SUBPART 17.95 – TAILORED LOGISTICS SUPPORT CONTRACTING

(Revised February 17, 2017 through PROCLTR 2017-10)

Parent topic: PART 17 – SPECIAL CONTRACTING METHODS

17.9500 Scope of subpart.

This subpart prescribes policies and procedures for soliciting offers, awarding contracts, placing orders, and post award administration under DLA's tailored logistics support contracting initiatives. Included in this category are prime vendor (PV), similar existing support arrangements known as modified prime vendor initiatives (MPV), and future initiatives that have characteristics of PV arrangements but are not considered traditional PV. TLSC initiatives are prime vendor programs for purposes of the authorities at 13.40213.402 Conditions for use.(a) to use fast payment procedures.

This subpart also discusses the management attention required throughout the life of a tailored logistics support contract. It includes a procurement note at 17.950417.9504 Post award actions and management oversight.(c) to be used when the Government relies on the contractor's purchasing system to verify that the contractor competed the items or services, or justify fair and reasonable pricing. Any deviation from this subpart must be requested in writing to the DLA Acquisition Operations Division and be approved by the SPE. Deviations may be requested on a program rather than an individual acquisition basis.

17.9501 Definitions.

"Distribution and handling fee" means the portion of the total item price listed in the catalog that is paid for stocking, handling, and delivering the item, as awarded under the contract. It does not include the cost of the actual item that the tailored logistics provider may have manufactured itself or procured from another supplier. It is expressed in fixed dollar amounts only, not in percentages, except for those prime vendor acquisitions that uses negative distribution fees to obtain discounts of off prices established under other contract vehicles (e.g. the Pharmaceutical PV program).

"Distribution and pricing agreement (DAPA)" means an agreement with a manufacturer or supplier that establishes both the selling price of a product and an affirmation from the DAPA-holder to allow contractors to distribute its products. A DAPA allows for delivery of selected products at specified prices.

"Market basket" means a representative sample of items that may be bought under the program used for price evaluation under a proposed contract action. Proposed pricing for items in the market basket is determined fair and reasonable prior to inclusion in any resulting contract. May also be referred to under other names such as "Price Evaluation List.

"National allowance pricing agreement (NAPA)" means an agreement with a manufacturer or supplier that provides discounts on a national basis. Tailored logistics support contracts require contractors to pass on these savings to the end customer.

17.9502 General.

(a) Contracting officers must consider using tailored logistics support (TLS) contracts whenever a viable commercial supply chain exists for the items and associated services being acquired.

(b) CCOs must ensure Government individuals assigned to work on or provide significant support for PV contracts complete a tailored logistics support program of instruction within one month of assuming their duties on a PV contract and complete annual refresher training.

(c) The following courses are suggested as part of a core curriculum. CCO's must tailor the suggested curriculum with training pertinent to the acquisition at hand, such as units of instruction reflective of the commodities or industries involved, standard operating procedures to be followed within a program, and specific examples of fraud schemes encountered within the contracting office.

(1) Price reasonableness and negotiation skills practicum

(2) Commercial item determination –on-line course (CLC 020)

(3) Commercial item pricing (CLC 131)

(4) Procurement fraud indicators (CLM 049)

(5) Contract pricing refresher

(6) Pricing catalogs for prime supplier programs

(7) Contract administration (including closeout, CORs and COTRs)

(8) Domestic content update and refresher (see also the DAU Course "Berry Amendment" (CLC 125)

(9) CQMPs and the acquisition review board process

(10) Contract documentation requirements

17.9503 Pricing.

(a) A PV contract or other tailored logistics support contract must comply with one of the established PV pricing models in Subpart SUBPART 15.4 – CONTRACT PRICING.

(b) *Catalog pricing*. The initial catalog of DLA approved items available for ordering under the TLSC is created at time of contract award**.**

17.9504 Post award actions and management oversight.

(a) Tailored logistics support contracts are subject to continuous and rigorous management oversight as follows:

(1) The program manager or Integrated Support Team (IST) chief (i.e., one level above the

contracting officer) for each tailored logistic support program (i.e., the team administering the program, for example, metals, MRO supplies, or special operations) must perform quarterly pricing reviews. Reviews will include a representative sample based on the total number of orders for that period. Upon completion of these reviews, the tailored logistics support program manager/IST chief must forward a report of the results, including any findings and corrective action plan, to the Director of Supplier Operations or designee for review and approval. A copy of the report must be kept as part of the contract file.

(2) Contract administration and compliance or contract review personnel at the procuring organization must perform contract audits of vendors' compliance with non-pricing contract terms on at least a semi-annual basis. A copy of the report shall be provided to the contracting officer for review and action, as necessary, and inclusion in the contract file.

