PGI 232.7101 Policy and procedures.

Background. The Internal Revenue Service (IRS) is authorized to collect overdue taxes through a continuous levy up to 100 percent of the debt on certain vendor contract payments disbursed by the Defense Finance and Accounting Service. The levy is continuous until the overdue taxes are paid in full, or other arrangements are made to satisfy the debt. Contractors are required to promptly notify the procuring contracting officer when a tax levy that may result in an inability to perform the contract is imposed, so that the contracting officer and the Principal Director, Defense Pricing, Contracting, and Acquisition Policy (DPCAP), can take appropriate action to mitigate any possible adverse effect on national security.

(b) *Procuring contracting officer procedures for reviewing the contractor's rationale and submitting the required documentation*.

(i) When the procuring contracting officer receives notification from the contractor that the tax levy may result in an inability to perform the contract, the procuring contracting officer shall promptly review the contractor's assessment and either agree or disagree that the levy may result in an inability to perform. The procuring contracting officer shall alert the administrative contracting officer and the cognizant contract auditor when a notice of levy has been received, and shall obtain any necessary assistance from the administrative contracting officer or contract auditor when performing this review.

(ii) If the procuring contracting officer does not agree with the contractor's assessment, the procuring contracting officer shall notify the contractor of this determination and no further action will be taken.

(iii) If the procuring contracting officer agrees with the contractor's assessment that the levy may result in an inability to perform the contract, the procuring contracting officer shall document, in writing, whether the inability to perform—

(A) Adversely affects national security; and/or

(B) Will result in significant additional costs to the Government (e.g., cost of re-procurement, loss of contract financing payments when the product produced to date is not salvageable).

(iv) If the procuring contracting officer believes that the levy will impact national security and/or result in significant additional costs to DoD, the procuring contracting officer shall, in accordance with agency procedures, promptly notify the Principal Director, DPCAP, via email at osd.pentagon.ousd-a-s.mbx.asda-dp-c-contractpolicy@mail.mil. The notification to the Principal Director, DPCAP, shall include—

(A) The rationale supporting the recommendation that the levy may result in an inability to perform the contract;

(B) A description of the adverse effect on national security, if applicable; and

(C) A description and estimate of the additional costs to the Government, if applicable. Since prompt notification to the Principal Director, DPCAP, is essential, the procuring contracting officer should not delay the notification while trying to achieve more precise data.

(c) *Director, DPCAP, procedures*. The Principal Director, DPCAP, will promptly evaluate the

procuring contracting officer’s notification package.

(i) If the Director, DPCAP, disagrees with the recommendation of the procuring contracting officer, the Principal Director, DPCAP, will notify the procuring contracting officer through the same agency channels that were used for submission of the notification.

(ii) If the Principal Director, DPCAP, agrees with the recommendation of the procuring contracting officer—

(A) When there is an adverse effect on national security, the Principal Director, DPCAP, will notify the payment office, the IRS, and the procuring contracting officer that the total amount of the levy should be promptly returned to the contractor; or

(B) When there is not an adverse effect on national security, but the levy will result in significant additional costs to DoD, the Director, DPAP, will promptly notify the procuring contracting officer and the IRS. The Principal Director, DPCAP, notification to the IRS will—

(*1*) State that the procuring contracting officer has notified the contractor and has recommended that the contractor contact the IRS to resolve the situation;

(*2*) Request that the IRS expedite resolution of the situation with the contractor; and

(*3*) Include an estimate of additional costs to DoD that will result if the contractor is unable to perform on the contract.

(d) *Procuring contracting officer procedures for notifying the contractor of the decision of the Principal Director, DPCAP* . The procuring contracting officer shall promptly notify the contractor, in writing, of the decision made by the Principal Director, DPCAP, including the actions to be taken (if any).

Parent topic: PGI 232.71 -LEVIES ON CONTRACT PAYMENTS