

2890.4100 DEVIATIONS FROM MAXIMUM COSTS FOR CONTRACTOR SERVICES.

Subpart 1. **Bids over maximum costs owing to unavailability of contractors.** A cost for a contractor task that exceeds the maximum cost specified for that task in parts 2890.2400 to 2890.3850 is not prima facie unreasonable when:

A. the bid accepted by the applicant before the provision of contractor services specifically states that the amount exceeds the maximum cost limits and provides a detailed explanation of the reasons for costs in excess of the maximum cost limits; and

B. the applicant demonstrates by reasonable evidence that:

(1) the applicant could not secure a bid to perform that contractor service for an amount not exceeding the maximum costs in parts 2890.2400 to 2890.3850 for that contractor service;

(2) the applicant conducted an extensive search for bids from persons that could perform that contractor service or perform a comparable service at less expense that would make unnecessary the performance of that contractor service; and

(3) the performance of that contractor service was essential to complete the corrective action properly.

Subp. 2. **Additional costs incurred after bid approved by applicant.**

A. Costs for contractor services that exceed the amount specified in a bid approved by the applicant are not prima facie unreasonable when:

(1) the applicant approves a change order for the higher costs;

(2) the higher costs were required by circumstances beyond the control of the contractor or applicant that could not have been reasonably anticipated when the bid was accepted by the applicant; and

(3) the applicant demonstrates that the higher costs were essential to complete the corrective action properly.

B. The applicant must approve change orders on a form prescribed by the board. The charge order form must contain the following:

(1) a detailed description of the higher costs;

(2) the reason for the changes from the original bid;

(3) the amount originally proposed for each affected task and the amount actually charged for each affected task; and

(4) signatures of the applicant and the contractor.

Statutory Authority: *MS s 115C.07*

History: *20 SR 227; 28 SR 383*

Published Electronically: *September 14, 2007*