

CONTRACT ADMINISTRATION:  
A BRIEF OVERVIEW OF THE PROCESS

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"The Government of the United States agrees to furnish [defense articles, services, and/or training, or to]...procure them under terms and conditions consistent with DoD regulations and procedures. When procuring for the Purchaser, the DoD shall, in general, employ the same contract clauses, the same contract administration and the same inspection procedures as would be used in procuring for itself..." This clearly stated citation is from the General Conditions Clause A.1, Annex A, United States Department of Defense Offer and Acceptance (DD Form 1513). But exactly what do these phrases mean to a foreign purchaser; or, as a DoD Overseas Representative, how do you explain their meaning when questioned by your host country counterpart?

The purpose of this brief article is to expound on the above passage and explain what happens in the acquisition process to fulfill the requirements of the purchaser; the article also explains how this process provides for him the same degree of assurance that the product that he receives will serve its intended purpose as it would if acquired for the U.S. Forces.

• "Shall, in general employ the same contract clauses." As you are aware, the DD Form 1513 is a government-to-government agreement that defines the purchaser's requirements to the U.S. government. This, in turn, is used by the appropriate cognizant military service to initiate the DoD acquisition process. For Foreign Military Sales (FMS), this process is not significantly different than it is for fulfilling the requirements of US forces.

Briefly, the process is as follows. The Military Department Case Manager determines the requirements from the DD Form 1513, and then, either directly or through the service item manager, sends the purchase request to the Principal Contracting Officer (PCO).<sup>1</sup> He then converts the request into either an Invitation for Bid or a Request for Proposal that is transmitted to prospective contractors in accordance with procedures defined by the Defense Acquisition Regulations (DAR).

The DAR is the DoD regulation that implements the laws that govern the acquisition of materiel and services for the DoD. Since FMS encompasses additional laws of the U.S. Government, Section 6 of the DAR has been developed to provide for the specific requirements of FMS acquisition; this section sets forth the policies and procedures applicable to acquisitions made for the purpose of FMS, pursuant to

the Arms Export Control Act. Section 6 details the policy to be used for acquisitions in support of FMS cases in the following areas:

1. Requires that the same principles that are used to price U.S. acquisitions are used for FMS acquisition, to insure that the purchaser gets a fair price.
2. Specifies what can or cannot be included as contractor costs involved in fulfilling FMS contracts.
3. Limits the allowable sales commissions and contingent fees.
4. Specifies procedures for the recovery of nonrecurring costs.
5. Provides source selection procedures, and explains constraints placed on sole source designations.

This section, coupled with the other provisions of the DAR, dictates how the final contract between the USG and the contractor is written. When contracts are negotiated between the U.S. Government and the contractor, the negotiation includes a determination of the pricing arrangement. The pricing arrangement can vary from a firm fixed price contract to one where the ultimate purchaser pays the total costs plus a fee. The type of contract is determined by the amount of risk that is accepted by the USG and the contractor. In the case of the Firm Fixed Price Contract, all cost risks are taken by the contractor, whereas in Cost Type Contracts the USG assumes a larger portion of the risk. The ultimate type of contract used is based on the type of work or service to be performed, and the willingness of both parties to use that particular type of contract.

● "The same contract administration." Contract administration collectively encompasses all of those actions required to insure that customer requirements are fulfilled within the appropriate regulations and still provide the required material at the most equitable cost to the purchaser. The key individual in this process is the Administrative Contracting Officer (ACO). He has pricing, production, and quality assurance specialists who assist him in administering contracts. This process does not begin with the awarding of a contract, for many supporting functions begin long before the contract is awarded.

The DoD has a variety of organizations which have been established to perform the functions of contract administration (Defense Contract Administration Services, Plant Representation Offices, etc.).

Contractors who desire defense contracts must accept certain constraints that are imposed by various laws, regulations, and procedures if they want to bid on defense contracts. The DAR, MIL Standards, and Audit procedures spell out detailed and specific requirements that a contractor must meet if he desires to perform defense contracts; and one of the important functions of contract administration is to determine that the contractor has adopted these procedures within his operation.

