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

AUG 27 2012

MEMORANDUM FOR DISTRIBUTION

Subject: Implementation of Limitation on Amounts Available for Contracted Services

On August 1, 2012, this office forwarded the Director of Defense Procurement and Acquisition Policy (DPAP) deviation dated July 31, 2012, in response to paragraphs (c)(1) and (c)(2) of Section 808 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81), hereafter referred to as "Section 808". The following additional implementing and supplemental guidance is provided:

1. Contracting officers are advised that Section 808(c)(1) applies to both sole source and competitive acquisitions as defined in Federal Acquisition Regulation (FAR) 15.002, Types of Negotiated Acquisitions.

2. Section 808 does not apply to options established prior to the enactment of Section 808, and does not apply to options to be exercised after fiscal year 2013.

3. In their Instructions to Offerors, Contracting officers may require potential offerors to submit the following information to assist Defense Contract Management Agency and the Defense Contract Audit Agency as they validate the applicable rates:

    a) A statement as to whether or not in FY10 it provided the same or similar service to the requiring activity that is soliciting the requirement;
    b) If the same or similar services were provided to the requiring activity, its FY10 rates for that same or similar service that it is proposing to provide; and,
    c) The actual annual cost that the Government paid to offeror in FY10 for the same or similar service.

4. As provided for under Section 808 (c)(2), if it has been determined that it is necessary for a contract or task or delivery order to be awarded in an amount exceeding $10M to a contractor in FY12 or FY13 for continuing services, at an annual cost to the Government that exceeds the annual cost paid by the requiring activity for the same or similar services in FY10, a Determination and Findings shall be submitted to DASN(AP) via RDAJ&As@navy.mil to obtain written approval prior to contract award or order issuance.

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Please advise all appropriate personnel to take prescribed steps immediately to comply with Section 808, the guidance contained in the DPAP memorandum, and herein.

My point of contact for this matter is Ms. Denise Randolph. She can be reached on (703) 614-9767 or via Denise.Randolph@navy.mil.

Althea H. Coetzee
RDML, SC, USN
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DASN(AP)

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