DEPARTMENT OF THE ARMY
WASHINGTON DC 20310

APR 01 2008

SAAL-PA

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Data Management and Technical Data Rights

This memorandum directs the immediate implementation of Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)) memorandum, July 19, 2007, subject as above, Enclosure 1, on Army Acquisition Category (ACAT) I and II programs. While not specifically required by the referenced memorandum, application of this policy to ACAT III programs is strongly encouraged due to the influence data management and technical data rights have on our ability to produce, operate, sustain, and dispose of equipment and software. Pursuant to the Department of Defense Instruction (DODI 5000.2) and Army Regulation (AR 70-1) regarding Systems Engineering, this policy does not relieve any ACAT program of the requirement to address data management as part of the Systems Engineering Plan.

In keeping with Enclosure 1, Program Executive Officers (PEOs), Program/Project/Product Managers (PMs), and Direct-Reporting PMs responsible for ACAT I and II programs shall assess the long-term data management and technical data rights of their systems and document that assessment in a program Data Management Strategy (DMS) in accordance with Enclosure 1 and the DMS Requirements of Enclosure 2. The DMS shall be approved in the context of the Acquisition Strategy/Acquisition Plan.

Principal Assistants Responsible for Contracting (PARCs) supporting PEOs and PMs in the acquisition and sustainment of ACAT I and II programs shall ensure that PEOs and PMs are appropriately advised of their rights and responsibilities under Title 10, United States Code, Section 2320--Rights in Technical Data, and Section 2321--Validation of Proprietary Data Restrictions, as amended by Section 802 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law Number 109-364.

PEOs, PMs, and PARCs will ensure that the provisions of Federal Acquisition Regulation (FAR) Subpart 12.211, FAR Subpart 27.4, Defense Federal Acquisition Regulation Supplement (DFARS) Section 207.106 and Subsections 227.7103-1 and 227.7203-1 are appropriately applied to contracts in keeping with their DMS and Acquisition Strategy.

The Assistant Secretary of the Army, Acquisition, Logistics and Technology delegated authority for data management and technical data rights to the Commanding General (CG), U.S. Army Materiel Command (AMC) by memorandum, April 19, 2004, SUBJECT: Delegation of Authority, Enclosure 3. The Headquarters AMC G-3/5 is the CG AMC designated representative for data management and technical data rights.

To ensure implementation of the requirements described above, each PEO, Direct-Reporting PM and AMC Life Cycle Management Command will designate a Technical Data Management point of contact (POC). Organizations will provide their POC contact information to Ms. Deborah Laforme, Attn: AMCOPS-EI, commercial (703) 806-9149, DSN 656-9149, or e-mail: debra.laforme@us.army.mil or Mr. John Miller, commercial (703) 806-9142, DSN 656-9142, or e-mail: john.r.miller5@us.army.mil, within 45 days of the date of this memorandum.

The Army point of contact is Dr. Roger Hamerlinck, SAAL-PA, commercial (703) 604-7012, DSN 664-7012, or e-mail: roger.hamerlinck@hqda.army.mil.

Dean G. Popps
Acting Assistant Secretary of the Army
(Acquisition, Logistics and Technology)

Enclosures

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Already on there.

CF:
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ASSISTANT SECRETARY OF THE ARMY FOR MANPOWER AND RESERVE AFFAIRS
ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT
U.S. ARMY MATERIEL COMMAND, ATTN: AMCOPS-EI

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JUL 19 2007

MEMORANDUM FOR SERVICE ACQUISITION EXECUTIVES

SUBJECT: Data Management and Technical Data Rights

Technical data – recorded information used to define a design and to produce, support, maintain, or operate the system – is critical to the life-cycle sustainment of any system. Given that many of our systems may remain in the defense inventory for decades following acquisition, technical data decisions made during the acquisition process can have far reaching implications over the life span of the system. Consequently, to ensure thoughtful and rigorous data management and data rights strategies are effectively integrated with program planning, I direct the following policy be implemented.

