



LIMITATION ON AMOUNTS

AVAILABLE FOR CONTRACT

SERVICES FOR FISCAL YEARS 2012-2014

1. PURPOSE

The purpose of this document is to establish policy and provide guidance for the SPAWAR claimancy on compliance with Section 808 of the National Defense Authorization Act (NDAA) of 2012, **amended by Section 802 of the 2014 NDAA.**

2. POLICY

Section **802** of the NDAA of **2014** limits spending for contract services in FY 2012, FY 2013, **or 2014** to the annual cost paid in FY 2010 for the same or similar services. This requirement applies to the award of new contracts and task orders in both sole source and competitive environments; it does not apply to options established prior to the 31 December 2011 enactment date of Section 808 or to options to be exercised after fiscal year 2013. For award of new Indefinite Delivery Indefinite Quantity (IDIQ) contracts, compliance may be measured either at the contract level through establishment of an FY 2013 ordering ceiling based on FY 2010 cost paid, or at the delivery order level for new task orders for continuing services. Guidance for implementation was provided in a class deviation issued by the Director of Defense Procurement and Acquisition Policy (DPAP) on 31 July 2012 and by a subsequent class deviation issued by DASN (AP) on 1 August 2012 and an implementation instruction on 27 August 2012. Compliance with Section 808 will be measured by reporting obligations semi-annually in the Navy Enterprise Resource Planning (ERP) accounting systems.

”Contract Services” means services procured from contractors, excluding those services relating to research, development, test, and evaluation; military construction; overseas contingency operations; and object class codes 25.3 (Other goods and services from Federal sources) and 25.6 (Medical Care).

Note: This "living" document will be electronically updated to the maximum extent possible on a regular or as needed basis. Always refer to the web site version located at: [https://e-commerce.sscno.nmci.navy.mil/Command/02/ACQ/navgenint.nsf/policydocs/C0ACD1A60560357586257AED007B52FC/\\$file/Limitation on Amounts Available for Contract Services.pdf](https://e-commerce.sscno.nmci.navy.mil/Command/02/ACQ/navgenint.nsf/policydocs/C0ACD1A60560357586257AED007B52FC/$file/Limitation%20on%20Amounts%20Available%20for%20Contract%20Services.pdf) for the most up-to-date version.

“Costs paid” means costs invoiced for services provided in FY 2010.

“New services” means services procured to support an organization or program not in existence in FY 2010. A procurement may also be defined as new services if the support requirements of an existing organization or program have changed to the extent that a comparison with FY 2010 requirements is not meaningful.

“Research, development, test, and evaluation services” means a contract or task order whose principle purpose is basic research, applied research and exploratory development, advanced development, engineering development, operational systems development, or commercialization efforts.

3. RESPONSIBILITIES/PROCEDURES

a. Program Offices (PEO C4I, PEO EIS, PEO Space, JTNC); Staff codes at SPAWAR HQ and Systems centers:

- i. For service procurements (except those excluded as specified in Section 2 above) beginning in FY 2013 with an estimated value greater than \$10 million, program offices/staff code personnel, with assistance from the Defense Contract Management Agency and Defense Contract Audit Agency DCMA/DCAA, will determine the actual FY 2010 costs paid for the required services.
- ii. After determination of costs paid, program office/staff code personnel will develop an Independent Government Estimate (IGE) for FY 2013 labor hour and Other Direct Costs (ODCs) using the FY 2010 costs paid as a ceiling. The labor hour/ODC estimates for fiscal years beyond 2013 are not governed by the restriction of Section 808 of the NDAA.

b. Procuring Contracting Officers (PCOs)/Contract Specialists

- i. For FY 2013 services procurements with an estimated value between \$10-\$25M, PCOs/contract specialists shall, with assistance from the program office, prepare a memorandum for the file establishing that the FY 2013 procurement is for the "same or similar services". A memorandum shall also be prepared supporting the determination that procurement is for services exempted from Section 808 compliance or new services. This determination shall be signed by the PM or deputy PM, as well as the PCO. For FY 2013 services procurements with an estimated value that exceeds \$25M, the determination of same or similar services or exempted services shall be documented in the MOPAS acquisition strategy document.
- ii. PCOs/contract specialists shall insert a provision substantially the same as the following in the “General Information” section and Section M of SeaPort solicitations, and Section M of non-SeaPort service solicitations:

