



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
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IN REPLY
REFER TO

JAN 29 2002

J-33
PROCLTR 02-02

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: Implementation of FAR Economic Price Adjustment (EPA) Clauses (Defense Logistics Acquisition Directive (DLAD) 15.204-2(b), 16.203-3 and -4, and 52.216-9000 through -9002)

The purpose of this PROCLTR is to disseminate new DLAD clauses, prescriptions and Schedule Notes. The clauses are for use as deemed appropriate by contracting officers in conjunction with the FAR EPA clauses, i.e., for Standard Supplies, Semistandard Supplies, and for Labor and Material (FAR 52.216-2, -3 and -4 respectively). It is expected that provision of these implementation clauses will facilitate greater use of the FAR EPA clauses by eliminating the need in certain instances for development and approval of a new EPA.

This PROCLTR is effective immediately and expires upon incorporation into the DLAD. The point of contact for this PROCLTR is Mr. Jerry Gilbert at (703) 767-1350 (DSN 427). He may also be reached via email at jerry_gilbert@hq.dla.mil.

CLAUDIA S. KNOTT
Executive Director
Logistics Policy and Acquisition Management

Attachment



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PART 15

CONTRACTING BY NEGOTIATION

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15.204 Contract format.

15.204-2 Part I--The Schedule.

(b) Section B Supplies or services and prices/costs.

(90) Guidance at 14.201-2(b) (90) also applies to Requests for Proposals (RFPs) and Requests for Quotations (RFQs).

(91) *When clause 52.216-9002 (or substantially the same clause) is used with FAR clause 52.216-4, include a note in Section B that essentially states "The rate of pay for labor and/or unit prices for materials the offeror is to record in the Schedule in submitting its offer (as specified in the economic price adjustment clause of this contract (FAR clause 52.216-4)), shall instead be recorded in clause 52.216-9002 (See Section I)."*

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PART 16

TYPES OF CONTRACTS

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16.203-3 Limitations.

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(92) When the contracting officer determines that no existing FAR EPA clause (including a FAR EPA used in conjunction with the corresponding FAR EPA "Implementation" DLAD clause (see 16.203-4(a) (1) (90), -4(b) (1) (90), and -4(c) (1) (90)), no DFARS EPA clause and no locally-developed/DLA approved clause satisfies the need for an EPA clause, a new EPA clause may be developed in accordance with FAR 16.203-4, DFARS 216.203-4-70, and this section.

(93) Prior to issuance of a solicitation containing a new EPA or revision to an existing EPA clause, the contracting officer shall submit it to the local policy office for review and approval. All new EPA clauses and revisions to existing EPA clauses shall be forwarded to HQ DLA, ATTN: J-337, for review and approval, along with identification of any options and other EPA to be included. This DLA approval requirement also applies to acquisitions of commercial items. However, it does not apply to a minor, incidental revision to correct or update an existing (HQ DLA-approved, locally-developed) EPA clause, provided that a copy of the revised clause is furnished to J-337 at the time of decision to include it in the solicitation; nor to use of a FAR EPA "Implementation" DLA clause.

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16.203-4 Contract clauses.

(90) When the contracting officer determines that no existing EPA clause (including a FAR clause used in conjunction with the corresponding FAR EPA "Implementation" DLAD clause (see (a) (1) (90), (b) (1) (90) and (c) (1) (90) below) is appropriate, the contracting officer may develop and use a modification to an existing EPA clause, or a new clause, in accordance with 16.203-1(a) (90) or (c) (90). Established prices and cost indexes need not reflect changes in the costs or established prices of a specific contractor. The established price or cost index may be derived from sales prices in the marketplace, quotes, or assessments as reported or made available in a consistent manner in a publication, electronic database, or other form, by an independent trade association, Governmental body, or other third party independent of the contractor. More than one established price or cost index may be combined in a formula for economic price adjustment purposes in the absence of an appropriate single price or cost index upon approval pursuant to 16.203-3(91). (DAR Tracking Number 95-D0003, FARS DEV 96-10)

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(a) Adjustments based on established prices--standard supplies.

(1) (90) The clause at 52.216-9000 (or substantially the same clause) may be used with FAR clause 52.216-2.

(b) Adjustments based on established prices--semistandard supplies.

(1) (90) The clause at 52.216-9001 (or substantially the same clause) may be used with FAR clause 52.216-3.

(c) Adjustments based on actual cost of labor or material.

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(1) (90) The clause at 52.216-9002 (or substantially the same clause) may be used with FAR clause 52.216-4.

(3) (90) When the FAR "Implementation" DLAD clause is also used (along with the note specified at 15.204-2(b)(91)), the contracting officer shall include the required information in such clause vice the contract Schedule.

(4) (iii) (90) When the FAR "Implementation" DLAD clause is also used (along with the note specified at 15.204-2(b)(91)), the contracting officer shall include the required information in such clause vice the contract Schedule.

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PART 52

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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52.216-9000 Implementation of FAR 52.216-2 Economic Price Adjustment--Standard Supplies.