Program Managers for Acquisition Category (ACAT) I and II programs, regardless of planned sustainment approach, shall assess the long-term technical data needs of their systems and reflect that assessment in a Data Management Strategy (DMS). The DMS shall:

- Be integrated with other life cycle sustainment planning and included in the Acquisition Strategy.
- Assess the data required to design, manufacture and sustain the system as well as to support re-competition for production, sustainment or upgrade.
- Address the merits of including a priced contract option for the future delivery of technical data and intellectual property rights not acquired upon initial contract award and shall consider the contractor's responsibility to verify any assertion of restricted use and release of data.

The DMS shall be approved in the context of the Acquisition Strategy prior to issuing a contract solicitation.

This policy responds to section 802 of the John Warner National Defense Authorization Act for FY 2007, Public Law No. 109-364. All Acquisition Strategies for ACAT I and II programs reviewed or updated subsequent to this date will reflect this policy. The policy will be included in the next revision of DoDI 5000.2 and associated business practice included in the Defense Acquisition Guidebook.

My point of contact is Mr. Chuck Silva, ODUSD/L&MR (Material Readiness and Maintenance Policy), at 703-604-1075.

Kenneth J. Krieg

cc:
CDRUSSOCOM, Attn: Acquisition Executive
Deputy Under Secretary of Defense (Acquisition and Technology)
Deputy Under Secretary of Defense (Logistics and Materiel Readiness)
Director, Defense Research and Engineering
Director, Operational Testing and Evaluation
Assistant Secretary of Defense (Command, Control, Communications and Intelligence), Attn: DASD (C3I Acquisition)
Director, Program Analysis and Evaluation, Attn: Chairman, Cost Analysis Improvement Group
Director, Acquisition Resources and Analysis
Director, Defense Contract Management Agency
Director, Defense Logistics Agency
Director, Defense Acquisition and Procurement Policy
Director, Missile Defense Agency
Director, Special Programs
President, Defense Acquisition University

Enclosure 2 - Data Management Strategy (DMS) Requirements

Program Executive Officers (PEO), Program/Project/Product Managers (PM), Project Directors (PDs), Direct-Reporting PMs, and other Materiel Developers shall prepare a Data Management Strategy (DMS) that will:

- Be integrated with other life cycle management and sustainment planning, and included in the program Acquisition Strategy (AS) and Acquisition Plan (AP), as appropriate. Coordination and approval of the DMS and AS/AP will follow existing Office of the Secretary of Defense (OSD) and Army policies for the appropriate ACAT and dollar value of the acquisition.
- Assess the technical data rights and data required to design, manufacture and sustain the materiel and software systems, as well as, to support re-competition for production, sustainment, modification or upgrade. The results of such assessment shall be described in the AS/AP to include the costs, benefits, risks, and impacts of both acquiring and not acquiring the rights to use the technical data, as well as, delivery of the technical data to a Government location or through formal access at a non-Government location. Note, "formal access" is access to contractually delivered data, to which the Government has a contractually enforceable right to access, copy and use that data consistent with the terms of the contract, such as data at a non-Government location. Further, the assessment shall explain the rationale for the approach taken toward access to data and delivery of data. Additionally, describe the planned approach to acquire, safeguard, and maintain the technical data and data rights.
- Address the merits of including a priced contract option for the future delivery of technical data and associated license rights that were not acquired upon initial award. Data is normally acquired with unlimited rights or Government Purpose Rights and it is the contractor's responsibility to verify any assertion of restricted use and release of data.
- Be reviewed/updated at each milestone decision and prior to each acquisition, as appropriate.
- Technical data issues and a summary of the DMS should also be addressed in the Supportability Strategy (SS) in accordance with AR 700-127, Integrated Logistics Support, and DA PAM 700-56, Logistics Supportability Planning and Procedures in Army Acquisition.

