

## Best, Tish (NIH/OD) [E]

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**From:** Best, Tish (NIH/OD) [E]  
**Sent:** Friday, April 15, 2011 1:31 PM  
**To:** List NIH1102-L  
**Cc:** Levy, Barbara (NIH/OD) [C]; DeCenzo, John (NIH/OD) [E]  
**Subject:** Workform Update

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The workforms have been updated to incorporate the changes required by FAC 2005-50, effective April 15, 2011, FAC 2005-51 (effective April 1, 2011), and other housekeeping changes. The updated files are dated 4/15/2011 and can be found on the NCI OA Intranet at [http://rcb-intranet.nci.nih.gov/workforms\\_set.htm](http://rcb-intranet.nci.nih.gov/workforms_set.htm). The Document Generation System (DGS) can be accessed at: <http://dgs.nci.nih.gov/dgs/index.jsp>.

The following is an explanation of the changes made to each workform listed below. If you would like additional summary or detailed information about the applicable FAC item, you may access the Federal Register Notice, under General Services Administration at:

- FAC 2005-50: [http://www.access.gpo.gov/su\\_docs/fedreg/a110316c.html](http://www.access.gpo.gov/su_docs/fedreg/a110316c.html)
- FAC 2005-51: [http://www.access.gpo.gov/su\\_docs/fedreg/a110401c.html](http://www.access.gpo.gov/su_docs/fedreg/a110401c.html)

### I. Contract

### II. RFP

### III. Individual Representations and Certifications

**NOTE:** *These files may be accessed from SECTION K (<http://rcb.cancer.gov/rcb-internet/wkf/sectionk.pdf>) of the workforms and are only used in the rare instance where an offeror is exempt from the CCR.*

## EXPLANATION OF CHANGES MADE TO THE CONTRACT:

1. **Items 19 & 21, Pages 9 & 11, Articles B.6. & B.7. Estimated Cost Plus Award Fee**, has been revised to:
  - **Subparagraph a:** Remove language authorizing the contractor to bill for partial payments of available award fee when the Contracting Officer does not award a base fee. To do so could be in direct violation of FAR 16.401(e)(3)(v) if the contractor ever performs at an unsatisfactory level during contract performance. A base fixed fee may be awarded, at the discretion of the

CO, providing the contractor a minimum fee without violating the parameters of award fee payment.

- **Subparagraph c:** Modify the way the Total Estimated Cost of the contract is stated to assure that it is not overstated. The total estimated cost of the contract represents the estimated cost, base fixed fee (if any) plus any EARNED award fee. This will require updating this amount each time an award fee is earned to accurately reflect the total estimated cost of the contract.
- **Subparagraph d.3.:** require that the Contractor submit an invoice for the total award fee earned upon notification by the Contracting Officer. This will mitigate any potential funding violations, i.e. payment from wrong CAN #.

In addition, the prescription has been revised to add a note about the timing of obligating the award fee amount. Specifically, the same fiscal year appropriation used to fund the performance period evaluated should be used to pay the award fee.

2. **Item 377 (OLD), Article I.2.kk. Alternate I of FAR Clause 52.244-6, Subcontracts for Commercial Items,** has been removed in accordance with Item IV of FAC 2005-50.
3. **Item 410, Page 185, Article I.3.12. FAR Clause 52.210-1, Market Research,** has been added for use in solicitations and contracts over \$5 million for the procurement of items other than commercial items in accordance with Item IV FAC 2005-50.
4. **Items 438 & 439, Pages 190 & 191 , Article I.3.40. & 41. FAR Clauses 52.219-29, Notice of Total Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns, & 52.219-30, Notice of Total Set-Aside for Women-Owned Small business (EDWOSB) Concerns Eligible Under the Women-Owned Small Business Program,** have been added for use in solicitations and contracts for acquisitions that have been set aside for Women-Owned and Economically Disadvantaged Women-Owned small business concerns in accordance with Item I of FAC 2005-51.
5. **Item 535 (OLD), Article I.3.c.1. NIH(RC)-7, Procurement of Certain Equipment,** has been removed. OMB Bulletin 81-16, which was the basis for this clause has been rescinded as have previous NIH policy documents (DGC I&Is, 81-2 & 84-28) relating to this clause. No replacement has been issued and the content is no longer current. General purchase restrictions are found in Section B under Provisions Applicable to Direct Costs. Additionally, the CO/CS may include and special purchase restrictions there or as an Advance Understanding, also in Section B of the contract. This clause is no longer considered necessary and therefore, has been removed from the workforms.
6. **Item 597, (OLD), Section J-List of Attachments, Attachment 17. Procurement of Certain Equipment, NIH(RC)-7,** has been removed. (See item 5. Above for explanation).

