networks, Corp., ASBCA No. 42659).

Can't Challenge Past Performance Information On Award Without Discussion

(Editor's Note. Does a contractor have a right to clarify or challenge adverse past performance data in an award without discussion? It is these types of decisions that clarify the practical meaning of recent changes to the FAR Part 15.)

Though its price was higher, an award was made without discussion to an offeror who had a past performance rating of "excellent" versus the lower price protester's bid who had a "very good" past performance rating. The protester argued it should have had a chance to address past performance information submitted by a reference which had rated it as "marginal" thereby contributing to the lower rating. The government claimed it had no clear basis to question the validity of the past performance information it had and concluded it was justified in paying the higher price for the higher rated past performance.

FAR 31.306(a)(2) states where a contract will be awarded without discussion, offerors may be given an opportunity to clarify certain aspects of proposals or resolve minor errors. The regulation gives the contracting officer broad discretion in whether to seek clarifications from a particular offeror. The GAO concluded the CO reasonably exercised his discretion in not communicating with the protester. The fact the protester may have wanted to respond to the information does not give rise to the requirement that it be allowed to do so. The GAO further stated where awards are to be made without discussions, a protester's right to clarify adverse past performance information submitted by a reference is limited to those instances where there are questions about its validity (A.G. Cullen Construction Inc., GAO B-284049).

Government Can Terminate an ID/IQ Contract Without Ordering Minimum

The government terminated an indefinite delivery, indefinite quantity (ID/IQ) contract without ordering the guaranteed minimum quantity. The contractor sought $233,000 representing anticipated profit on the

contract reasoning the government's attempt to terminate the contract for convenience before buying the minimum amount is improper because it makes the contract "illusory". The Board agreed that an IDIQ contract must contain some consideration in the form of a minimum guarantee to avoid being illusory but ruled for the government saying the government's authority to terminate a contract for convenience must prevail. They concluded a valid contract was formed and hence the CO had a right to terminate for convenience prior to purchasing a minimum absent bad faith or abuse of discretion (Montana Refining Co., ASBCA No. 50515).

Fax Transmission Report Insufficient to Prove Receipt of Proposal

(Editor's Note. Many companies use copies of their fax transmissions report as "proof" for many things. As the following shows, such proof is not sufficient for establishing time for receipt of a proposal.)

Contending it submitted the lowest quote, the contractor protested a purchase order and produced a copy of its quote along with a transmission report from its fax machine confirming a transmission had been made to the buyer. The buyer denied ever receiving the quote.

The Comp. Gen. denied the protest because the fax transmission report was inadequate to prove the agency actually received it. The decision stated vendors have a duty to ensure appropriate offices receive their quotes and vendors relying on a fax "assume the risk of non-receipt by the agency". The Comp. Gen. said such reports are generally insufficient to prove the government received the fax because the record can be "created or altered to support the protestor's contention."

Comments on the case indicate that to prove receipt of the document, the protester must establish actual receipt by the government rather than mere transmission to the government. To prove actual receipt, they may be required to produce actual documents confirming transmission was made and received by the government (e.g. agency log, actual time stamp on the received document) (W&W Logistics, Comp. Gen. Dec. B-283998).

Unauthorized Representative Does Not Bind Government

(Editor's Note. Authority of government representatives is receiving a lot of attention these days in the light of several cases. The courts have ruled the government is not bound by agreements made by unauthorized government employees even where the employees appeared to have the authority to execute the contract. The doctrine of "apparent authority" in the commercial world does not apply to contracts with the government and hence contractors assume the risk of ascertaining who has actual authority. The government will be bound by an unauthorized agreement if it "institutionally ratifies" the unauthorized actions of its employees by accepting benefits under the contract. The following is the most recent case in this "hot" area we will look at in depth in the next issue of the GCA DIGEST).

Hawkins had long provided the US Forest Service P-2 air tankers that were equipped with reciprocating engines. When the engines were no longer manufactured, the contractor discussed with the Assistant Director of the Forest Service the idea of replacing the engines with turbine engines from surplus P-3s owned by the government where the modified plane would be called P-2Ts. The Assistant Director liked the idea and the parties verbally agreed the contractor would pay the costs of the conversion and later use the P-2Ts on future contracts. The Assistant Director helped Hawkins obtain two P-3s and even paid for their transport to the contractor's facility but when the government did not furnish any additional aircraft and title for the two P-3s was not passed, the contractor alleged the failure to transfer title breached the agreement and sought $1.5 million for R&D costs and lost profit.

The contractor alleged it had an express agreement with the Forest Service to develop the P-2T and the Forest Service breached the agreement by failing to transfer title to the P-3s. Hawkins further stated it, at least, had an implied-in-fact contract and even if the Assistant Director was not authorized to enter into an agreement, the Forest Service later ratified the contract by paying the contractor to ferry the P-3s to its plant.

