

DOD Makes it Tougher to Issue Award-Fee Contracts

Written by Administrator
Wednesday, 26 May 2010 00:00

We have [previously reported](#) on the Obama Administration's efforts to restrict the use of "high-risk" contract types such as award-fee contracts.

And we previously posted an article focused on award-fee contract types [here](#)

, noting an April 2010 DOD Class Deviation that provided contracting officers with a contract clause that would permit any award fee to be "reduced or denied" if the prime contractor – or subcontractor – was determined to be liable for serious bodily injury or death to any civilian or military personnel of the Government through gross negligence or with reckless disregard for their safety.

Recently DOD [issued](#) (on May 21, 2010) a new Class Deviation that made it much tougher to issue award-fee contracts to DOD contractors. The Class Deviation increased the approval level over the contracting officer "determination and finding" required by FAR 16.401(d), from one level above the C.O. to "the head of the contracting activity (HCA) or designee no lower than one level below the HCA." The approval authority cannot be further delegated. Obviously, the higher approval level makes it that much more difficult to issue this type of contract.

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Without any further information, it's difficult to speculate what circumstances drove the need for this Class Deviation. One might wonder whether DOD has 100 percent confidence in its cadre of acquisition professionals. ...

In the meantime, GAO recently [testified](#) that “the past two years have seen DOD and the Congress take meaningful steps towards addressing long-standing weapon acquisition issues” and that “DOD’s acquisition policies and processes may [finally] be headed in the right direction.” GAO testified that it expect these recent steps to “serve to improve acquisition outcomes” for DOD—in terms of cost, schedule, and technical objectives. We note that there was no mention of problems linking program outcomes to use of incentives.

So GAO has told Congress that DOD is headed in the right direction, but DOD

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leadership seems to believe that its acquisition workforce needs more stringent controls, at least in the area of award-fee contracting. What are they not telling us? (That last part needs to be whispered in a conspiratorial tone.)