(b) The DLA Acquisition Contract and Pricing Compliance Division assesses performance of selected vendors. Assessments must examine the vendor's adherence to the contract pricing methodology. Vendors are chosen for review based on risk assessment factors, including contract dollar value, previous annual audits, extent of competition, opportunities for refunds, reliance on the vendor's purchasing system, and outside agency reports. The DLA Acquisition Contract and Pricing Compliance Division must furnish a copy of the assessments to the DLA Acquisition Director.

(c) Solicitations and contracts must include procurement note C08 when a tailored logistics support contract relies on the contractor's purchasing system to verify that the contractor competed the items or services or to justify that prices are fair and reasonable.

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C08 Tailored Logistics Support Purchasing Reviews (FEB 2017)

(1) From the commencement of performance of this contract until 3 years after the final contract payment, the contractor must allow the contracting officer, ACO, Defense Contract Management Agency (DCMA), Defense Contract Audit Agency (DCAA), and any other duly authorized representative of the contracting officer access to all records and information pertaining to those items or services for which the Government is relying on the contractor's purchasing system to determine that competition was obtained or to justify that prices are fair and reasonable. The contractor must maintain records subject to this clause for not less than 3 years after the contract final payment.

(2) The contracting officer may conduct reviews of purchased items or services provided under this contract regardless of dollar value that meet the criteria in paragraph (1) to ascertain whether the contractor has obtained the best value. The contractor must obtain competition to the maximum extent practicable for all purchases. Prior to purchasing any supplies or services, the contractor must solicit a competitive quotation from at least two independently-competing firms. For other than sole source items, the request for quotations must, to the maximum extent practical, solicit offers from different manufacturers or producers. If the contractor is unable to obtain quotes for competing items from two or more independently-competing firms, the contractor must retain documentation supporting its rationale for selection of the suppliers solicited and selected and its determination that the price was fair and reasonable. The contractor is responsible for maintaining this documentation for all sole source/non-competitive actions. The following price reasonableness and documentation requirements are applicable to all purchases, regardless of dollar value:

(i) A price is reasonable if it does not exceed a price incurred by a prudent person in the conduct of competitive business. The contracting officer will examine the prices with particular care in

connection with buys that may not be subject to effective competition restraints. The contractor's price will not be presumed to be reasonable. If an initial review of the facts results in a challenge of a specific price by the contracting officer or the contracting officer's representative, the burden of proof must be upon the contractor to establish that the price is reasonable under the standards in FAR Subpart 15.4 and FAR 31.201-3.

(ii) The contractor must keep the documentation to a minimum, but must retain data supporting the purchases either by paper or electronically. At a minimum, price quotations and invoices must be retained. Should the contractor receive an oral price quotation, the contractor must document who the supplier or subcontractor is by complete name, address, telephone number, price, terms and other conditions quoted by each vendor. Price quotes for supplies must be broken down by individual items, shipping costs, and any other included expenses. Price quotes for incidental services which are not pre- priced in the contract must include labor hours and costs or prices, as applicable, including the total price of the job, individual pricing for the portions of the work if applicable, materials, and all other elements of cost, overhead, and profit. This price breakdown documentation must be made for each subcontractor performing work on this contract.

(3) When applicable, if the contractor is purchasing from subcontractors or other sources and receives a discount or rebates, the contractor must immediately pass these savings to the Government in the contract price and invoice for payment. The contractor is required to use diligence in the selection of the most economical method of delivery of the product or services by selecting a best value method of delivery based on the urgency and nature of the work or product required. When labor hours are involved in the work to be accomplished and the contractor has not already pre-priced the effort to use its own labor force, the contractor must provide the labor at rates required by the contract (for example, Service Contract Act or Davis-Bacon Act rates) or at rates based on competition if mandatory rates are not required by the contract.

(4) If the contracting officer determines that the purchased product or service is unreasonably priced, the contractor must refund to the Government the amount the contracting officer determines is in excess of a reasonable price. The contracting officer must notify the contractor in writing in accordance with FAR 32.604 Demand for Payment, giving the basis for the determination and the amount to be refunded. The contractor must make the refund payment in accordance with directions from the contracting officer, and must provide proof of the refund payment to the contracting officer. The contracting officer may collect the amount due using all available means in accordance with FAR Subpart 32.6. FAR 52.232-17, Interest, is applicable to payments not made within 30 days of the demand for payment. Any disputes arising under this provision must be handled in accordance with the "Disputes" clause of this contract.

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