**Manual Maintenance:** It is recommended that you print and replace **the entire “Contract Handbook” file** under **DGS Handbook Files** from the NCI OA Intranet. *(Please note that this document has been formatted for a XEROX Work Centre 7675. If using another printer definition, the page numbers listed above may differ on your document. However, the ITEM NUMBERS will always be the same.)*

#### **EXPLANATION OF CHANGES MADE TO THE RFP:**

1. **Items 21 & 23, Pages 13 & 16, Articles B.7. & B.8. Estimated Cost Plus Award Fee,** has been revised to:

- **Subparagraph a:** Remove language authorizing the contractor to bill for partial payments of available award fee when the Contracting Officer does not award a base fee. To do so could be in direct violation of FAR 16.401(e)(3)(v) if the contractor ever performs at an unsatisfactory level during contract performance. A base fixed fee may be awarded, at the discretion of the CO, providing the contractor a minimum fee without violating the parameters of award fee payment.
- **Subparagraph c:** Modify the way the Total Estimated Cost of the contract is stated to assure that it is not overstated. The total estimated cost of the contract represents the estimated cost, base fixed fee (if any) plus any EARNED award fee. This will require updating this amount each time an award fee is earned to accurately reflect the total estimated cost of the contract.
- **Subparagraph d.3.:** require that the Contractor submit an invoice for the total award fee earned upon notification by the Contracting Officer. This will mitigate any potential funding violations, i.e. payment from wrong CAN #.

In addition, the prescription has been revised to add a note about the timing of obligating the award fee amount. Specifically, the same fiscal year appropriation used to fund the performance period evaluated should be used to pay the award fee.

2. **Item 306, (OLD), I.2.ff. Alternate I of FAR Clause 52.244-6, Subcontracts for Commercial Items**, has been removed in accordance with Item IV of FAC 2005-50.
3. **Item 339, Page 134, Article I.3.12. FAR Clause 52.210-1, Market Research**, has been added for use in solicitations and contracts over \$5 million for the procurement of items other than commercial items in accordance with Item IV FAC 2005-50.
4. **Item 366 & 367, Page 140, Article I.3.39. & 40. FAR Clauses 52.219-29, Notice of Total Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns, & 52.219-30, Notice of Total Set-Aside for Women-Owned Small business (EDWOSB) Concerns Eligible Under the Women-Owned Small Business Program**, have been added for use in solicitations and contracts for acquisitions that have been set aside for Women-Owned and Economically Disadvantaged Women-Owned small business concerns in accordance with Item I of FAC 2005-51.
5. **Item 460, (OLD), Article I.3.c.1. NIH(RC)-7, Procurement of Certain Equipment**, has been removed. OMB Bulletin 81-16, which was the basis for this clause has been rescinded as have previous NIH policy documents (DGC I&Is, 81-2 & 84-28) relating to this clause. No replacement has been issued and the content is no longer current. General purchase restrictions are found in Section B under Provisions Applicable to Direct Costs. Additionally, the CO/CS may include and special purchase restrictions there or as an Advance Understanding, also in Section B of the contract. This clause is no longer considered necessary and therefore, has been removed from the workforms.
6. **Item 504.4, (OLD), Section J – Informational Attachments, Attachment 34: Procurement of Certain Equipment, NIH(RC)-7**, has been removed. (See item 5. Above for explanation).
7. **Item 630 & 631, Pages 269-271, Section L.2.b.10. Electronic and Information Technology Accessibility, Section 508 Compliance**, has been moved from Section L.2.a General Instructions to Offerors to Section L.2.b. Technical Proposal Instructions as EIT requirements are to be part of the technical proposal. No changes were made to the content of this item.

8. **Item 644, Page 282, Section L.2.c.9. Small Business Subcontracting Plan**, has been revised to update the HHS subcontracting goals. The current goal for Small Business is 28%.

**Manual Maintenance:** It is recommended that you print and replace **the entire “RFP Handbook” file** under **DGS Handbook Files** from the NCI OA Intranet. *(Please note that this document has been formatted for a XEROX Work Centre 7675. If using another printer definition, the page numbers listed above may differ on your document. However, the ITEM NUMBERS will always be the same.)*

### **EXPLANATION OF CHANGES MADE TO THE REPRESENTATIONS AND CERTIFICATIONS:**

**Important Note about the Individual Representations and Certifications:** *These files should only be used for an offeror or contractor who is exempt from the requirement to register in the CCR. All other offerors/contractors will access these provisions from the ORCA when they complete their annual Online Representations & Certifications Application.*

1. FAR Provision **52.219-1, Small Business Program Representations** is updated to (April 2011) in accordance with Item I of FAC 2005-51.
2. Alternate I of FAR Provision **52.219-22, Small Disadvantaged Business**, has been removed. The Price Evaluation Adjustment (PEA) is no longer applicable to HHS in accordance with FAR 19.11. In addition, the prescription for applicability of this provision has been revised to state that the provision is applicable when FAR Clause 52.219-25, Small disadvantaged Business Participation Program—disadvantaged Status and Reporting is included in the solicitation and contract (See FAR 19.1104).

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