Equitable Adjustments

**CONRAD CORPORATION**

The Conrad Corporation is a clothing manufacturer that won a sealed-bid contract to produce uniforms for the Government. Now several months later, Conrad has submitted a claim related to the Government's failure to provide Government Furnished Material (GFM). The following paragraphs outline contract events related to the claim:

**October 20, 1998**. A contract was awarded for production for 101,400 uniform costs. The contract specifies that the Government will furnish the material required to produce the outer shell of the required coats. GFM consumption was estimated at 2.4 yards per coat for a total material usage of 243,360 yards. The contract called for the Government to release GFM in quantities no larger than 50,000 yards to limit contractor storage space requirements at the Conrad plant.

**October 5, 1999.** Government Depot personnel notified the contracting officer that the Depot was unable to fill Conrad GFM requisitions because of a stock shortage. Depot computer records indicated that there were 100,000 yards of material available but a physical inventory failed to locate any of the required material or an acceptable substitute.

**November 5, 1999**. The contracting officer notified Conrad that the required GFM was not available and that the Government planned to convert the balance of the contract to Contrctor-Furniched Material (CFM). At that time, Conrad estimated that 95,000 yards of material would be required to complete the balance of the contract (39,584 units).

**November 19, 1999**. The contracting officer issued a unilateral change converting the outer shall material from GFM to CFM. At that time, Conrad indicated that a 3-4 weeks of uncut GFM inventory remained and projected a 5 to 6 week lead time for receipt of the CFM.

**January 5, 2000**. Conrad submitted a request for equitable adjustment

|  |  |  |
| --- | --- | --- |
| **PROPOSED EQUITABLE ADJUSTMENT** | | |
| Material  Material Overhead  Other Direct Cost  Total Manufacturing  Cost  G&A Expense  Total Cost  Profit  Requested Adjustment | 95,000 yeards @$10yard  5% of Material Cost  Estimation of cost impact of  The change  10% of Total Manufacturing Cost  15% of Total Cost | $ 950,000  $ 47,500  $ 500  \_\_\_\_\_\_\_\_\_\_  $ 998,000  $ 99,800  $1,097,800  $ 164,670  $1,262,470 |

**February 1, 2000**. The Contracting Officer requested assistance from the ACO cognizant auditor and technical personnel.

**February 28, 2000.** Technical personnel found that:

* Conrad purchased a reasonable amount of material.
* The proposed Material Overhead was excessive for the effort involved, issuing and administering a single purchase order. Estimated actual cost was $250.

**February 28, 2000**. The cognizant auditor did not question any of the proposed cost. The auditor did comment that the proposed indirect rates complied with the current Forward Pricing Rate Agreement (FPRA)

**March 5, 2000**. The contracting officer developed a negotiation position based on the audit and technical reports.

|  |  |  |
| --- | --- | --- |
| **EQUITABLE ADJUSTMENT NEGOTIATION OBJECTIVE** | | |
| Material  Material Overhead  Other Direct Cost  Total Manufacturing  Cost  G&A Expense  Total Cost  Profit  Adjustment Objective | Accepted Conrad proposed amount  Accepted Technical recommendation  Accepted Conrad proposed amount  Accepted proposed 10% rate  5% of Total Cost because costs all  incurred | $ 950,000  $ 250  $ 500  $ 950,750  $ 95,075  $1,045,825  $ 52,291  $1,098,116 |

**March 31, 2000**. After weeks of negotiation, the contracting officer and the contractor could not reach agreement on an equitable adjustment. The major areas of difference were Material Overhead and Profit. As a result, the contractor submitted a claim seeking payment under the disputes clause of the contract.

|  |  |  |
| --- | --- | --- |
| **CONRAD CLAIM** | | |
| Material  Material Overhead  Other Direct Cost  Total Manufacturing Cost  G&A Expense  Total Cost  Profit  Requested Adjustment | 95,000 yards @ $10/yard  5% of Material Cost  Estimation of cost impact of the change  Claim preparation cost  10% of Total Manufacturing Cost  15% of Total Cost | $ 950,000  $ 47,500  $ 500  $ 1,000  $ 999,000  $ 99,900  $1,098,900  $ 164,835  $1,263,735 |

**April 5, 2000.** The contracting officer received a Claim Certification signed by the Contract Manager and dated April 2, 2000.

**April 15, 2000**. The contracting officer received a Claim Certification signed by the Plant Manager an dated April 10, 2000. The second Certification was identical to the first, except for the signature.

1. Does the proposed material cost appear reasonable?
2. Whose position on Material Overhead appears most reasonable?
3. Is the cost of preparing the request for equitable adjustment allowable?
4. Is the Cost of preparing the claim allowable?
5. Is the proposed G&A Expense reasonable?
6. How should the profit rate be determined?

7. If the contractor is to be paid interest, what should be the first day for interest calculation? (Assume that the claim was submitted after October 29, 1995)