

(iv) If the contractor disagrees with the report, the contractor must provide rationale in the written response.

(2) *Evaluation of the contractor's response.* The ACO, in consultation with the auditor, evaluates the contractor's response and determines whether—

(i) The MMAS contains any deficiencies and, if so, any corrective action is needed;

(ii) The deficiencies are significant enough to result in the reduction of progress payments or disallowance of costs on vouchers; and

(iii) Proposed corrective actions (if the contractor submitted them) are adequate to correct the deficiencies.

(3) *Notification of ACO determination.*

(i) The ACO must notify the contractor in writing (copy to auditor and functional specialists) of—

(A) Any deficiencies and the necessary corrective action;

(B) Acceptability of the contractor's corrective action plan (if one was submitted) or the need for a corrective action plan; and

(C) Any decision to reduce progress payments or disallow costs on vouchers.

(ii) The Government does not approve or disapprove the contractor's MMAS. ACO notifications should avoid any such implications.

(iii) From the time the ACO determines that there are any significant MMAS deficiencies until the time the deficiencies are corrected, all field pricing reports for that contractor must contain a recommendation relating to proposed adjustments necessary to protect the Government's interests.

(iv) The ACO should consider the effect of any significant MMAS deficiencies in reviews of the contractor's estimating system (see 215.407-5).

(4) *Reductions or disallowances.* (i) When the ACO determines the MMAS deficiencies have a material impact on Government contract costs, the ACO must reduce progress payments by an appropriate percentage based on affected costs (in accordance with FAR 32.503-6) and/or disallow costs on vouchers (in accordance with FAR 42.803). The reductions or disallowances must remain in effect until the ACO determines that—

(A) The deficiencies are corrected; or

(B) The amount of the impact is immaterial.

(ii) The maximum payment adjustment is the adverse material impact to the Government as specified in the MMAS report. The ACO should use the maximum adjustment when the contractor did not submit a corrective action plan with its response, or when the plan is unacceptable. In other cases, the ACO should consider the quality of the contractor's corrective action plan in determining the appropriate percentage.

(iii) As the contractor implements its accepted corrective action plan, the ACO should reinstate a portion of withheld amounts commensurate with the contractor's progress in making corrections. However, the ACO must not fully reinstate withheld amounts until the contractor corrects the deficiencies, or until the impact of the deficiencies become immaterial.

(5) *Monitoring contractor's corrective action.* The ACO and the auditor must monitor the contractor's progress in correcting deficiencies. When the ACO determines the deficiencies have been corrected, the ACO must notify the contractor in writing. If the contractor fails to make adequate progress, the ACO must take further action. The ACO may—

(i) Elevate the issue to higher level management;

(ii) Further reduce progress payments and/or disallow costs on vouchers;

(iii) Notify the contractor of the inadequacy of the contractor's cost estimating system and/or cost accounting system; and

(iv) Issue cautions to contracting activities regarding the award of future contracts.

242.7204 Contract clause.

Use the clause at 252.242-7004, Material Management and Accounting System, in all solicitations and contracts exceeding the simplified acquisition threshold that are not for the acquisition of commercial items and—

(a) Are not awarded to small businesses, educational institutions, or nonprofit organizations; and

(b) Are either—

(1) Cost-reimbursement contracts; or

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(2) Fixed-price contracts with progress payments made on the basis of costs incurred by the contractor as work progresses under the contract.

Subpart 242.73—Contractor Insurance/Pension Review

242.7300 Scope of subpart.

This subpart provides the requirements for conducting a Contractor Insurance/Pension Review (CIPR).

242.7301 General.

(a) The administrative contracting officer (ACO) is responsible for determining the allowability of insurance/pension costs in Government contracts. Defense Contract Management Agency (DCMA) insurance/pension specialists and Defense Contract Audit Agency (DCAA) auditors assist ACOs in making these determinations by conducting CIPRs.

(1) A CIPR is an in-depth evaluation of a contractor's—

- (i) Insurance program;
- (ii) Pension plans;
- (iii) Other deferred compensation plans; and
- (iv) Related policies, procedures, practices, and costs.

(2) A special CIPR is a joint DCMA/DCAA review that concentrates on specific areas of the contractor's insurance program, pension plan, or other deferred compensation plan.

(b) DCMA is the DoD Executive Agency for the performance of all CIPRs conducted under 242.7302.

[63 FR 40374, July 29, 1998, as amended at 65 FR 52953, Aug. 31, 2000]

242.7302 Requirements.

(a)(1) A CIPR shall be conducted only when—

(i) A contractor has \$40 million of qualifying sales to the Government during the contractor's preceding fiscal year; and

(ii) The ACO, with advice from DCMA insurance/pension specialists and DCAA auditors, determines a CIPR is needed based on a risk assessment of the contractor's past experience and current vulnerability.

(2) Qualifying sales are sales for which cost or pricing data were re-

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quired under 10 U.S.C. 2306a, as implemented in FAR 15.403, or that are contracts priced on other than a firm-fixed-price or fixed-price with economic price adjustment basis. Sales include prime contracts, subcontracts, and modifications to such contracts and subcontracts.

(b) A special CIPR shall be performed for a contractor (including, but not limited to, a contractor meeting the requirements in paragraph (a) of this section) when any of the following circumstances exists, but only if the circumstance(s) may result in a material impact on Government contract costs:

(1) Information reveals a deficiency in the contractor's insurance/pension program.

(2) The contractor proposes or implements changes in its insurance, pension, or deferred compensation plans.

(3) The contractor is involved in a merger, acquisition, or divestiture.

(4) The Government needs to follow up on contractor implementation of prior CIPR recommendations.

(c) The DCAA auditor shall use relevant findings and recommendations of previously performed CIPRs in determining the scope of any audits of insurance and pension costs.

(d) When a Government organization believes that a review of the contractor's insurance/pension program should be performed, that organization should provide a recommendation for a review to the ACO. If the ACO concurs, the review should be performed as part of an ACO-initiated special CIPR or as part of a CIPR already scheduled for the near future.

[63 FR 40374, July 29, 1998, as amended at 65 FR 52953, Aug. 31, 2000]

242.7303 Responsibilities.

(a) The ACO is responsible for—

(1) Determining the need for a CIPR under 242.7302;

(2) Requesting and scheduling the reviews with the appropriate DCMA activity;

(3) Notifying the contractor of the proposed date and purpose of the review, and obtaining any preliminary data needed by the DCMA insurance/pension specialist or the DCAA auditor;