



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503
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ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

Mr. Shay D. Assad
Director, Defense Procurement
and Acquisition Policy
Department of Defense
3060 Defense Pentagon
Room 3E1044
Washington, DC 20301-3060

Dear Mr. Assad:

On December 4, 2006, the Office of Management and Budget (OMB) concluded its review under Executive Order 12866 of Federal Acquisition Regulation (FAR) Case 2003-027, "Additional Commercial Contract Types," and FAR Case 2004-015, "Payments Under Time-and-Materials and Labor-Hour Contracts." The final rules amend the FAR to establish policies and procedures for time-and-materials (T&M) and labor-hour (LH) contracts. In accordance with section 1432 of the National Defense Authorization Act for FY 2004 (P.L. 108-136), the rules authorize T&M and LH contracting for commercial items within certain boundaries that are designed to help agencies manage associated risks. The rules also refine policies for the use of T&M and LH contracts for non-commercial item acquisitions.

As the final rules indicate, T&M and LH contracts are appropriate for use in certain circumstances and subject to certain limitations. However, it needs to be recognized that the use of T&M and LH contracts poses risks and management challenges. It is therefore important that Federal agencies use T&M and LH contracts carefully, so as to ensure that the resources entrusted to the Federal Government are well managed and wisely used.

Accordingly, OMB wants to ensure that contracting offices and their customers – e.g., information technology, finance, and program offices – fully understand the parameters for using these contract types. In this regard, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council should coordinate with OMB on the roll-out of these rules, including development of the training materials. Specifically, OMB would appreciate the opportunity to review the training documents developed by the Federal Acquisition Institute and the Defense Acquisition University before they are formally incorporated into course materials.

OMB looks forward to working with you as these important rules are implemented.

Sincerely,

Steven D. Aitken
Acting Administrator
Office of Information
and Regulatory Affairs

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