



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND
WASHINGTON NAVY YARD
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WASHINGTON, DC 20374-5065

IN REPLY REFER TO
ACQ 021
9 Feb 00

MEMORANDUM FOR NAVFAC ACQUISITION PERSONNEL

Subj: NAVFAC BASELINE CLAUSE 5252.216-9315, AWARD FEE (00-06)

Ref: (a) FAR 16.406(e)(3)

Encl: (1) Revised clause

1. Enclosure (1) is furnished for your information and immediate implementation, as appropriate.
2. The Federal Acquisition Regulations (FAR) Subpart 16.406 was amended by FAC 97-15 to implement rulings of the United States Court of Appeals and the United States Court of Federal Claims. The rulings are that the Contract Disputes Act applies to all disputes arising under Government contracts, unless a more specific statute provides for other remedies. To comply with these rulings, NAVFAC baseline clause at 5252.216-9315, Award Fee, has been revised to remove the statement that the award fee determination is not subject to the "Disputes" clause. The clause has also been revised to include minor technical amendments.
3. This revision will be incorporated into the next issuance of the P-68.

A handwritten signature in black ink, appearing to read "Michael F. Howard".

MICHAEL F. HOWARD
Director, Strategic Management
Community Management Section

5252.216-9315 Award Fee. As prescribed in 16.406-100(a)(1), insert the following clause:

AWARD FEE (FEB 00)

(a) Determination of Award Fee. An Award Fee Evaluation Procedure is hereby established for determination of award fee payable under this contract. The payment of any award fee is contingent upon compliance with contractual requirements and performance at the satisfactory level in each of the individual criteria set forth in the contract. It is the Government's intent that the contractor perform the required services in such a manner as to warrant the highest possible rating and award fee. The Contractor's failure to maintain acceptable levels of performance in all areas of this contract, whether specified as award fee areas or not, will result in no award fee being issued. Award fee determinations will be made by the Fee Determination Official. Each determination will cover the preceding evaluation period. This determination and the methodology for determining the award fee are unilateral decisions made solely at the discretion of the Government. Any amount not awarded in one evaluation period will not be carried over the next evaluation period.

(b) Award Fee Amount. The total amount of award fee that can be earned for a twelve month period is \$_____. The amount of award fee that may be earned for each evaluation period is \$_____.

(c) Procedures.

(1) Performance Evaluation Board. A Performance Evaluation Board (PEB) composed of selected technical and administrative personnel from the (*Activity*) will evaluate the Contractor's performance as related to the criteria listed elsewhere herein. The PEB will make specific performance evaluations each month. Within fifteen (15) calendar days after the end of each evaluation period, the PEB will submit a formal evaluation report to the Fee Determination Official. The PEB report will include a narrative of each element evaluated which supports the recommended rating assigned. A copy of the PEB's report will be furnished to the Contractor.

(2) Contractor Self-Evaluation. Within fifteen (15) days after the end of each evaluation period, the Contractor shall submit two copies of a concise, written self-evaluation of his performance similar to the PEB report and limited to approximately 5 pages. This report will be submitted to the Contracting Officer.

(3) Fee Determining Official. A Fee Determining Official (FDO) will be established to determine the amount of award fee, if any, to be paid to the Contractor. The FDO will review the Performance Evaluation Board's report, the contractor's self-evaluation, and take such other action and consider such other facts pertinent to this contractor's performance as is required to determine the rating and the amount of the performance award fee for the evaluation period under consideration. The Contracting Officer will notify the Contractor in writing of the FDO's decision. The Contractor will signify acceptance by submitting an invoice in accordance with the Contracting Officer's instructions.

(d) Evaluation Criteria, Grades and Definitions. Percentages will be assigned to each criterion according to the relative order of importance determined by the Government using the grades, definitions, and criteria presented herein. A rating will be assigned for each major evaluation criterion for each period. The performance criteria and weighting will be applied to arrive at a weighted score.

(e) Grades and Definitions.

(1) Any changes to the award fee determination criteria which shall apply during each award fee period will be provided to the Contractor in writing by the Contracting Officer at least fifteen (15) calendar days prior to the start of each award fee period. Notification at a later date or alteration of criteria, including added criteria, after an award fee period has begun must be agreed to by both parties.

(2) The award fee determination criteria for award fee are established herein.

(f) Performance Criteria and Weighting. Criteria elements listed below will be used to evaluate performance. Each element is individually graded with a percentage score. Normally a percentage score below 80 in any of the criteria elements listed below will result in no award fee paid to the contractor. The maximum points for each criteria element will be multiplied by the percentage score for each criteria element. The sum of the scores for all criteria elements will yield the numerical point value to determine the

percentage of earned award fee for evaluation as shown on the following Table 1, Performance Evaluation Report Criteria.

