



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
HEALTH AFFAIRS
SKYLINE FIVE, SUITE 810, 5111 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041-3206

TRICARE
MANAGEMENT
ACTIVITY

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MEMORANDUM FOR CHIEF MEDICAL OFFICER
CHIEF DEPLOYMENT HEALTH SUPPORT
CHIEF FINANCIAL OFFICER
CHIEF INFORMATION OFFICER
CHIEF PHARMACEUTICAL OPERATIONS
JMIS PROGRAM EXECUTIVE OFFICER
CHIEF OF STAFF, TMA
TRICARE REGIONAL OFFICES

SUBJECT: Procurement Actions for Severable Services

The DoD Comptroller has issued a memorandum, subject: Proper Use of Interagency Agreements with Non-Department of Defense Entities Under Authorities Other Than the Economy Act, dated March 27, 2006 (attached), which clarifies DoD's interpretation of 10 U.S.C. § 2410a. 10 U.S.C. § 2410a is DoD's authority to enter into a contract for severable services for a period that begins in one fiscal year and ends in the next fiscal year, not to exceed one year. The DoD Comptroller's interpretation has a significant impact on contract support to TMA, rendered by any non-DoD contracting office not subject to the Economy Act. According to this ruling (extracted below), the "one year clock" starts ticking upon MIPR acceptance by a non-DoD contracting office – not contract award.

"Under no circumstances should any existing order for severable services using Operations and Maintenance funds extend beyond one year from the date the funds were accepted by the servicing agency." (emphasis added)

This means that the longer it takes for the servicing contracting office to award a contract for severable services, the shorter the resulting period of performance. It also means that the one year time period established by 10 U.S.C. § 2410a is a firm limit that cannot be exceeded later by a no-cost extension.


The memorandum also specifies that the following statement must be included on all future interagency agreement funding documents for severable services:

“These funds are available for services for a period not to exceed one year from the date of obligation and acceptance of this order. All unobligated funds shall be returned to the ordering activity no later than one year after the acceptance of the order or upon completion of the order, which ever is earlier.”

All requiring activities must be cognizant of this restriction when planning for the acquisition of severable services. Furthermore, for all future acquisitions of services, TMA requiring activities shall state within the “Services/Materials to Be Purchased” block of the PRW whether the service is severable or non-severable.

A service contract is considered non-severable if the service represents a single undertaking, producing a single or unified outcome, product or report that cannot be subdivided for separate performance in different fiscal years. (Example – a contract to re-carpet or paint an office is non-severable.) On the other hand, a service is severable if it is continuing and recurring in nature or can be separated into components that independently meet a separate need of the government. Most program support contracts are continuing and recurring in nature, and therefore are severable requirements. Additional information on this topic is available in the GAO Principles of Federal Appropriation Law, Volume I, and Chapter 5, paragraph B.5.

Please feel free to direct any questions to my point of contact for this issue, Ms. Suzanne Curtis at (703) 681-1143, ext. 5420.


Jean Storck
Chief, Health Plan Operations