

## Management Decision Documents and Task Orders under ID/IQ Contracts

There are a number of statutes that deal with advisory and assistance services. These statutes either require identifying to Congress the amount of funding used for these services or determinations to be made before issuing contracts for advisory and assistance services.

31 USC 1105 requires “The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.” This section identifies the terms for the 3 categories of advisory and assistance services i.e. management and professional support services; studies, analyses, and evaluations; and engineering and technical services.

10 USC 2212 provides the meanings of the terms used in 31 USC 1105. Each year the Secretary of Defense must conduct a review of services expected to be performed under contract to ensure that advisory and assistance services are properly classified in the advisory and assistance services object class.

10 USC 2331 requires “The Secretary of Defense shall prescribe regulations to ensure, to the maximum extent practicable, that professional and technical services are acquired on the basis of the task to be performed rather than on the basis of the number of hours of services provided.” Professional and technical services are a subset of advisory and assistance services. This section further addresses the content of the regulations.

10 USC 2410l requires before entering into a contract, “the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.” This section applies to any contract of the Department of Defense for advisory and assistance services that is expected to exceed \$100,000. If Defense personnel have the capability to perform the services, the Secretary shall conduct a study comparing the cost of performing the services with Defense personnel and the cost of performing the services with contractor personnel.

DoD Directive 4205.2 covers Acquiring and Managing Contracted Advisory and Assistance Services (CAAS). Under paragraph 6 Procedures subparagraph 6.3 Procurement and Contract Administration, the DoDD requires that each purchase request package for CAAS, including task orders, include the type of CAAS being procured, a statement of work, certification by the requiring activity that the services have been reviewed for the most cost-effective or efficient means of accomplishment, a statement that the DTIC and other information sources have been queried, estimated cost and level of effort, proposed evaluation and selection criteria, surveillance plans, and properly chargeable funds certified. The DoDD further specifies that as a minimum an official at a level above the requiring activity approve the procurement request. If the request is

initiated during the 4<sup>th</sup> quarter of the fiscal year, for award during the same fiscal year, the approval shall be by an official at a second level or higher, above the requiring activity. The following approval authorities are set forth for contract actions estimated at \$50,000 or more:

- 1) An SES manager.
- 2) A general or flag officer.
- 3) An officer in the grade of O-6 filling a general or flag officer position.
- 4) An officer in the grade of O-6 who has subordinate SES personnel.

Army Regulation (AR) 5-14 Management of Contracted Advisory and Assistance Services covers the Army's management tools for CAAS. Under Chapter 4-3 Validation, the Army requires the need for the CAAS services to be justified in the form of a Management Decision Document (MDD), which clearly identifies the approval official and the disposition of the request for approval. The MDD is the document for assigning element of resource codes for CAAS in accounting records. The AR restates the DoDD approval requirement and specifically states for contract requirements estimated at \$50,000 or more, "the approval authority may not be delegated below the SES or GO level. However, at those subordinate organizations headed by a Colonel (O6) but which are authorized a GO position, or where SES personnel are subordinate to the commander, the commander may be delegated the approval authority.

AMC Circular 5-6 covers Contracted Advisory and Assistance Services (CAAS). Contracts for advisory and assistance services shall not be awarded without an approved MDD. The MDD shall be used to document the coordination and approval process of all CAAS, regardless of dollar value. AMC-C 5-6 requires the preparation of a MDD for basic agreement, task and delivery orders, follow-on contracts and modifications (if the scope of work changes). There are separate paragraphs addressing task order contracts (IDIQ contracts are a type of task order contracts. A "class MDD" is required:

- when the SOW for the IDIQ contract clearly defines services to be performed;
- where the MDD provides adequate certification that a single element of resource (EOR) and Federal Supply Code (FSC) applies to the basic contract and the task orders;
- where cost of individual task orders are covered in the total cost estimate in the basic MDD;

Task orders that differ in only one of these criteria must have a separate MDD.

Management approval is mandatory for all CAAS requirements at the following levels:

- 1) If the proposed contract requirement is estimated below the Simplified Acquisition Threshold (\$100,000) the MDD approval authority shall be one level above the requiring activity (levels being branch, division, Deputy Chief of Staff, Chief of Staff, Commander).
- 2) Contractual CAAS requirements above the SAT must be approved by a GO or SES or a colonel (O-6) occupying a Commanding Officer position. Where SES

personnel are subordinate to a commander at the 0-6 grade, the approval authority to the 0-6 commander. Approval authority may also be delegated to non-GO/SES personnel (GS/GM-15) that are acting or detailed into a GO/SES position.

When putting the requirement together for the AMCOM Omnibus 2000 (O2K) program a total program MDD was prepared, which covered Logistics, Programmatic and Technical. Each of the three SOWs were clearly written to specific the types of advisory and assistance services (only) that could be ordered off the O2K IDIQ contracts. The total cost of the program (\$2.5 billion) was included in the MDD. All information sources were queried and all required certifications were made. The only information not included in the "class MDD" for O2K was a single EOR. The MDD was staffed throughout Team Redstone and approved by the Deputy to the Commanding General (SES) and each of the resident PEOs (GO). A verbal request was made to the AMC CAAS coordinator to change the AMC Circular to no require a MDD for task orders under IDIQ contracts. A favorable response was not received. AMCOM then requested a waiver to having to prepare a full MDD for each task order. A waiver applying only to the Omnibus program was granted to allow the use of a mini-MDD in lieu of a full MDD. The mini-MDD is still approved at the SES or GO level.

Requiring a MDD or a mini-MDD for task orders when a full MDD has already been approved adds no value to the procurement process. Requiring the approval of an SES or GO just to report the EOR is not an efficient/effective use of Army managers. There should be a better way to capture and report EOR codes. The MDD process for task orders under IDIQ contracts should be changed to be in-line with acquisition streamlining philosophy.