

Don't Let NAVY Tripwire Blow Up Your Pricing!

Everyone likes a bargain, and U.S. Government procurement and grant agencies are no different. What’s considered a fair and reasonable cost is in the eye of the beholder. Government buyers funding projects from the U.S. Treasury rely on certain specific cost limitations imbedded in agency regulations and policies for their bargain hunting.

For example, allowable employee compensation (maximums and minimums) are established by regulation across the board, with agencies adding their own limitations to the mix. NIH clients are familiar with the HHS salary limitation clause. That’s on top of the limits found in FAR 31.206 which “benchmarks” executive employee compensation as well as for all employees for contracts starting after June 24, 2014.

We’ve seen a number of other examples where reliance on the competitive marketplace to validate cost reasonableness is replaced by either regulatory limits or more vague policy decisions.

We stumbled on one such policy called “Navy Tripwire”, a salary limitation as part of a wide-ranging procurement risk management process. One of our clients got us involved as they would lose a contract if they didn’t comply.

Navy Tripwire Genesis

An April 2012 memo from the Commander of the Naval Sea Systems Command established a policy surrounding NAVSEA service contracting, implementing a number of procurement “tripwires” the Navy deemed high risk to project cost and performance. It said the Navy had ...”identified several areas of vulnerabilities ... which re-



quire greater visibility and conscious decisions by higher levels of management.” These tripwires, according to the memo, “require higher level concurrence and notifications before continuing” ... to execute a contract.

Tripwire Criteria

Among the ten (10) designated tripwires were the following criteria:

- Hourly labor rates exceeding rate of \$156/hr (burdened rate)
- Excessive variation between proposed and actual rates
- Subcontracts □ monitor proposed addition of subcontractors beyond what was included as part of the initial award
- Excessive ODCs on a services contract (>10%)
- Lack of effective competition (when only one offer is received, it’s going to get a closer look and require headquarters approval)

Tripwire Process

Navy contracting officers are trained to be mindful of these criteria, and if they are exceeded, they must defend these contract-

ing actions to a higher authority. The Navy memo establishes a standard 3 day review turnaround for a decision. Justification for these contracting actions must be documented in detail and must describe if the occurrence is systematic or a one-time occurrence.

Tripwire Application

What really happens is contractors are warned not to exceed these cost and pricing parameters. Government buyers down in the trenches are already spread thin and do what they can to keep the wheels turning. It’s natural for them to want and avoid the paperwork and exposure to higher level scrutiny. This causes contractors to capitulate to these limitations for fear of losing out on a project.

Beyond Just Salary Limitations

Unfortunately, it’s not always enough to have memorized chapter and the verse of the Federal Acquisition Regulations (FAR) and all its agency supplements, even if you could. The Code Federal of Regulations (CFR) contain just as many, perhaps more, pages to pick through affecting grant applications that could impact a cost proposal. These regulations affect not only salary, but many other aspects of pricing,

Congress Moves to Grow, Make Permanent, SBIR/STTR Programs

In case you hadn't heard the latest news on the SBIR/STTR programs coming out of Washington over the last couple of weeks, there are some pretty significant things happening over the future of both programs that all contractors and grantees should know about...

Legislation is moving through both houses of Congress that would not only make the programs permanent (*no more last minute, "kick the can down the road", nail-biting, Continuing Resolution extensions*), but they would also raise the current 3% SBIR set-aside significantly over the next several years.

...And we are not talking chump change here; the Senate's version ([S. 2812](#)), would double the set-aside to a whopping 6% by 2028, while the more "conservative" House of Representative's version ([H.R. 4783](#)), would still increase the current set-aside to 4.5% by 2022. The STTR program (now at 0.45%), would see proportionally smaller gains in the House bill, and only grow to 0.6% by 2022, though the Senate proposes an even larger (proportional growth) to 1%.

News reports have indicated that the bill has growing support, and has already cleared a hurdle in the Senate, where it has passed through a committee and has been placed on the Senate's Legislative Calendar.

Not Welcome News to All...

While this is great news for SBIR/STTR contractors and grantees (after all, we are talking about doubling the funding for these programs --- programs that are often the lifeblood and driving force of innovation at thousands of companies across the country each year), this legislation is actually causing quite a stir---and not just from the usual suspects.

As it turns out, advocates for the Small Businesses Community and the Research Community in the US are at odds over the legislation.

Many in the Research Community are concerned that the increase would result in fewer research opportunities for investigators, as it comes directly out of the awarding Agency's budget, which would most likely mean fewer non-SBIR/STTR research contracts and significantly less "non SBIR/STTR" funding available. Others are also worried that the legislation comes at the wrong time, because: "The proposed increases ... would be implemented when future funding levels for the federal science agencies are very uncertain."

Whether the House or Senate version of the bill passes, one thing is certain: this is sure to be good news for thousands tens of thousands of small businesses for years to come!

**Be Sure to follow [ReliAscent's DCAA Compliance and Government Contracting Blog](#) for more updates on this, and other important industry news!*

Important SBIR/STTR & Other Dates:

- **AUGUST 5** - HHS/NIH SBIR/STTR (Grants) Solicitation - Accepts Proposals
- **AUGUST 26** - DoD SBIR/STTR 2016.3/C Solicitation - Topics Released
- **SEPTEMBER 5** - HHS/NIH SBIR/STTR (Grants) Solicitation - Closes
- **SEPTEMBER 26** - DoD SBIR/STTR 2016.3/C Solicitation - Begins Accepting Proposals
- **NOVEMBER 8** - NASA SBIR/STTR Solicitation—Topics Released and Proposals are Accepted.

Don't Let NAVY Tripwire Blow Up Your Pricing (Continued)...

not the least of which is indirect rates.

More troublesome are the policies like Navy Tripwire which in effect act as quasi-regulation to tamp down on costs.

What to do

Familiarize yourself with the basic tenants of FAR as it relates to cost. Dive into your agency's contract or policy guide such as the ones for the Small Business Innovation Research (SBIR) program of the Grant Policy Statement for NIH. Most other agencies will offer a document or instructions having some level of precision in identifying cost limitations. Search the documents you find for keywords "limit" or "unallow".

SBIR conferences and other industry or agency sponsored seminars will typically have a session on proposal preparation or cost allowance where these issue are identified and questions as to their applications can be brought up and clarified.

Take advantage of any project specific pre-bid conference or a solicitation's question period. This is the best time to ask if there are specific cost and pricing limitations.

If you have any questions about Tripwire, please feel free to contact the experts at ReliAscent—we are happy to help!

- Dave Donley, ReliAscent