TITLE: CIB 84-14 Guidelines for Negotiating and Justifying the Dollar Amount of the Fixed Fee or Profit Under A.I.D. Cost-Plus-Fixed-Fee and Firm Fixed Price Contracts for Technical Services Priced on the Basis of Cost Analysis

MEMORANDUM FOR ALL CONTRACTING OFFICERS

June 11, 1984

TO: Distribution List D-14 (LL)

FROM: M/SER/CM, Hugh L. Dwelley

SUBJECT: Guidelines for Negotiating and Justifying the Dollar Amount of the Fixed Fee or Profit Under A.I.D. Cost-Plus-Fixed-Fee and Firm Fixed Price Contracts for Technical Services Priced on the Basis of Cost Analysis

CONTRACT INFORMATION BULLETIN 84-14

The following guidance is intended for application to new contracts having a total estimated cost or price of $100,000 or more, and to contract amendments which increase or decrease the total estimated cost by $100,000 or more, which are priced on the basis of cost analysis in accordance with the cost principles in Subpart 31-2 of the Federal Acquisition Regulations (FAR).

For each contract in which the fixed fee or profit is negotiated as a separate element of the contract price, such fee or profit is established and justified in the memorandum of negotiation as a dollar amount. In memoranda of negotiation for cost-plus-fixed-fee contracts, the percentage relationship of the negotiated fee dollar amount to the total estimated cost may be included, but only to demonstrate compliance with the statutory fee limitations imposed by 41 U.S.C. 254(b). See FAR Subpart 15.903(d).

Under AID cost-plus-fixed-fee contracts for technical services, and firm fixed price contracts for technical services priced on the basis of cost analysis, the dollar amount of the fee or profit may be negotiated and justified in the memorandum of negotiation by reference to the fee/profit evaluation factor matrix, attached. In the event that the use of the matrix results in a total fee amount in violation of the statutory fee limitations, the maximum fee shall be the amount allowed by statute.

Use of the matrix requires the contracting officer to evaluate and assign a fee/profit percentage objective or target to the factors for Contractor Effort, for the contractor's assumption of Contract Cost Risk, and for Special Factors. The contracting officer then applies the assigned percentage to the corresponding dollar factor measurement base to arrive at the dollar amount of the target fee/profit assigned to each evaluation factor. The sum for all factors is the total target fee/profit amount. The rationale for the assigned target fee/profit percentages is explained in the memorandum of negotiation. Any difference between the total target fee/profit amount and the negotiated amount is also explained in the memorandum of negotiation.

In assigning target fee/profit percentages, the contracting officer should consider the following evaluation factors and subfactors (See FAR Subpart 15.905-1):

1. Contractor Effort. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor must do to accomplish the work called for in the contract. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows:

(a) Direct Labor. Analysis of the contract direct labor should include an evaluation of the comparative quality and level of the talents, skills, and experience of the staff to be employed on the contract work. Consideration should be given to the degree in which unusual or scarce professional talent will be utilized in contrast to supporting personnel.

(b) Subcontracting. Analysis of subcontracting should include an evaluation of the management and technical skills and efforts necessary for the prime contractor to obtain the subcontracted items. Consideration should be given to the efforts necessary for the prime contractor to select subcontractors and administer subcontracts, including efforts to place subcontracts with small business and small disadvantaged business firms.

(c) Other Direct Cost. Analysis of other direct contract costs should include an evaluation of the management and technical efforts necessary for the contractor to control such costs. Although travel and transportation, subsistence and allowance costs are all included in the base to which the fee/profit percentage is to be applied, they may be considered as standard costs established by regulation or other means substantially outside of the contractor's immediate control. Therefore, special consideration should be given to the extent to which other direct costs, exclusive of those mentioned above, are a significant contributing element of the contract work. Examples may include equipment and commodity purchases, and participant training.

(d) Indirect Costs. Analysis of indirect costs should include an evaluation of how much the general management of the organization will contribute to contract performance and cost control. Special consideration should be given to the contractor's willingness to control contract indirect costs by accepting ceiling indirect cost rates. See CIB 84-11 of May 9, 1984.

2. Contractor Cost Risk. This factor reflects the Government wide policy that contractors bear an equitable share of contract risk, and to compensate them for the assumption of that risk. Consideration should be given to the degree of cost responsibility the contractor assumes as measured by the contract type. A cost-plus-fixed-fee contract, without ceiling indirect cost rates, reflects a minimum assumption of cost responsibility, whereas a similar contract with ceiling overhead rates reflects assumption of varying degrees of cost responsibility. A firm fixed price contract reflects a complete assumption of cost responsibility. Consideration should also be given to the degree of difficulty and location of the contract work, and the cost risks associated with working in less developed countries.

3. Special Factors. A composite percentage weight, within the range of 0 to 10 percent of the sum of the fee/profit dollar amount established for Contractor Effort and for Contract Cost Risk, may be assigned to special factors in arriving at the total fee/profit dollar amount. Examples of special factors may include the extent to which the contractor will finance relatively large mobilization costs under the contract, or will otherwise finance large cash flow requirements during the contract period; evidence of the contractor's active participation in Federal socioeconomic programs (greater profit opportunity should be provided contractors who have displayed unusual initiative in these programs); and evidence of the contractor's good performance on previous AID work.

The fee/profit evaluation matrix may also be used for negotiating and justifying the profit component of the burdened labor rates in indefinite quantity and other ordering contracts for technical services. In this event, such contracts shall be considered to be cost-plus-fixed-fee contracts for the purpose of (i) assigning a profit percentage for the contractor's assumption of Contractor Cost Risk, and (ii) for applying the statutory fee limitations.

ATTACHMENT: Fee/Profit Evaluation Factor Matrix - Not available electronically

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