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"This procurement is subject to the restrictions contained in Section **802** of the National Defense Authorization Act (NDAA) for Fiscal Year 2014 regarding procurement of contract services. The NDAA for FY **2014** limits spending for contract services in FY 2012, FY 2013, **or 2014** to the annual cost paid in FY 2010 for the same or similar services. The Government has based the FY 2013 labor hour and ODC estimates contained in the solicitation on the annual cost paid in FY 2010. If after receipt of proposals the Government determines that the offerors' proposed costs for FY 2012, FY 2013, **or 2014** exceed the costs paid in 2010, the Government may open discussions, amend the solicitation to revise its labor hour and ODC estimates, and request revised proposals".

iii. If, after evaluation of initial proposals (or final proposal revisions, if discussions are held) the best value source selection process indicates that the proposal representing the best value has a proposed cost for FY 2013 that exceeds the restriction contained in Section 808 of the NDAA, the PCO, with assistance from the program office/staff code, shall prepare a Determination and Findings (D&F) that sets forth the rationale for award. This rationale shall address the adverse impact to operations that would result from awarding at the limit established by cost paid in FY 2010. The D&F review and approval requirements to award a contract/task order that exceeds the restrictions established by Section 808 of the FY 2012 NDAA are contained in the below linked SCPPM document entitled "Determinations and Findings (D&Fs). Approval authority currently resides with DASN (AP). The D&F shall be submitted to DASN (AP) via RDAJ&As@navy.mil to obtain the required written approval prior to contract or task order issuance.

iv. For FY 2013 service contract/task order awards conducted in a sole source environment, program/staff code personnel with assistance from DCMA/DCAA, will determine the actual FY 2010 costs paid for the required services. After determination of costs paid, program office/staff code personnel will develop an IGE for FY 2013 labor hour and Other Direct Costs (ODCs) using the FY 2010 costs paid as a ceiling. PCOs/contract specialists shall establish their negotiation objectives based on FY 2010 costs paid.

Alternatively, PCOs/contract specialists shall establish negotiation objectives for direct labor and overhead rates that are less than or equal to direct labor and overhead rates paid to that contractor for the same or similar contracted services in FY 2010. PCOs/contract specialists shall coordinate with the DCMA/DCAA to determine the applicable rates.

In the event that the final negotiated cost/price exceeds the direct labor and overhead rates paid to that contractor for the same or similar contracted services in FY 2010, the PCO, with assistance from the program office/staff code, shall prepare a D&F that sets forth the rationale for award. This rationale shall address the adverse impact to operations that would result from awarding at the limit established by Section 808 of the NDAA. The D&F review and approval requirements to award a contract/task order that exceeds the restrictions established by Section 808 of the FY 2012 NDAA are contained in the below linked SCPPM document entitled "Determinations and Findings (D&Fs).

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4. APPROVALS

As provided for under Section 808 (c)(2), if it has been determined that it is necessary for a contract or task or delivery order to be awarded in an amount exceeding \$10M to a contractor in FY12 or FY13 for continuing services, at an annual cost to the Government that exceeds the annual cost paid by the requiring activity for the same or similar services in FY10, a Determination and Findings shall be submitted to DASN(AP) via RDAJ&As@navy.mil to obtain written approval prior to contract award or order issuance.

5. MISCELLANEOUS

LIMITATION ON AMOUNTS AVAILABLE FOR CONTRACT SERVICES TOOLBOX

DPAP Class Deviation – Limitation on Amounts Available for Contracted Services dated 31 Jul 2012 - <http://www.acq.osd.mil/dpap/policy/policyvault/USA003691-12-DPAP.pdf>

DASN Class Deviation - Limitation on Amounts Available for Contracted Services dated 01 Aug 2012 - <https://acquisition.navy.mil/rda/content/view/full/9097>

DASN Implementation of Limitation on Amounts Available for Contracted Services dated 27 Aug 2012 - <https://acquisition.navy.mil/rda/content/view/full/9203>

[SPAWAR Determination and Finding SCCPM Document](#)

[SPAWAR Acquisition of Services SCCPM Document](#) (includes MOPAS instructions)