PGI 215.406-1 Prenegotiation objectives.

(a) Also consider—

(i) Data resulting from application of work measurement systems in developing prenegotiation objectives; and

(ii) Field pricing assistance personnel participation in planned prenegotiation and negotiation activities.

(b) Prenegotiation objectives, including objectives related to disposition of findings and recommendations contained in preaward and postaward contract audit and other advisory reports, shall be documented and reviewed in accordance with departmental procedures.

(i) *Significant Disagreements.* (A) Contracting officers and contract auditors have complementary roles in the contracting process and are expected to collaborate to determine fair and reasonable contract values, in accordance with Director, Defense Procurement and Acquisition Policy memorandum dated December 4, 2009, Subject: Resolving Contract Audit Recommendations. When a significant disagreement arises on questioned costs, the contracting officer and the auditor shall discuss the basis of the disagreement. The contracting officer shall document that discussion and their disagreement in a written communication to the auditor. The contracting officer shall also document the disagreement in the prenegotiation objective (or pre-business clearance). The contracting officer may then proceed with negotiations when the prenegotiation objectives are approved.

(B) A significant disagreement is defined as the contracting officer planning to sustain less than 75-percent of the total recommended questioned costs in a Defense Contract Audit Agency (DCAA) audit report of a contractor proposal for an initial contract or a contract modification with a value equal to or greater than $10 million. It does not apply to costs that DCAA has categorized as unsupported or unresolved in its audit report.

(ii) *Adjudication Procedures.* DCAA has 3 days to elevate the issues within the contracting officer’s activity after receipt of the contracting officer’s written communication confirming the disagreement. Furthermore, DCAA may appeal the significant issues up the chain of command as established in each component’s “Resolving Contract Audit Recommendations” policy. If issues remain, the Director, DCAA may escalate from the Defense component’s head of contracting activity or senior procurement executive, to the Principal Director, DPCAP. If the DCAA Director believes that the Principal Director, DPCAP has not adequately addressed the matter, the disagreement may finally be elevated to the Under Secretary of Defense for Acquisition and Sustainment, , and the Comptroller.

(iii) Notwithstanding the above, the Director, DCAA, may always raise audit issues to the Principal Director, DPCAP.

(c) *Cost estimates for program baselines and contract negotiations for major defense acquisition programs.*

(i) For the purpose of contract negotiations and obligation of funds under this paragraph, the Government shall prepare cost analyses and targets based on the Government's reasonable expectation of successful contractor performance in accordance with the contractor's proposal and

previous experience.

(ii) Cost estimates developed for baseline descriptions and other program purposes by the Director of Cost Assessment and Program Evaluation pursuant to its functions, do not meet the criteria described in paragraph (c)(i) of this subsection and, thus, shall not be used for purposes of developing the Government's contract negotiation position or for the obligation of funds. However, the Government may consider the data used to develop such estimates when developing the cost analyses and targets described in paragraph (c)(i) of this subsection.

(d) See Frequently asked 'Questions and Answers" at http://www.acq.osd.mil/dpap/cpic/cp/sec_808_NDAA.html relating to the limitations placed on the Department of Defense for aggregate annual amounts available for contracted services in accordance with section 808 of the National Defense Authorization Act for Fiscal year 2012, P.L. 112-81 and DFARS Class Deviation 2012-O0012, Limitation on Amounts Available for Contracted Services, dated July 31, 2012.

Parent topic: PGI 215.406 RESERVED