The Court rejected the contractor's argument stating the contractor had the burden of establishing the Assistant Director had actual authority to bind the government. Even if he appeared to have authority, the alleged contract could not be enforced because a government employee with mere apparent authority cannot contractually bind the government. Further, the Court rejected the contractor's claim that "institutional ratification" had occurred noting the agreement was not to transport airplanes but instead was to develop the P-2T using Government surplus turbine engines. The payment to the contractor to transport the engines did not evidence partial performance by the government and hence did not ratify the contract (Hawkins & Power Aviation, Inc. v. U.S. 2000 WL 2943.93).

SMALL & NEW CONTRACTORS

Past Performance Evaluations and Appropriate Strategies – Part Two

Contractors' past performance has become the single most important non-price evaluation factor in award decisions. In the last issue, we discussed some of the recent regulatory changes to past performance evaluations. In this issue, we will address where challenges are and are not effective and some strategies to take to obtain the best evaluations. We have relied on numerous articles for this series and our own experience and are particularly grateful to an article in the September 1999 issue of Briefing Papers by Joseph West and Robert Wagman of the law firm of Arnold & Porter.

In general, case law in this new area indicates there is very limited opportunity to reverse award decisions based upon faulty consideration of past performance information (PPI) short of gross negligence or bad faith.

Confusion of Past Performance, Experience and Responsibility

These three terms are often blurred and hence misused in the source selection process. There are different opportunities to challenge evaluations of these three items when contractors believe the information is incorrect and they have been adversely affected. *Experience* is objective and straightforward – how long has a company produced a product or performed a service, how many contracts has it performed and what are their value. Experience reflects whether the contractor has performed while *past performance* reflects how well it has done. Experience is fixed and does not vary from one solicitation to another while past performance evaluation can and does vary significantly from one solicitation to another. *Responsibility* determinations are intended to address threshold questions of whether a contractor has the capability to perform. Responsibility evaluations often determine whether an offeror meets the "first cut" and can be considered in the competitive range after which past performance considerations are used to compare the responsible parties.

Experience determinations are straightforward and can be corrected with factual data. For determinations of responsibility, recent case law places a higher standard of scrutiny than for past performance. For example, decisions based on adverse findings of responsibility have been reversed when a satisfactory report was misreported as "unsatisfactory", projects were erroneously considered incomplete because information was not put into the database or negative comments by verbal reports did not coincide with written SF 1420 evaluations. For award decisions based on past performance, the GAO has denied protest rulings that decisions are valid based on the agency's reasonable perception at the time even though information was deemed incomplete. In addition, once an agency receives PPI from someone with specific knowledge about the prior contract, the GAO has stated there is no further obligation to verify information.

Reasonableness of Evaluation

When evaluating an offeror's past performance, the buying agency must consider the relevance and currency of the PPI, its source and context and general trends in their performance. While the agency has great discretion to determine the relevance of PPI it must be reasonable and consistent with the evaluation factors stated in the solicitation. On balance, the GAO has sustained agency decisions when it was determined their decision was reasonable.

- **Relevance**

The relevance of PPI is litigated more often than any other aspect because there is no express definition of "relevance". The DOD guide suggests it "has a logical connection with the matter under consideration and applicable time span". The agency's discretion to determine what PPI is relevant allows it to limit what information is considered and how it is weighed. An agency can decide a single project is the most relevant example of an offeror's past performance and even if it has the highest past performance rating on other projects the one can be his downfall. In one case, two out of 15 submitted projects were deemed relevant because they were the only federal projects and the GAO ruled the evaluation was reasonable because the solicitation did not require checking out all references listed. Other factors that have been held to be relevant include limiting projects to size and scope where, for example, the GAO ruled it was reasonable to exclude numerous smaller or less complex contracts having excellent ratings and consider only larger and greater scope projects with overall lower rating.

- **Currency**

Though there are no specific requirements or guidelines, agencies often adjust the weight given to prior contracts

based on age. This practice has been deemed reasonable in numerous decisions where both good and bad performances were given greater weight because they were on more recent projects.

There is confusion over the FAR 42.15 provision that PPI should not be retained longer than three years after completion of contract performance. First, the limitation applies only to passive PPI and does not limit a procuring agency during source selection to consider past performance of PPI they obtain from other sources. Also, information older than three years can be used on multiyear contracts where the PPI reflected work performed five years ago but the contract was completed less than three years ago.

- **PPI of Subcontractors and Affiliates**

The FAR provides an agency's past performance evaluation "should" take into account an offeror's predecessor companies, key personnel and subcontractors having a major role in performance. The GAO has held in several cases an agency is free to weigh the relevance of the performance history. For example, the GAO has upheld agency decisions that held subcontractors' PPI (1) should be ignored because they were given minimal work (2) should be given credit even if the subcontractor was not a participant in the current proposal because the prime is responsible for its subcontractor's performance or (3) should be grounds for downgrading the proposal because the offerer was relying too much on a proposed subcontractor.

