Subpart 43.2 - Change Orders

Parent topic: Part 43 - Contract Modifications

43.201 General.

(a) Generally, Government contracts contain a changes clause that permits the *contracting officer* to make unilateral changes, in designated areas, within the general scope of the contract. These are accomplished by issuing written *change orders* on Standard Form 30, Amendment of *Solicitation*/Modification of Contract (SF 30), unless otherwise provided (see 43.301).

(b) The contractor *must* continue performance of the contract as changed, except that in cost-reimbursement or incrementally funded contracts the contractor is not obligated to continue performance or incur costs beyond the limits established in the Limitation of Cost or Limitation of Funds clause (see 32.706-2).

(c) The *contracting officer may* issue a *change order* by electronic means without a SF 30 under unusual or urgent circumstances, *provided* that the message contains substantially the information required by the SF 30 and immediate action is taken to issue the SF 30.

43.202 Authority to issue change orders.

Change orders shall be issued by the *contracting officer* except when authority is delegated to an administrative *contracting officer* (see 42.202(c)).

43.203 Change order accounting procedures.

(a) Contractors' accounting systems are seldom designed to segregate the costs of performing changed work. Therefore, before prospective contractors submit *offers*, the *contracting officer should* advise them of the possible need to revise their accounting procedures to comply with the cost segregation requirements of the *Change Order* Accounting clause at 52.243-6.

(b) The following categories of *direct costs* normally are segregable and accountable under the terms of the *Change Order* Accounting clause:

(1) Nonrecurring costs (*e.g.,* engineering costs and costs of obsolete or reperformed work).

(2) Costs of added distinct work caused by the *change order* (*e.g.,* new subcontract work, new prototypes, or new retrofit or backfit kits).

(3) Costs of recurring work (*e.g.,* labor and material costs).

43.204 Administration.

(a) *Change order documentation.* When *change orders* are not forward priced, they require two documents: the *change order* and a *supplemental agreement* reflecting the resulting equitable adjustment in contract terms. If an equitable adjustment in the contract price or delivery terms or both can be agreed upon in advance, only a *supplemental agreement* need be issued, but administrative changes and changes issued pursuant to a clause giving the Government a unilateral right to make a change (*e.g.,* an *option* clause) initially require only one document.

(b) *Definitization.*

(1)

(i) *Contracting officers shall* negotiate equitable adjustments resulting from *change orders* in the shortest practicable time.

(ii) Agencies *shall*, in accordance with agency procedures, record and maintain data regarding the time required to definitize equitable adjustments associated with *change orders* for *construction*. The definitization of an equitable adjustment begins upon receipt of an adequate *change order* definitization proposal by the *contracting officer*, and ends upon the *contracting officer*'s execution of a contractual action to definitize the *change order*. The *contracting officer shall* ensure the data is recorded promptly in accordance with agency procedures. See 36.211(b).

(2) Administrative *contracting officers* negotiating equitable adjustments by delegation under 42.302(b)(1), *shall* obtain the *contracting officer*'s concurrence before adjusting the contract delivery schedule.

(3) *Contracting offices* and *contract administration offices*, as appropriate, *shall* establish suspense systems adequate to ensure accurate identification and prompt definitization of unpriced *change orders*.

(4) The *contracting officer shall* ensure that a cost analysis is made, if appropriate, under 15.404-1(c) and *shall* consider the contractor's segregable costs of the change, if available. If additional funds are required as a result of the change, the *contracting officer shall* secure the funds before making any adjustment to the contract.

(5) When the *contracting officer* requires a field *pricing* review of requests for equitable adjustment, the *contracting officer shall* provide a list of any significant contract events which *may* aid in the analysis of the request. This list *should* include-

(i) Date and dollar amount of contract award and/or modification;

(ii) Date of submission of initial contract proposal and dollar amount;

(iii) Date of alleged delays or disruptions;

(iv) Performance dates as scheduled at date of award and/or modification;

(v) Actual performance dates;

(vi) Date entitlement to an equitable adjustment was determined or *contracting officer* decision was

rendered if applicable;

(vii) Date of certification of the request for adjustment if certification is required; and

(viii) Dates of any pertinent Government actions or other key events during contract performance which *may* have an impact on the contractor's request for equitable adjustment.

(c) *Complete and final equitable adjustments.* To avoid subsequent controversies that *may* result from a *supplemental agreement* containing an equitable adjustment as the result of a *change order*, the *contracting officer should-*

(1) Ensure that all elements of the equitable adjustment have been presented and resolved; and

(2) Include, in the *supplemental agreement*, a release similar to the following:

Contractor's Statement of Release

In consideration of the modification(s) agreed to herein as complete equitable adjustments for the Contractor's _____ (describe) _____ "proposal(s) for adjustment," the Contractor hereby releases the Government from any and all liability under this contract for further equitable adjustments attributable to such facts or circumstances giving rise to the "proposal(s) for adjustment" (except for _____).

43.205 Contract clauses.

(a)

(1) The *contracting officer shall* insert the clause at 52.243-1, Changes-Fixed-Price, in *solicitations* and contracts when a fixed-price contract for *supplies* is contemplated.

(2) If the requirement is for services, other than architect-engineer or other professional services, and no *supplies* are to be furnished, the *contracting officer shall* use the clause with its AlternateI.

(3) If the requirement is for services (other than *architect-engineer services*, transportation, or research and development) and *supplies* are to be furnished, the *contracting officer shall* use the clause with its AlternateII.

(4) If the requirement is for architect-engineer or other professional services, the *contracting officer shall* use the clause with its AlternateIII.

(5) If the requirement is for transportation services, the *contracting officer shall* use the clause with its AlternateIV.

(6) If it is desired to include the clause in *solicitations* and contracts when a research and development contract is contemplated, the *contracting officer shall* use the clause with its *Alternate* V.

(b)

(1) The *contracting officer shall* insert the clause at 52.243-2, Changes-Cost-Reimbursement, in

solicitations and contracts when a cost-reimbursement contract for *supplies* is contemplated.

(2) If the requirement is for services and no *supplies* are to be furnished, the *contracting officer shall* use the clause with its AlternateI.

(3) If the requirement is for services and *supplies* are to be furnished, the *contracting officer shall* use the clause with its AlternateII.

(4) If the requirement is for *construction*, the *contracting officer shall* use the clause with its AlternateIII.

(5) [Reserved]

(6) If it is desired to include the clause in *solicitations* and contracts when a research and development contract is contemplated, the *contracting officer shall* use the clause with its *Alternate* V.

(c) Insert the clause at 52.243-3, Changes-Time-and-Materials or Labor-Hours, in *solicitations* and contracts when a time-and-materials or labor-hour contract is contemplated. The *contracting officer may* vary the 30-*day* period in paragraph (c) of the clause according to agency procedures.

(d) The *contracting officer shall* insert the clause at 52.243-4, Changes, in *solicitations* and contracts for-

(1) Dismantling, demolition, or removal of improvements; and

(2) *Construction*, when a fixed-price contract is contemplated and the contract amount is expected to exceed the *simplified acquisition threshold*.

(e) The *contracting officer shall* insert the clause at 52.243-5, Changes and Changed Conditions, in *solicitations* and contracts for *construction*, when the contract amount is not expected to exceed the *simplified acquisition threshold*.

(f) The *contracting officer may* insert a clause, substantially the same as the clause at 52.243-6, *Change Order* Accounting, in *solicitations* and contracts for supply and research and development contracts of significant technical complexity, if numerous changes are anticipated. The clause *may* be included in *solicitations* and contracts for *construction* if deemed appropriate by the *contracting officer*.