



January 7, 2003

Ms. Angela Moy
OUSD(AT&L)DPAP(DAR)
IMD 3C132
3062 Defense Pentagon
Washington, D.C. 20301-3062

Re: DFARS Case 2002-D-013
Indian Incentive Clause – Contract Types

Dear Ms. Moy:

The Professional Services Council appreciates the opportunity to comment on the proposed DFARS revision published on November 22, 2002 (67 F.R. 70389) to clarify that the clause permitting incentive payments for use of Indian organizations as subcontractors may be used in all contract types. We support the rule.

The Professional Services Council is the leading national trade association representing the professional and technical services industry doing business with the federal government. PSC's 140 member companies perform more than \$100 billion in contracts annually with the federal government and other entities, from information technology to high-end consulting, engineering, scientific and environmental services.

The background section accompanying the proposed rule properly states that application of the Program is not limited to the presently listed contract types and that the proposed rule eliminates the references to specific contract types. We strongly recommend that the background section of the final rule reiterate this rationale and affirmatively state that the Program is available for all contract types.

In addition, while not included in the proposed rule, we recommend that the Department delete the arbitrary requirement in current 252.226-7001(d)(1) that prohibits an incentive payment from being made within 50 working days of subcontract award. There is no program or business justification for this arbitrary provision; the contracting officer should have the flexibility to make a case-by-case determination of when it is appropriate to make the incentive payment.

Finally, we recommend that both of these changes to be made applicable government-wide. We are making a recommendation to the Civilian Agency Acquisition Council that similar changes be made to FAR 52.226-1 that is applicable only to civilian agencies by virtue of FAR 26.104.

Thank you for your consideration of these comments. If you have any questions or need any additional information, please do not hesitate to let me know. I can be reached at chvotkin@pscouncil.org or at (703) 875-8148.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Chvotkin". The signature is fluid and cursive, with the first name "Alan" being more prominent than the last name "Chvotkin".

Alan Chvotkin, Esq.
Senior Vice President and Counsel