Pursuant to 16.203-4(a)(90), insert a clause that is substantially the same as the following clause:

IMPLEMENTATION OF FAR 52.216-2 ECONOMIC PRICE ADJUSTMENT - STANDARD SUPPLIES (JAN 2002) - DLAD

(a) Economic price adjustment (EPA) pursuant to the clause of this contract entitled ECONOMIC PRICE ADJUSTMENT-STANDARD SUPPLIES (FAR 52.216-2), shall be determined as implemented herein.

(b) EPA is limited to changes in the established price for the Contract Line Item Number (CLIN) listed below. The offeror shall report the item name, its part number and current established price (as defined in paragraph (a) of the aforementioned EPA clause), its unit of measure and FOB location, shall identify the name, source and date of the document containing such price, and shall attach to its offer, a copy of the pages from such document identifying the item and its price:

(Note 1)

(c) In the event the price cited in (b) is an established market price which the contracting officer determines consistently and substantially fails to reflect market conditions, the contracting officer may modify the contract to specify use of an appropriate substitute market price, effective on the date such market price specified in the contract begins to consistently and substantially fail to reflect market conditions.

(d) The Contractor shall include with the final invoice, a statement that the Contractor has not experienced a decrease in the unit price for the item listed herein, or a statement that it has given notice of all such decreases in compliance with the EPA clause.

(End of clause)

Note 1: The contracting officer shall list the CLIN to be subject to EPA, provide for offeror fill-in of its item name, part number, current cost, unit of measure and FOB location for such item, and for the name, source and date of the document containing such price.

52.216-9001 Implementation of FAR 52.216-3 Economic Price Adjustment--Semistandard Supplies.

Pursuant to 16.203-4(b) (90), insert a clause that is substantially the same as the following clause:

IMPLEMENTATION OF FAR 52.216-3 ECONOMIC PRICE ADJUSTMENT - SEMISTANDARD SUPPLIES (JAN 2002) - DLAD

(a) Economic price adjustment (EPA) pursuant to the clause of this contract entitled ECONOMIC PRICE ADJUSTMENT--SEMISTANDARD SUPPLIES (FAR 52.216-3), shall be determined as implemented herein.

(b) EPA is limited to changes in the established price for the Contract Line Item Number (CLIN) listed below. The offeror shall report the item name, its part number and current established price (as defined in paragraph (a) of the aforementioned EPA clause), its unit of measure and FOB location, shall identify the name, source and date of the document containing such price, and shall attach to its offer, a copy of the pages from such document identifying the item and its price:

(Note 1)

(c) In the event the price cited in (b) is an established market price which the contracting officer determines consistently and substantially fails to reflect market conditions, the contracting officer may modify the contract to specify use of an appropriate substitute market price, effective on the date such market price specified in the contract begins to consistently and substantially fail to reflect market conditions.

(d) The Contractor shall include with the final invoice, a statement that the Contractor has not experienced a decrease in the unit price for the item listed herein, or a statement that it has given notice of all such decreases in compliance with the EPA clause.

(End of clause)

Note 1: The contracting officer shall list the CLIN to be subject to EPA, provide for offeror fill-in of its item name, part number, current cost, unit of measure and FOB location for such item, and for the name, source and date of the document containing such price.

52.216-9002 Implementation of FAR 52.216-4 Economic Price Adjustment--Labor and Material.

Pursuant to 16.203-4(c) (90), insert a clause that is substantially the same as the following clause:

IMPLEMENTATION OF FAR 52.216-4 ECONOMIC PRICE ADJUSTMENT - LABOR AND MATERIAL (JAN 2002) - DLAD

(a) Economic price adjustment (EPA) pursuant to the clause of this contract entitled ECONOMIC PRICE ADJUSTMENT--LABOR AND MATERIAL (FAR 52.216-4), shall be determined as implemented herein.

(b) EPA is limited to changes in the contractor's cost relative to the labor category or item of material and the related Contract Line Item Number (CLIN) listed below. The offeror shall list its current cost per unit of labor and/or materials for such item, shall identify the name, source and date of the document containing such cost, and shall attach to its offer, a copy of the pages from such document identifying the item and its cost:

(Note 1)

(c) EPA for the specified cost element relative to each Contract Line Item Number (CLIN) shall be calculated as follows:

(Note 2)

(d) The Contractor shall include with the final invoice, a statement that the Contractor has not experienced a decrease in the unit price for the item listed herein, or a statement that it has given notice of all such decreases in compliance with the EPA clause.

(End of clause)

Note 1: For the item to be subject to price adjustment, the contracting officer shall list the CLIN, the specific labor category or item of raw material, purchased part, etc. to be subject to EPA, provide for offeror fill-in of its current cost and unit of measure for such category/item, and for the name, source and date of the document containing such cost.

Note 2: The contracting officer shall identify the quantity and cost (or the dollar percentage) of the item listed in paragraph (b) that is included in CLIN price, along with an explicit description of how an increase, and how a decrease, in such item cost shall be used in calculating any EPA to the CLIN unit price. A sample calculation may be included if deemed beneficial.