

COUNCIL OF DEFENSE AND SPACE INDUSTRY ASSOCIATIONS

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March 24, 2000

CODSIA Case No. 5-00

Ms. Laurie Duarte
General Services Administration
FAR Secretariat (MVRS)
1800 F Street, N.W.
Room 4035
Washington, DC 20405

Re: FAR Case 1999 – 606; Proposed Rule on Time-And-Materials or Labor-Hours

Dear Ms. Duarte:

This is in response to the January 24, 2000, *Federal Register* notice which requested comments on the proposed rule related to Time-And-Materials (T&M) or Labor-Hour contracts.

Formed in 1964 by industry associations with common interests in the defense and space fields, the Council of Defense and Space Industries Association (CODSIA) is currently composed of eight associations representing over 4,000 member firms across the nation. Participation in CODSIA projects is strictly voluntary. A decision by any member association to abstain from participating in a particular activity is not necessarily an indication of dissent.

We have no exceptions to the proposed T&M/Labor-Hour changes clause, as it is applied to cost-type contracts. However, CODSIA member associations are concerned with the narrow interpretation of Federal Acquisition Streamlining Act (FASA) statute that is precluding the use of T&M/Labor-Hour contracts for the acquisition of commercial items under FAR Part 12. FASA section 8002(d) requires the use of firm fixed price or fixed price with economic price adjustment contracts *to the maximum extent practicable*; only cost type contracts are prohibited. However, the regulatory implementation at FAR 12.207 states that only firm fixed price contracts or fixed price contracts with economic price adjustments may be used for the acquisition of commercial items. The definition of contract types under FAR Part 16 does not include T&M/Labor-Hour contracts in either the fixed price or cost type category. Due to the negotiated hourly rates and the fixed pricing of the material that can be established in T&M/Labor-Hour contracts, it is the belief of CODSIA members that FAR Part 12 should be available for T&M/Labor-Hour contracts. Use of this contract type when acquiring commercial items is practicable when it is not possible at the time of placing the contract to estimate accurately the extent or duration of the work. Use of T&M/Labor-Hour contracts should be considered

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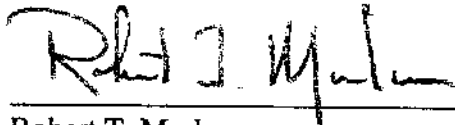
appropriate when the use of that type of contractual arrangement is the customary commercial practice for that type of service being procured. The strong similarity between fixed price and T&M/Labor-Hour contracts is illustrated in the changes contemplated by this FAR Case, "to conform the guidance in the clause at FAR 52.243-3, Changes-Time-and-Materials or Labor-Hours, with the guidance in Alternate II of the clause at FAR 52.243-1, Changes – Fixed Price".

We request that the CAA and DAR Councils consider revising FAR 12.207 to conform to the language of the statute. This would greatly expand the use of FAR Part 12 and increase the Government's access to significant commercial capability.

Thank you for the opportunity to comment. If you have any questions, please contact J. F. Steggall, the Project Officer for CODSIA Case 5-00, at (703) 516-8283, or jfstegga@collins.rockwell.com.

Sincerely,

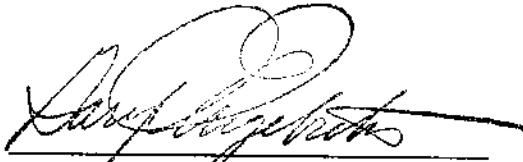
(SEE ATTACHED CODSIA SIGNATORIES)



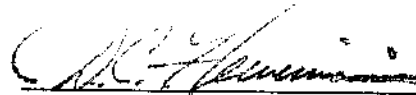
Robert T. Marlow
Vice President, Government Division
Aerospace Industries Association



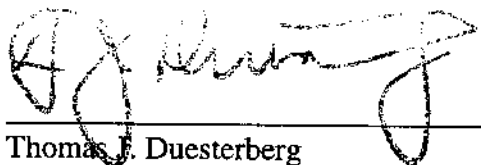
Lorraine M. Lavet
Chief Operating Officer
American Electronics Association



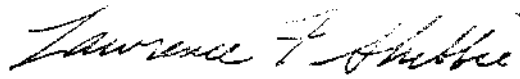
Gary D. Engebretson
President
Contract Services Association



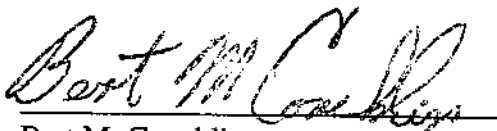
Dan C. Heinemeier
President, GEIA
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Thomas J. Duesterberg
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Lawrence F. Skibbie
President
National Defense Industrial
Association



Bert M. Concklin
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