



A Procurement Technical
Assistance Center (PTAC)

Impact of Contract Modifications

January 17, 2017



GOVERNMENT AWARDED CONTRACT

Set in Stone - Done Deal – Right???



Wrong!

Government may modify the contract

Why?

Reflect changes in

- Requirements/scope
- Duration
- Terms
- Clauses



Types of Contract Modifications

BILATERAL (BOTH PARTIES AGREE AND SIGN)

- Make negotiated equitable adjustments resulting from the issuance of a change order
- Definitize letter contracts
- Reflect other agreements of the parties modifying the terms of the contract

UNILATERAL (GOVERNMENT DIRECTS AND ONLY GOVERNMENT SIGNS)

- Make administrative changes
- Issue change orders
- Make changes authorized by clauses other than a changes clause
- Issue termination notices

Bilateral or Unilateral?

Standard Form (SF) 30 – Amendment of Solicitation/Modification of Contract

What Box in Block 13 is checked?

- Unilateral Change Orders – Block 13A
- Bilateral Modifications – Changes Clause - Block 13C
- Other Unilateral Modifications – exercise option - Block 13D

Has the Contracting Officer already signed in Block 16B?

- Yes – Probably Unilateral
- No – Probably Bilateral

**13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.
IT MODIFIES THE CONTRACT/ORDER NUMBER AS DESCRIBED IN ITEM 14.**

| | |
|--------------------------|--|
| CHECK ONE | A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: <i>(Specify authority)</i> THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NUMBER IN ITEM 10A. |
| <input type="checkbox"/> | |
| <input type="checkbox"/> | B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES <i>(such as changes in paying office, appropriation data, etc.)</i> SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b). |
| <input type="checkbox"/> | C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: |
| <input type="checkbox"/> | D. OTHER <i>(Specify type of modification and authority)</i> |

E. IMPORTANT: Contractor ☐ is not ☐ is required to sign this document and return copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

| | | | |
|--|----------------------|---|----------------------|
| 15A. NAME AND TITLE OF SIGNER <i>(Type or print)</i> | | 16A. NAME AND TITLE OF CONTRACTING OFFICER <i>(Type or print)</i> | |
| <input type="text"/> | | <input type="text"/> | |
| 15B. CONTRACTOR/OFFEROR | 15C. DATE SIGNED | 16B. UNITED STATES OF AMERICA | 16C. DATE SIGNED |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| <i>(Signature of person authorized to sign)</i> | | <i>(Signature of Contracting Officer)</i> | |

EXAMPLE -FAR 22.19 Establishing a Minimum Wage for Contractors – E.O. 13658

Federal Acquisition Circular
2005-79 From the December
15, 2014, Federal Register



FEDERAL REGISTER

The Daily Journal of the United States Government

(1) Contracting Officers shall include the clause in bilateral modifications extending the contract when such modifications are individually or cumulatively longer than six months.

(2) In accordance with FAR 1.108(d)(3), contracting officers are strongly encouraged to include the clause in existing indefinite-delivery indefinite-quantity contracts, if the remaining ordering period extends at least six months and the amount of remaining work or number of orders expected is substantial.

Considerations

- What is the impact to the contract?
- What is the overall cost?
- Will it take more time to complete the contract?
- Will other contracts also be impacted?
- Can you reduce the cost by spreading over other contracts?
- Is the FAR changing or an agency supplement?
- What is the best business decision to make?

Modification Impacts Contract Cost

Determine and document actual changes in cost

- If Fixed Price contract and contract amount increases request compensation/equitable adjustment
- If Fixed Price contract and contract amount decreases – profit increases – or offer Government discounted price
- If Cost Type contract – contract amount may increase or decrease based upon the actual costs

Results in a Bilateral Modification



Takeaways

- Review every request for contract modification do not just sign and send back to the Government.
- Contractor should perform work described in modification. If contractor does not agree to the modification, notify the Government in writing as soon as possible.
- Government issuing a unilateral modification instead of a bilateral modification. Follow up in writing with the impact of the modification to the contract and be ready to negotiate.
- Government requests a unilateral modification be signed. Contractor is not required to sign a unilateral modification.

Upcoming Events

- ***Acquisition Hour Live Webinar Series - Tuesdays and Wednesdays***
- ***Supporting the Federal Defense Supply Chain – For Manufacturers – January 24, 2017 – Marinette, WI***
- ***What it Takes to Win – Selling to State and Local Governments – February 15, 2017 – Milwaukee, WI***
- ***Federal Acquisition Regulation (FAR) Review – Starting February 15, 2017 - Webinar***
- ***SAME Midwest Small Business Expo – March 29 – 30, 2017 – Northbrook, IL***
- ***What it Takes to Win – Writing an Effective Proposal – April 6, 2017 – Milwaukee, WI***
- ***Wisconsin Federal Contracting Forum – April 25 – 27, 2017 – Washington, DC***
- ***5th Annual VA Small Business Conference – May 10, 2017 – Milwaukee, WI***
- ***14th Annual Women’s Business Conference – June 8, 2017 – Eau Claire, WI***
- ***11th Annual Volk Field Small Business Conference – June 27 – 28, 2017 – Camp Douglas, WI***

A complete listing of events can be found on WPI’s website at www.wispro.org

For Assistance or Additional Information on this Topic - Contact

Wisconsin Procurement Institute (WPI)
10437 Innovation Drive, Suite 320
Milwaukee, WI 53226

Carol Murphy at 414-270-3600 or carolm@wispro.org