DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND
1322 PATTERSON AVENUE, SE SUITE 1000
WASHINGTON NAVY YARD DC 20374-5065

14 August 2003

From: Commander, Naval Facilities Engineering Command
To: Commander, Atlantic Division, Naval Facilities Engineering Command
Commander, Pacific Division, Naval Facilities Engineering Command
Commander, Southwest Division, Naval Facilities Engineering Command
Commander, Southern Division, Naval Facilities Engineering Command

Subj: ROICC INVOLVEMENT WITH NAVY AND MARINE CORPS INTERNET CONTRACT CONSTRUCTION WORK – ADDITION OF DAVIS-BACON ACT REQUIREMENTS

Ref: (a) NAVFACENGCOM ltr of 20 May 02
(b) NMCI Contract Mod. P000068 to N00024-00-D-6000 of 26 Jun 03

Encl: (1) Roles and Responsibilities for NMCI Construction Work

1. Reference (a) provided information on the Navy and Marine Corps Internet (NMCI) contract and the general ROICC support required during construction work performed by the contractor, EDS, or its subcontractors on Navy and Marine Corps installations. Recently, the Navy awarded a contract modification, reference (b), to EDS to include Davis-Bacon Act (DBA) requirements in the NMCI contract. This modification required changes to the previous guidance provided under reference (a). Enclosure (1) has been modified to reflect these changes and is intended to replace enclosure (1) of reference (a).

2. A copy of the contract modification is available on the NAVFACENGCOM Southwest Division web site at http://www.efdsw.navfac.navy.mil/05/05I/NMCI.htm. This modification tasks the contractor with full responsibility for compliance with DBA and other labor standards, including routine compliance duties on all construction activity.

3. If you have any DBA or other labor questions, please contact Ms. Kimberly Hussey, Command Labor Advisor for NAVFACENGCOM at DSN 325-9138 or commercial (202) 685-9138 or e-mail address at husseyk@navfac.navy.mil. For other NMCI facilities questions, please contact the appropriate NMCI Government Furnished Facilities Program Management Office Project Manager at Southwest Division or Mr. David Nelson at (619) 532-1410 or e-mail address nelsondp@efdsw.navfac.navy.mil.

J. E. SURASH
ActingVice Commander

Copy to:
(See next page)

Subj: ROICC INVOLVEMENT WITH NAVY AND MARINE CORPS INTERNET CONTRACT CONSTRUCTION WORK – ADDITION OF DAVIS-BACON ACT REQUIREMENTS

Copy to:
CO ENGFLDACT CHES
CO ENGFLDACT MW
CO ENGFLDACT NE
CO ENGFLDACT NW
CO ENGFLDACT SE
CO ENGFLDACT WEST
CO NFESC
CO PWC Washington
CO PWC Pearl Harbor
CO PWC Great Lakes
CO PWC Pensacola
CO PWC Norfolk
CO PWC San Diego
CO PWC Jacksonville
CO PWC Guam
CO PWC Yokosuka

Roles and Responsibilities for NMCI Construction Work

ROICC Responsibilities:

1. Coordinate the government review of the NMCI design, including receipt and distribution of designs between all involved parties. Since EDS is designing their construction efforts to building codes and/or commercial standards, these reviews are limited to safety, UFAS, fire protection and general code compliance. Reviews should be completed in approximately two working days. Use of overnight delivery services may be required for reviewers out of the area.

2. Coordinate construction start-up and assistance similar to what is provided for new construction projects, including preconstruction conferences and assistance on utility outages, dig permits, security passes, laydown areas, etc. A separate preconstruction conference is recommended for each different phase of the work, such as the exterior cable construction, the interior cable/equipment installation, including the equipment closets (in nearly every building on base), and the server farm construction phase with the ancillary buildings for admin and warehouse renovation.

3. Coordinate all NMCI construction-related activities. Coordination/scheduling of BAN/LAN cabling with the Activity facility representatives and facility tenants is the responsibility of the Activity.

4. Visit the job site as necessary to ensure job site safety and reasonable assurance that NMCI construction complies with the EDS design.

a. ROICC representatives have authority to immediately suspend work when life threatening safety violations or any unsafe work practices are observed or found. If construction is suspended due to safety, the ROICC must immediately notify the cognizant SPAWAR representative and the Southwest Division (SWDIV) Government Furnished Facilities (GFF) Program Management (PM) Office of the circumstances and recommended corrective actions.

b. Any issues regarding construction quality should immediately be directed to the EDS construction contractor(s) for resolution. The ROICC shall also notify the cognizant SPAWAR representative and the SWDIV GFF PM Office of the circumstances and recommended corrective actions.

