

July 7, 2016

Stacy Bostjanick
Head of Contracting
Defense Intelligence Agency
200 MacDill Blvd.
Joint Base Anacostia Bolling
Washington, DC 20340-5100

Dear Ms. Bostjanick:

On behalf of our 400 member companies¹, including many who provide services to the Defense Intelligence Agency, we are writing concerning DIA's decisions to not allow the exercising of task order options on Solutions for Intelligence Analysis II (SIA II) and other DIA contracts past the respective base contract ordering periods. It is our understanding that these contracts include the applicable contract clause that allows this action, as discussed below. We urge you to consider utilizing this authority to enable exercising task order options beyond the base contract ordering periods.

Truncating the orders under these contracts will have a significant negative effect on the mission these contracts were put in place to support. It will also put an unnecessary burden on DIA's contracting and technical workforce that will have to rush to put alternative contracts in place, while the ultimate customer for the vital mission under these contracts will see a loss of continuity as task orders already in place will be shortened and have to be re-bid. In addition, reducing potential multiple year efforts to much shorter periods will create uncertainty for the contractors' workforce that performs the efforts under these contracts and hinder the ability of contractors to retain this important and skilled workforce.

Background

There has been discussion within DIA about the applicability and impact of the GAO *AllWorld* decision (AllWorld Language Consultants, Inc. B-411481.3; 1/6/16) to IDIQ contracts. In this decision, GAO concluded that an option on a task order under a GSA Schedule contract cannot be exercised after the underlying contract has expired. In response to this ruling, GSA changed the guidance on their Schedules contracts to remove the impact of this decision on actions going forward.

The modified guidance on GSA's Federal Supply Schedule (FSS) ordering guidelines website (<http://www.gsa.gov/portal/content/200369>) provides:

Options on orders are not exercised beyond the ordering period of the Schedule contract, including Schedule contract option year periods, **unless** the Schedule contracts includes

¹ The Professional Services Council (PSC) is the voice of the government technology and professional services industry, representing the full range and diversity of the government services sector. PSC is the most respected industry leader on legislative and regulatory issues related to government acquisition, business and technology. PSC helps shape public policy, leads strategic coalitions, and works to build consensus between government and industry. PSC's more than 400 member companies represent small, medium, and large businesses that provide federal agencies with services of all kinds, including information technology, engineering, logistics, facilities management, operations and maintenance, consulting, international development, scientific, social, environmental services, and more. Together, the trade association's members employ hundreds of thousands of Americans in all 50 states.

clause 52.216-22 (Oct 1995) which provides in the fill-in for orders to extend up to 60 months beyond contract expiration. Before placing an order it is advisable to verify that the FSS Schedule contract has FAR 52.216-22 (Oct 1995) to allow for the exercise of options on orders beyond the contract period. However, no orders or options on orders may extend more than 60 months after the expiration of the FSS Schedule contract.

It is our understanding that this 52.216-22 (Oct 1995) clause is included in the DIA SIA II contract, as well as other DIA contracts, with a “TBD” in the date fill-in. From discussions with our members, leaving the fill-in blank at time of original award is consistent with what is found in many IDIQ vehicles across the government. However, it appears that on SIA II and select other DIA contracts, a decision was made within DIA to not treat changing the “TBD” as a contract administration matter, and to not fill in a date in this clause, but to instead treat the end of the ordering period as the last day that an option on a task order could be exercised.

It is important to note that on other DIA vehicles, such as Enhanced Solutions for IT Enterprise (ESITE), a unilateral administrative modification was issued to fill in this clause with a date 60 month after the end of the ordering period. This approach is similar to the GSA guidance. We suggest that DIA take similar actions for SIA II and other DIA contract vehicles still within their ordering periods to avoid unnecessary perturbations to the agency’s customers, its acquisition workforce, and the contractor employees performing these contracts.

Conclusion

We urge DIA to issue administrative modifications to replace the “TBD” currently included in the date fill-in for the applicable contract clause on DIA IDIQ contracts, similar to what has been done on ESITE and other IDIQs across the government. This action would allow DIA the flexibility if it chooses to do so to exercise options beyond the base contract ordering periods, in line with the expectations of all parties to these contracts. It is imperative that this change be made as soon as possible to reduce uncertainty about the potential length of existing and emerging task orders under these contracts.

We would be happy to discuss this topic with you further. I can be contacted at punderson@pscouncil.org or (703) 875-8059.

Sincerely,



Jerry Punderson
Senior Vice President, Defense and Intelligence
Professional Services Council