Enclosure 3 - Delegation of Authority, 19 April 2004

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
ACQUISITION LOGISTICS AND TECHNOLOGY
103 ARMY PENTAGON
WASHINGTON DC 20310-0103

19 APR 2004

SAAL-RB

MEMORANDUM FOR COMMANDER, U.S. ARMY MATERIEL COMMAND,
9301 CHAPEK ROAD, FORT BELVOIR, VA 22060-5527

SUBJECT: Delegation of Authority

To focus on Army activities related to the management of engineering and technical data, product data, Value Engineering (VE), Reduction of Total Ownership Cost (RTOC), I delegate the authority and responsibility for management of these activities to the Commander, U.S. Army Materiel Command (AMC). This delegation includes tasking authority throughout the Acquisition and Logistics communities. This delegation will help the Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)) meet its responsibility for the efficient life cycle management of weapons systems. This responsibility and authority is derived from the ASA(ALT) mission as established in the Department of Defense 5000 series documents, and is established to ensure the Army mission accomplishment and compliance with the October 1, 2003, implementation of the ASA(ALT) Strategic Plan.

Execution of this responsibility requires close coordination with the ASA(ALT), the Director, Program Assessment and Analysis Directorate and the Army Enterprise Integration Oversight Office to ensure the Army is moving in a focused, consistent direction that supports the systems engineering processes and the evolving Integrated Digital Environment. The limitations, conditions and scope of the delegated responsibilities applicable to this authority are set forth below:

a. Management responsibilities delegated to AMC include but are not limited to:

(1) Use of Contractor Integrated Technical Information Systems.

(2) Use of Data Item Descriptions to establish contractually mandated access, delivery and use requirements.

(3) Use of Contract Data Requirements Lists.

(4) Use of Configuration Management (CM) and Configuration Status Accounting (CSA) throughout the weapon systems life cycle.

(5) Management of CM, CSA and repository systems dealing with Product Data Management of Product Data.

(6) Management of legacy data conversion to digital form.

(7) Management of the modernization of legacy data management systems.

(8) Management of VE Programs and Initiatives shall consist of overseeing and managing the Army's initiative and programs assigned; organizing and hosting VE workshops and VE related conferences; leading the development and publication of the annual Army VE Strategic Plan; leading the Army VE awards selection and coordination/facilitation of the awards ceremonies; compilation of the Army annual report of savings to Office of the Secretary of Defense (OSD)/Office of Management and Budget (OMB); and participation on the OSD Integrated Product Team (IPT).

(9) Management of RTOC Programs and Initiatives shall consist of acting as the Army's central synchronization point for oversight and management of RTOC (e.g., Pilot Programs, Recapitalization) programs including OSD directed funding for initiatives within those designated programs that seek to reduce Army Total Ownership Costs and serving as the Army central coordination point for all RTOC cost reduction proposals and initiatives for RTOC efforts. The AMC will be able to add a charge of up to 4.0 percent to the estimates from the Program Managers (PMs) and Program Executive Offices (PEOs). The AMC is authorized direct interface with OSD and the other Services on assigned projects and will work toward joint initiatives. The AMC will also be responsible for disseminating information on cost reduction programs and techniques throughout the Army.

b. The ASA(ALT) will retain the authority to establish or change VE and/or RTOC policy. The proposed new policy and changes to current policy will be fully coordinated through this Headquarters, ATTN: SAAL-RB, and submitted to my office for approval and issue prior to implementation. All changes will be coordinated with SAAL-PA for review and incorporation in the next revision of Army Regulation 70-1.

c. Re-delegation of this authority to subordinate commands is not permitted. The AMC and ASA(ALT) will develop and publish implementation procedures document within 30 days of the signing of this Delegation of Authority Letter.

This delegation shall remain in effect unless or until rescinded in writing.

Claude M. Bolton, Jr.
Assistant Secretary of the Army
(Acquisition, Logistics and Technology)