

Taking the “I” Out of IRAD

Written by Nick Sanders

Wednesday, 07 December 2016 00:00



Lots of churn on this topic during the past year. In fact, 2016 might be best characterized as the year when the Department of Defense got serious about applying central management techniques to what has historically been known as contractors’ “independent” research and development efforts. We’ve written quite a few articles on the topic, most of which concerned Mr. Frank Kendall’s efforts to implement his Better Buying Power initiatives to make IRAD more “efficient”.

Our opinion on BBP and its attacks on IRAD are well documented. We will not elaborate on it here.

Over at Dentons, a government contracts article [notes](#) problems implementing the recent DFARS rule that requires contractors to engage in “technical interchanges” with DOD personnel in order to make their IRAD expenditures allowable costs. We wrote about our concerns with the rule [here](#). The Dentons practitioners noted other concerns, including the fact that DCMA recently issued guidance to its contracting officers that they are not to assist contractors in arranging those technical interchanges.

According to the Dentons article—

On November 21, 2016, the Defense Contract Management Agency (DCMA) issued guidance to its contracting officers instructing them to refer contractors’ requests for information concerning their points of contact for technical interchange purposes to the Office of the Assistant Secretary of Defense (Research and Engineering) (OASD R&D) or their ‘buying

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commands.’ ... the guidance fails to discuss the elephant in the room, namely that *contractors have been reaching out to OASD R&D and requesting technical interchanges, but have not been receiving responses*

. Thus, with 30 days to go before many contractors begin their FY 2017, contractors are unsure whether they will be able to technically interchange with appropriate DoD technical or operational personnel prior to incurring FY 2017 IR&D costs. As a result, contractors are uncertain about the allowability of the costs of their 2017 IR&D projects because these projects may begin without a technical interchange. Potentially more concerning, some contractors’ FY 2017 began prior to November 4, 2016, the date the final rule was published. While the final rule is clear that the requirement to technically interchange does not apply prior to the date the final rule was published, it does not address whether IR&D costs incurred on November 5, 2016, are allowable costs, absent a technical interchange.

(Emphasis added.)

If you go read our prior article on the topic (link above) you’ll see we actually predicted that result. Go us!

So the new rule can’t be implemented because the technical side of DOD won’t cooperate with the acquisition side. As commenters told the DAR Council would be the case. The DAR Council did its usual thing and ignored the input and pushed the rule forward despite the warnings. They simply did not care. It was something required by BBP and Frank Kendall, and to hell with all the naysayers.

You can thank Mr. Frank Kendall, USD (AT&L), for this one.

In related news, on 01 December 2016 the head of the Defense Procurement and Acquisition Policy (DPAP) [published](#) a DFARS Class Deviation that acknowledges the new rule isn’t working. The Class Deviation permits contractors to hold their technical interchanges with DOD personnel anytime during 2017, even if the IRAD projects have already started for the year. (The rule required that the interchanges take place prior to incurring any expenditures.) The Class Deviation purportedly is required “to afford contractors a phase-in period to develop processes and procedures.” Left unsaid is what the Dentons practitioners called “the elephant in the room”— *i.e.*, that nobody is home at the Office of the Assistant Secretary of Defense (R&D).

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Many contractors simply cannot schedule the interchanges because OASD (R&D) will not cooperate. DCMA has washed its hands of any responsibility to implement the rule. The Class Deviation gives DOD a year to figure out its own areas of responsibility and processes; the statement about contractors' needs is simply window-dressing.

Did we mention you can thank Mr. Frank Kendall for this wonderful situation?

In related news, it seems Mr. Kendall is soon going to be out of a job, according to [reports](#).

It will be interesting to see what happens to the rest of his satrapy over the next year.