TABLE 1. PERFORMANCE EVALUATION REPORT CRITERIA

| Category | Evaluation Criteria | Satisfactory Below 80 | Above Satisfactory 80-84 | Excellent 85-89 | Outstanding 90-94 | Superior 95-100 |
|---------------------------|--|--|--|--|---|---|
| Quality of Work | Fixed-Price Work (40%) | Inferior quality of workmanship with excessive number of deficiencies | Adequate quality of workmanship with substantial number of deficiencies | Acceptable quality of workmanship with limited number of deficiencies | High quality of workmanship with minor deficiencies | Superior quality of workmanship with no deficiencies |
| | Indefinite Quantity Work (40%) | Inferior quality of workmanship with excessive number of deficiencies | Adequate quality of workmanship with substantial number of deficiencies | Acceptable quality of workmanship with limited number of deficiencies | High quality of workmanship with minor deficiencies | Superior quality of workmanship with no deficiencies |
| | Effectiveness of Quality Control Program (20%) | Consistently requires Govt input to rework unsatisfactory jobs | Occasionally requires Govt input to rework unsatisfactory jobs | Rarely requires Govt input to rework unsatisfactory jobs | Contractor QC Program effects all rework requirements | Most jobs do not require rework, QC program very effective |
| Timely Completion of Work | Fixed-Price Work (40%) | Frequently misses scheduled time frames; requires Govt prodding | Meets schedule but requires Govt prodding | Meets schedule without reminders | Sometimes responds and performs faster than scheduled | Often responds and performs faster than scheduled |
| | Indefinite Quantity Work (40%) | Frequently misses time frames scheduled in DO/TO and requires Govt prodding | Meets DO/TO schedule but requires Govt prodding | Meets DO/TO schedule without reminders | Sometimes responds and performs faster than DO/TO schedule | Often responds and performs faster than DO/TO schedule |
| | Scheduling (20%) | Schedules not submitted; DO/TO dates consistently not met | Schedules submitted but not complied with; DO/TO dates occasionally not met | Schedules submitted and usually complied with; DO/TO dates rarely missed | Schedules submitted; meets dates of all approved schedules and DO/TO's | Schedules submitted; completes work of approved schedules and DO/TO's ahead of schedule |
| Response to Service Calls | Emergency service calls (50%) | Consistently late in meeting response times and situations not timely arrested | Occasionally late in meeting response times and situations not timely arrested | Rarely late in meeting response times but situations timely arrested | Responds in a timely manner and arrests all situations with little Govt direction | Always responds immediately and quickly arrests all situations |

TABLE 1. PERFORMANCE EVALUATION REPORT CRITERIA

| Category | Evaluation Criteria | Satisfactory Below 80 | Above Satisfactory 80-84 | Excellent 85-89 | Outstanding 90-94 | Superior 95-100 |
|-------------------------------|------------------------------------|---|---|--|---|--|
| | Urgent service calls (25%) | Consistently late in meeting response times and situations not timely arrested | Occasionally late in meeting response times and situations not timely arrested | Rarely late in meeting response times but situations timely arrested | Responds in a timely manner and arrests all situations with little Govt direction | Always responds immediately and quickly arrests all situations |
| | Routine service calls (25%) | Consistently late in meeting response times and situations not timely arrested | Occasionally late in meeting response times and situations not timely arrested | Rarely late in meeting response times but situations timely arrested | Responds in a timely manner and arrests all situations with little Govt direction | Always responds immediately and quickly arrests all situations |
| Administration and Management | Cooperation (50%) | Contractor and employees do not demonstrate cooperation in accomplishment of the contract | Contractor and employees occasionally demonstrate cooperation in accomplishment of the contract | Contractor and employees usually demonstrate cooperation in accomplishment of the contract | Cooperation and teamwork exceed normal expectations | Cooperation and teamwork substantially exceed normal expectations |
| | Ingenuity and/or Flexibility (50%) | Contractor and employees display no ingenuity or willingness to improve | Contractor and employees occasionally display ingenuity and willingness to improve | Contractor and employees attempt improvement and ingenuity and occasionally are successful | Contractor and employees generally are ingenious and innovative with success and Govt benefit | Contractor and employees highly ingenious and innovative with substantial Govt benefit |

Ref: FAR 16.406(e) and DFARS 216.470

ALTERNATE I (NOV 1998) As prescribed in 16.406-100(a)(2), delete paragraph (d) of the basic clause and substitute the following paragraphs (b), (e) and (f) for paragraphs (b), (d) and (e) of the basic clause: **NOTE: CANNOT BE USED TO ACCELERATE PERFORMANCE.**

(b) **Award Fee Amount.** The total amount of award fee that can be earned under this contract is \$ _____. This amount will not be increased if work is added to the contract but will be reduced proportionately if work is deleted from the contract. For the fifth evaluation period, the payment of any award fee is contingent on the Contractor's not having incurred any liquidated damages in the performance of the contract. The Fee Determination Official will make the award fee determination after the first __, __, __, and __ days after contract award and ____ after establishment of final acceptance. The amount of award fee that can be earned for each evaluation period is as follows:

(d) **Grades and Definitions.**

(1) Any changes to the award fee determination criteria that shall apply during each award fee period will be provided to the Contractor in writing by the Contracting Officer at least fifteen (15) calendar days prior to the start of each award fee period. Notification at a later date or alteration of criteria, including added criteria, after an award fee period has begun must be agreed to by both parties.

(2) The award fee determination criteria for award fee are established herein.

(e) Performance Criteria. Criteria listed in the tables attached hereto will be used to evaluate performance. Each criteria is individually graded with adjectival rating. A rating below satisfactory in any one of the individual criteria will result in no award fee paid to the Contractor.

| Award Fee Period | Period Covered - Days from Contract Award | Award Fee Pool Available |
|------------------|---|--------------------------|
| 1 | 0 - _____ | \$ _____ |
| 2 | _____ - _____ | \$ _____ |
| 3 | _____ - _____ | \$ _____ |
| 4 | _____ - _____ | \$ _____ |
| 5 | FIRST 90 DAYS AFTER (final acceptance) | \$ _____ |