In negotiated contracts, one of the functions of contract administration is to assist in pricing and technical evaluations of the contractor's proposal. The pricing evaluation has three parts: the Technical Analysis of the Cost Proposal, otherwise known as the technical evaluation; the Defense Contract Audit Agency (DCAA) review of the cost data; and the overall financial analysis of the proposal. This information is used by the Principal Contracting Officer (PCO) during the negotiation to arrive at the most equitable terms and conditions in the contract. The purpose of this is to insure that the customer gets the correct item, at an equitable price, with an appropriate degree of assurance that the material will meet the requirements specified by the customer.

Once the contract is awarded, the function of contract administration becomes that of insuring that the contractor is fulfilling all of the terms of the contract by providing the proper items, of the quality and quantity specified, in accordance with the schedule, and at a cost commensurate with the contract. Timely delivery of the proper item is the foremost concern at this point in the process. Here the contract schedules are tracked to insure that the finished product will come off the line as required. This is especially important if the contractor is involved in supplying major subassemblies to another contractor who has the overall responsibility of assembling the final end item.

• "And the same inspection procedures as would be used in procuring for itself." Of most importance to the customer is the assurance that the product will perform the function for which it was designed. To insure that high standards are maintained, a significant portion of the contract administration at this point entails the function of Quality Assurance (QA). Defense contractors are required to establish procedures that conform to MIL-Q-9858A, which specifies the procedures to be established to insure that the appropriate quality of material is maintained. In addition, the Defense Logistics Agency employs a handbook, DSAH 8200.1, Defense In-Plant Quality Assurance Program, which guides the QA personnel in the procedures that they use in their performance of the various following duties:

1. Product Verification Inspection. This procedure covers the techniques used by government QA personnel to verify that items produced and offered by a contractor do comply, in fact, with contractual quality requirements before such items are accepted by the

Government. This is accomplished through an Initial Products Inspection which entails reviewing with the contractor the physical locations within the plant where the item specifications are to be controlled by contractor inspection or testing. A determination is then made as to where the government verification will take place. Normally, this will be at the same locations where the contractor controls the item specifications. Continuing verification procedures are then determined and planned for the contract life or life of the production run.

2. Procedures Evaluation. The contractor first develops his procedures. Then, government QA personnel review these procedures for adequacy and then develop their own verification and evaluation schedules.

3. Corrective Action. When the QA personnel detect a discrepancy that could result in defective material, they make a report to the contractor so that it can be corrected.

4. Hands-on Inspection. In addition to the verification inspection and surveillance explained above, QA personnel are authorized to conduct their own hands-on inspection of the hardware using the prescribed procedures. This is usually done after the contractor's inspection has been completed.

As was stated earlier, this process covers the contractor's total facility. Most of the subassemblies are composed of many individual parts, and in the production line an individual part is not identified as belonging to a specific subassembly until it reaches the point in the production line where the subassembly is put together. This may be true for the final end items as well, unless the DD Form 1513 had specified a particularly modification or alteration to a particular subassembly. Therefore, in those production centers of a contractor's facility that are producing items for a US requirement, a FMS requirement, and a commercial requirement, all items receive the same degree of QA. This is why each ultimate customer receives the same "inspection" service.

Once the final item is fully assembled and tested, it is prepared for shipment, and the DD Form 250 (Material Inspection and Receiving Report) is prepared. The DD Form 250 serves as a document of ownership, as well as the document that triggers the process for paying the contractor for his work.

Through this brief explanation of the contract administration process, you can see that all reasonable processes and procedures are used to obtain end items that perform their intended purpose.

#### NOTE

<sup>1</sup>The term Principal Contracting Officer is slated to be changed back to Procuring Contract Officer, per the DoD DAR Council, with the next publication of the Defense Acquisition Circular.

#### ABOUT THE AUTHOR

Mr. Michael L. Layton has been a member of the DISAM faculty since 1978, following his retirement from the U.S. Army as a Lieutenant Colonel. He has had 13 years of overseas security assistance management experience in six countries, and holds an MS in International Relations (Boston University, 1972).