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AFFARS PGI 5331

Contract Cost Principles and Procedures

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(b) Pre-contract cost agreements should be reviewed for legal sufficiency (see AFMC PGI 5331.109(h)(4)(S-90) for a sample Pre-contract Cost Agreement). As a condition precedent to the use of a pre-contract cost agreement, the correct type of funds should be available upon issuance of the pre-contract cost agreement. While not legally necessary, prudent business acumen would dictate, that to the maximum extent possible, agreement on terms and conditions also be established prior to issuance of a pre-contract cost agreement. The contracting officer should incorporate the pre-contract cost agreement into any resultant contract as an attachment within Section J.

(h)(4)(S-90) The pre-contract cost agreement may be written as follows and should include the following minimum essential content:

Subject to approval as required by law and regulation, the undersigned agree to include a clause in any contract resulting from negotiations with (insert company name) under (insert solicitation number) that all costs not in excess of \$(insert dollar amount) incurred by the prospective contractor

after (insert date), and before the contract effective date, shall be recognized the same as if incurred after the effective date of the resulting contract.

The parties agree that the Government shall not accept any benefit of the prospective contractor's efforts, give no direction or encouragement, and make no payments until a contract is awarded. If no contract results from these negotiations, the prospective contractor is responsible for any incurred costs. Any incurred costs shall not be used as the basis of a claim against, or construed as an obligation of the Government. (Include any specific cost categories and any other limiting details).

(signed) (signed)

Contracting Officer Prospective Contractor