



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(RESEARCH, DEVELOPMENT AND ACQUISITION)
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

NOV - 5 2009

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Award and Incentive Fees—New GAO Report and Evaluation of Data

REFERENCE: (a) DASN(A&LM) Memo of January 22, 2008
(b) DASN(A&LM) Memo of May 8, 2007

In the attached memorandum of September 22, 2009, the Director, Defense Procurement and Acquisition Policy (DPAP) highlights the Government Accountability Office's (GAO's) May 29, 2009 Report GAO-09-630 entitled "Guidance on Award Fees Has Led to Better Practices but is Not Consistently Applied" available at <http://www.gao.gov/new.items/d09630.pdf>. DPAP emphasizes a need to (1) consistently apply the Department's current award fee policy to all affected contracts and (2) improve the evaluation process for reviews of reported award fee data. The memo also advises of changes in reporting requirements that are effective immediately.

References (a) and (b) provide implementing guidance on DoD award fee contracting policy and the statutory data collection and reporting requirements that apply to incentive and award fee contracts with an estimated value greater than \$50 million. DoD policy requires that objective criteria be used, whenever possible, to measure contract performance. If an award fee contract is used, the award fees must be linked to acquisition outcomes. Contractors may earn award fees only if they first meet the minimum essential requirements of the contract. Award fees and incentive fees must be commensurate with contractor performance. Please ensure your acquisition personnel adhere to these policies.

DPAP requires that award fee and incentive fee data be evaluated semiannually at the component level to ensure such fees are commensurate with contractor performance. DoN does not have a common evaluation system or process to validate compliance with this policy. Beginning with the March 2010 report, DPAP requires that we describe this process, depict evaluation results, and identify any corrective actions taken or planned for inconsistencies noted between contractor performance and fees earned.

We need your help in defining a common DoN process to ensure consistency in reviews and to facilitate reporting of evaluation results. The purpose of this evaluation process is not to duplicate or question decisions made by Fee Determining Officials on individual contracts, but to provide an independent assessment as to whether fees earned are commensurate with contractor performance under the contract.

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DPAP also requests that we review contracts awarded before April 27, 2007 and identify potential candidates to apply the award fee policy, but only if efficiencies can be achieved unilaterally and at a minimal cost. Please review active award fee contracts under your cognizance that have at least two years of performance left and are valued \$50M or more. Identify any potential candidates where efficiencies might be gained by applying this policy, and describe the actions you will take to implement policy.

To assist us in meeting DPAP's requirements, please provide the following:

1. By November 13, 2009, identify individuals (no more than three) from your program management/technical and contracting staff who are responsible for and familiar with the award/incentive fee contracting process and the current reporting requirements. These individuals will collaborate on or provide support to a fast-track team led by this office to develop the common evaluation process for DoN. Send contact information (*i.e.* name, position/title, telephone, email address) to my action officers identified below. Provide your suggestions on factors we should consider in developing this common evaluation process. Describe any best practices you currently employ in your internal award/incentive fee evaluation process.
2. By December 15, 2009, submit a list of the contracts that you identified as potentially benefitting from the application of this DoD policy. Include a description of the actions you will take on these contracts.

Please submit all information electronically to my action officers, Evelyn Ortiz, email evelyn.ortiz@navy.mil, telephone (703) 614-9640, and Patrice Jones, email patrice.jones1@navy.mil, telephone (703) 614-9643.



David F. Baucom
RDML, SC, USN
DASN(A&LM)

Attachments: As stated

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SEP 22 2009

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT), ASA (ALT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION & LOGISTICS MANAGEMENT),
ASN (RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: Award and Incentive Fees—New GAO Report and Evaluation of Data

I want to commend the Department of Defense (DoD) Components that have submitted the relevant data on award and incentive fees required by section 814 of the National Defense Authorization Act Fiscal Year 2007 (Public Law 109-364) and as implemented by my memorandum dated April 24, 2007, entitled Award and Incentive Fees—Data Collection. As highlighted in the General Accountability Office's (GAO's) May 2009 report, "Guidance on Award Fees Has Led to Better Practices but Is Not Consistently Applied," DoD is the only department in the federal government currently collecting such information.

1. Consistently Applying Award Fee Policy

Although the GAO reported our award fee policy is consistent with the Office of Management and Budget's award fee guidance, they found cases where our policy is not being applied. Accordingly, I want to emphasize the importance of consistently adhering to current guidance for all affected award fee contracts.

Additionally, contracts issued before April 27, 2007, the effective date of the 2007 guidance, should be reviewed to identify opportunities to apply the guidance when efficiencies can be obtained through unilateral decisions at a minimal cost to the government. A good example of the potential for savings was addressed in GAO's report. In this case, the Department saved nearly \$29 million in two years on one

program for which this policy was implemented but not required (since the solicitation was issued before the effective date of the policy).

2. Improvement Needed in Reviewing Award Fee Data

The award fee data you submit to my office is only one aspect of section 814. Another key aspect requires the Department (in paragraph (b)(8)(B) of section 814) to evaluate this data on a regular basis to ensure that award and incentive fees are commensurate with contractor performance. As a result, I required each DoD Component to develop a process to evaluate the reported data to confirm this. However, based on the information provided to date, it is at best unclear whether this requirement is being met by every DoD Component.

We have received various levels of detail regarding the award fee process being used by DoD Components to ensure that all new contracts using award fees link such fees to acquisition outcomes. Some organizations have award fee processes that include one or more levels of independent review at the contract level. What appears to be missing in several cases, however, is a mechanism by which the summary data being sent to my office on a semi-annual basis is being evaluated at the component level, as required by paragraph (b)(8)(B) of section 814. Accordingly, my Deputy Director of Cost, Price, and Finance will be contacting each Component to address the results of our evaluation of your procedures for reviewing award fee data.

Although the Department conducts a summary review of your organization's award fee data, each DoD Component must have an established mechanism to evaluate the summary data before it is provided to my office. I must stress that the purpose of your evaluation is not to duplicate or question decisions made by fee determination officials on individual contracts. However, I expect you to take corrective action in cases where you identify inconsistencies between contractor performance and fees paid. Our shared goal is to ensure award and incentive fees are linked to acquisition outcomes, as required by the section 814. Your evaluation processes should be structured accordingly.

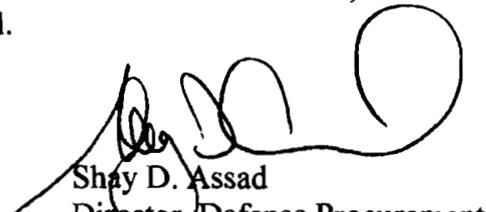
Each DoD Component must describe the process by which this evaluation is being conducted and provide the results of that evaluation when submitting their semi-annual award and incentive fee data to my office. When inconsistencies between contractor performance and fees paid are revealed, corrective actions taken or to be taken must also be described. Please include this evaluation in your CY 2009 award fee data submission, which is due March 31, 2010.

3. Collecting Additional Award Fee Data

In order to respond adequately to Congressional inquiries, we have inserted additional fields into the Excel spreadsheet being used to semi-annually collect award and

incentive fee data. The revised Excel spreadsheet will be sent to you via e-mail. As always, we welcome any suggestions that will enable us to improve our reporting.

My point of contact for this memorandum is Mr. Dave Mabee, who can be reached at 703-602-0326, or Dave.Mabee@osd.mil.



Shay D. Assad
Director, Defense Procurement
and Acquisition Policy