

Time-and-Materials (T&M) and Labor-Hour Contracting

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T&M and Labor-Hour Contracting

- **T&M / Labor-Hour Contract Structures**
- **A History of Challenges**
 - Commercial terms not authorized
 - Confusion about “Subcontract” labor rates
- **The Services Acquisition Reform Act of 2003**
 - Commercial contracting
 - Restrictions

T&M and Labor-Hour Contracting

- **The New Regulations**
 - Implement SARA
 - Add further restrictions
 - Requirements for rate structures
 - Detailed treatment of costs
- **Variations**
 - Contract awarded with or without competition
 - Contract for commercial or non-commercial services

T&M and Labor-Hour Contracting

- **Commercial Contracting**
 - Generally authorized
 - Conveys the advantages of commercial contracting terms
 - Special CAS exemption
 - Some limitations
 - Commercial services definition
 - Must be competitively awarded

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- **Detailed Treatment of Rates and Costs**
 - Subcontracted labor hours
 - CCE labor hours
 - Material costs
 - Rebates and discounts
 - Other direct costs
 - Indirect costs

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- **Subcontracted Labor Hours**
 - Must be included in the fixed labor-hour rates
 - Must be excluded from material-cost billing

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- **CCE Labor Hours**

- Included in fixed labor-hour rates
- If the prime contract is awarded without competition:
 - for a commercial CCE service, the rate may include the established catalog or market price
 - for a non-commercial CCE service, the rate cannot include profit for the CCE

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- **Materials**
 - Generally reimbursed at cost
 - Exception for commercial items

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- **Rebates and Discounts for Materials**
 - Commercial prime contracts
 - only those “identifiable to the contract”
 - Non-commercial prime contracts
 - all rebates and discounts that have accrued to the contractor

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- **Other Direct Costs**

- Commercial prime contracts

- ODC category must be listed in the contract

- Non-commercial prime contracts

- actual ODC costs paid if (1) clearly excluded from the hourly labor rates and (2) allocated in accordance with established accounting practices

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- **Indirect Costs**

- Commercial prime contracts

- negotiated as a fixed amount
- stated in the contract
- paid on a “pro-rata” basis

- Non-commercial prime contracts

- actual indirect costs paid if (1) clearly excluded from the hourly rates and (2) allocated in accordance with established accounting practices

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- **Government Audits**
- **Commercial contract clause requires access to “employees whose time has been included in any invoice for the purpose of verifying that these employees have worked the hours shown on the invoices.”**