Unreasonable Evaluation

There have been some successful challenges based on reasonableness. For example (1) when a reevaluation of project performance followed a protestor's explanation still did not result in being included in the competitive range, the GAO held the decision was unreasonable when compared to other offerors' that were in the competitive range (2) there was no reasonable basis to give an offeror "0" out of "10" with no comments to substantiate the evaluation, especially when it had been rated "excellent" by the agency a month earlier (3) on a DOE contract where the incumbent was involved in the exact same type of service that was being procured and the protester's proposal contained 15 pages of information about the work, the GAO held that while there is no requirement to consider all past projects, it was patently unfair not to consider the information so close at hand and (4) when the CO asked for a history of claims and it was clear the ratings were downgraded because of a history of submitting claims, the CO's decision to downgrade the contractor for "non-cooperation" and lack of "responsiveness" was considered unreasonable.

Contractor Strategies

It is quite frustrating to see the inconsistencies in agencies' use of PPI as an evaluation factor. For example, when they follow the DOD-recommended evaluation scale where complete contract compliance merits only a mid-point rating firms must consistently perform more than a contract's minimum requirements to obtain a high score. Thus, contractors need to know what an agency actually wants as opposed to what is in the solicitation when making a decision of how to compete for work. If a contractor proposes a "Cadillac" solution to obtain a higher technical rating that is beyond the minimum "Chevy" requirements, it could end up getting an average past performance since proposed solutions are often incorporated into the contract. To receive a higher rating it needs to deliver "Rolls Royce" performance whereas if it proposed the "Chevy" solution it is more likely to receive a higher past performance rating but runs the risk of receiving a lower technical rating and not winning the contract in the first place.

Pricing these contracts is likely to become more art than science. Contractors will need to guess what actually must be provided to obtain a superior PP evaluation yet they still must make sure their prices are competitive. It becomes more complicated because competing firms may have a different idea about what an agency wants. Or, another company may choose to sacrifice profit (or even take a loss) on a contract and deliver way beyond what is promised to receive the highest possible rating to obtain later procurements. This, of course, could backfire by a source selection official deciding the loss contract was not relevant.

Mr. West and Mr. Wagman have suggested some sound recommendations:

1. When developing a proposal strategy, assess your ability to meet and exceed contract requirements. Balance your proposal against short and long term needs.

2. Before starting performance, establish with the CO what specific factors will be considered for evaluation. Try to learn what is expected to achieve a superior rating.

3. Track performance specifically against the identified factors during the course of the contract. Hold regular meeting with the CO and do not wait until the end of the year or the end of the contract to begin a dialogue.

4. On large contracts with multiple end users follow up directly with them as well as the CO to get feedback and suggestions for improvements. This will

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demonstrate a commitment to customer service (a critical element of PPI) and establish a record to base an evaluation.

5. Regularly check any PPI about your organization that is maintained in a government database. Confirm all information is accurate and current and that all comments to a report you have submitted are included.

6. Before submitting a proposal make sure to contact your references and inform them they are being listed in your proposal. This will increase the probability the references will respond to agency questions and your prior performance will be considered.

7. Maintain a PPI log that will include in one place all performance evaluations (both interim and final) that you have received and any responses you have submitted. Be prepared to submit a copy of this to an agency if there is any disagreement. This log will establish all the PPI of which you are aware and on which you have commented on.

8. Be aware of potential subcontractors' and teaming partners' past performance history and consider these effects on your proposal.

9. When negotiating a settlement of claims, make sure to include past performance ratings as a factor of any settlement.

QUESTIONS & ANSWERS

Q. In your article on Accounting for Long Term Contracts in the recent issue of GCA DIGEST, you identify a book entitled "Accounting for Government Contracts – Federal Acquisition Regulation" edited by Lane Anderson. Where can I find it? (We have more inquiries on this than anything else we can remember)

A. The book is the best reference we know of on government costing and pricing issues and also includes some great stuff on contracts. It is quite thorough for the government specialist yet is written sufficiently clear for the generalist. It is updated a few times a year. Mathew Bender is the publisher and you have to buy it through them at (800) 223-9844 or (800) 223-1940. There is another book called "Accounting for Government Contracts – Cost Accounting Standards" that is also excellent.

Q. To save on per diem and provide nice accommodations we rent a condominium for $1,200 per month at a location we frequently go to. How do we figure the per diem rate for reimbursement and proposal purposes? (Though we have received similar questions in the past the stimulus for this was from a question we encountered in the Contract Pricing Advisor).

A. For long term lodging, you divide the total condominium cost (rent, utilities, maintenance, etc.) by the number of days of occupancy for the employee on travel status. If more than one employee resides at any one time, divide the cost by number of employee days (two employee staying two days would be four employee days). The daily cost cannot exceed the per diem lodging costs in the federal travel regulations.

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