

Questions and Answers 23, 44, 69 (Revised Answer), 70, and 84 for Posting 9/20/13

23. Section B.4 and I-230(b)(4)(ii)

The award fee provisions in Section B.4 have created an apparent ambiguity in the amount of fee at risk under the Conditional Payment of Fee clause now at I-230(b)(4)(ii). The provision now states that the total fee amount subject to reduction shall not exceed the amount “earned during the evaluation period.” Under the version of the clause in the draft RTP, this was clearly capped at no more than the amount earned in one year. Since the new B.4 provisions indicate that DOE will not determine what fee has actually been “earned” until the end of Task Order performance, and this is done in a final “evaluation,” it appears that DOE may assert that all contract fee is at risk for reduction from a single CPOF event. Please provide clarification that DOE intends to limit CPOF liability to no more than the amount determined to be “provisionally earned” in the annual fee evaluations.

ANSWER: Section B.4 and Section J, Attachment J-11, Draft Award Fee Plan were revised in Amendment 004 to clarify that the amount of reduction under this clause shall not exceed any provisional fee paid or provisional amounts of fee determined otherwise payable in the interim evaluation period.

44. Reference L-17, “The Government will not be evaluating any subcontractor data.” Will DOE please clarify this statement in light of Criterion 3 requirements?

ANSWER: The RTP is revised per Amendment 004 to delete this sentence in L.17. Section L.19 was also revised in Amendment 004 to clarify the instructions for the submission of past performance data for subcontractors proposed to perform work equal to or greater than \$100M.

69. Clause B.1 states, “The work shall be performed in accordance with the requirements of this Task Order and the DOE Environmental Management Nationwide Multiple Award Indefinite Delivery Indefinite Quantity (IDIQ) – Unrestricted Contract (herein referred to as the IDIQ Basic Contract). In many instances the Task Order RTP contains modified provisions from the IDIQ Basic Contract. In other instances, the Task Order RTP omits provisions from the IDIQ contract. The language of Clause B.1 is unclear regarding the applicability of the unchanged or omitted provisions of the IDIQ Basic Contract. Please clarify what provisions of the IDIQ Basic Contract apply that are not included in the Task Order.

REVISED ANSWER: All terms and conditions of the IDIQ Basic contract will apply to the Task Order with the exception of any said terms and conditions that were specifically revised or omitted in the RTP.

70. B.4 Award Fee, section b. second paragraph appears to be incongruent with the provisions of H.25, H.26 and H.27. H.25, H.26 and H.27 provide requirements and provisions for development of award fee plans, evaluation of performance, and prompt payment for earned fee all tied to performance evaluation periods. We agree with the provisions of H.25, H.26, and H.27 where DOE provides periodic assessment and determination of fee to ensure the Contractor has timely feedback to drive improvement in areas evaluated as opportunities for improvement. The second paragraph of B.4 appears incongruent with H.25-H.27 by stating, “Determinations of earned fee will be made in the final evaluation at the end of the Task Order period of performance.” Please clarify which provisions apply under this Task Order and change the language to eliminate the incongruity.

ANSWER: B.4 is consistent with Clauses H.25, H.26 and H.27. Clauses H.25, H.26 and H.27 are flowed down from the EM IDIQ Basic Contract and addresses award fee from a more general perspective deferring to the Task Order to define specifically how the Award Fee process will be executed. B.4 was revised in Amendment 004 to provide clarification of interim evaluation periods.

84. L.17 - The first sentence in Section L.17 reads, “The government will not be evaluating any subcontractor data.” But Section L.19(b) requires that, “For itself and each of its joint venture partners, and major and critical subcontractors proposed to perform work under this Task Order, the Contractor shall provide a complete listing of all DOE contracts/task orders that are currently ongoing or have expired since December 2010.” If subcontractor data are not being evaluated (per the first sentence in Section L.17), what is the purpose of providing subcontractor data in response to this requirement?

ANSWER: See response to question #44.