5. ROICC liaison assistance to:

a. Coordinate and resolve hazardous material issues. Coordinate with the facility owner to provide copies of applicable asbestos and hazardous material surveys to EDS for each building and facility that the cable/equipment contractor will be working in. If asbestos or other hazardous material is encountered during EDS's work, coordinate remediation activities with the Activity PWD or local PWC (as applicable).

b. Coordinate with other station departments (e.g., Public Works, security, environmental, fire department, etc.) as required to maintain construction progress.

c. Coordinate and interface with other construction contracts in the vicinity of the NMCI construction.

6. Arrange for Fire Protection consultation, testing and acceptance through the local EFD/A or local EFD-approved fire protection engineer.

7. Davis-Bacon Act (DBA) Responsibilities: Provide support to the contracting officer in implementing the DBA requirements in the contract including the following:

a. Review the contractor's project description of work, assessment of applicability of DBA and estimated start of construction, and provide recommendations to the contracting officer and the NAVFAC Labor Advisor within one week of receipt.

b. In cases where violations are not resolved by the contractor, review the contractor's report, documentation and findings; confirm findings and request compliance. If future compliance and back wage payments cannot be obtained, prepare the investigation file, send to the contracting officer for further action/referral to the Department of Labor.

c. Actions taken by the ROICC with regard to DBA or other labor issues should be coordinated with NAVFAC and the local EFD/EFA Labor Advisors.

d. Submit quarterly ROICC labor reports to respective EFD for DBA-related reimbursement.

8. All NMCI contract issues other than DBA should be forwarded to Southwest Division's NMCI PM Office, Code 05I for resolution. All DBA contract issues will be forwarded to the NAVFAC Labor Advisor for resolution.

<u>Contractor Responsibilities</u>:

1. Quality control and safety.

2. Construction management.

3. Obtaining personnel and vehicle passes.

4. Notification and control of utility outages/tie-ins to station utilities systems.

5. Complying with state and federal environmental regulations and laws. Notifying ROICC of any environmental issues.

6. Traffic control and obtaining approval of haul routes.

7. Applying for and obtaining all permits including digging, hot work, air emission permits, etc.

8. Notifying ROICC or Base Security of any security issues.

9. Complying with station regulations.

10. Completing and submitting all construction designs for government review and comment; incorporating government review comments before starting construction.

11. Design oversight, inspection and certification (in accordance with the current version of MIL-HNBK 1008) of Fire Protection/Life Safety systems to allow for NAVFAC certification.

12. Attend and participate in pre-construction meetings.

13. Proper storage of materials onsite.

14. Coordination of equipment and materials movement.

15. Coordination of new work with existing conditions, including existing underground utilities.

16. DBA Responsibilities: The contractor's responsibilities for DBA implementation are as follows:

a. Identify the construction work necessary for fit-up and provide written report to the government describing the construction project, the type of construction activities/work, the projected beginning and ending dates, and recommendations on the applicability of DBA.

b. Incorporate in all subcontractor agreements the requirement to comply with provisions of the Davis-Bacon Act and the applicable wage determination. Ensure compliance by conducting routine compliance activities, including reviewing payrolls, site visits and interviews with employees.

c. Collect, review and verify certified payrolls from subcontractors.

d. File and maintain records required by the DBA and other labor laws. Provide original certified payroll reports to the ROICC in support of any violation referrals. Provide all original certified payrolls to the contracting officer at the end of the project.

e. Notify subcontractors of discrepancies and violations, ensuring that corrective actions are taken within 30 days. If the contractor and the subcontractor cannot resolve

discrepancies or violations, or required corrective actions have not been taken within 30 days, the contractor shall elevate the issue in accordance with the matrix below.

f. Handle inquiries promptly and fully resolve inquiries or complaints alleging failure to comply with DBA provisions. Any complaints or inquiries that cannot be resolved by the contractor within 30 days must be elevated in accordance with the matrix below.

g. Ensure subcontractors submit requests for conformance (approval for additional classifications not listed on the DBA WD) with required information to the contractor for review and concurrence. The contractor will then submit the request in accordance with the matrix below for submittal to the Department of Labor for approval.

h. Submit cost analysis for each subcontract task order where the application of DBA wage rates will result in an aggregate increase in labor cost for the entire task order compared to baseline wage rates.

i. Inform the ROICC and base commander promptly of actual or potential contractor labor-management disputes.

NMCI Contracting Officer:

1. The NMCI Contracting Officer and staff (including ACOs) fulfill all the requirements for managing this contract.

2. DBA responsibilities:

a. Review the contractor's project description and recommendation for DBA coverage and issue a determination of applicability to EDS. The determination will include a clear definition of the scope (beginning and ending) of the DBA coverage and provide by reference the Wage Determination by number, modification and date.

b. Review the contractor's cost proposals and issue contract modifications.

c. Negotiate and award any undefinitized DBA contract modifications quarterly.

d. Refer unresolved violation cases to Department of Labor.

e. Withhold funds from the prime contractor when necessary to enforce DBA requirements.