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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

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MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT), ASA (ALT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION & LOGISTICS MANAGEMENT), ASN (RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING), SAF/AQC
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: Award and Incentive Fees—New GAO Report and Evaluation of Data

I want to commend the Department of Defense (DoD) Components that have submitted the relevant data on award and incentive fees required by section 814 of the National Defense Authorization Act Fiscal Year 2007 (Public Law 109-364) and as implemented by my memorandum dated April 24, 2007, entitled Award and Incentive Fees—Data Collection. As highlighted in the General Accountability Office's (GAO's) May 2009 report, "Guidance on Award Fees Has Led to Better Practices but Is Not Consistently Applied," DoD is the only department in the federal government currently collecting such information.

1. Consistently Applying Award Fee Policy

Although the GAO reported our award fee policy is consistent with the Office of Management and Budget's award fee guidance, they found cases where our policy is not being applied. Accordingly, I want to emphasize the importance of consistently adhering to current guidance for all affected award fee contracts.

Additionally, contracts issued before April 27, 2007, the effective date of the 2007 guidance, should be reviewed to identify opportunities to apply the guidance when efficiencies can be obtained through unilateral decisions at a minimal cost to the government. A good example of the potential for savings was addressed in GAO's report. In this case, the Department saved nearly $29 million in two years on one

program for which this policy was implemented but not required (since the solicitation was issued before the effective date of the policy).

2. Improvement Needed in Reviewing Award Fee Data

The award fee data you submit to my office is only one aspect of section 814. Another key aspect requires the Department (in paragraph (b)(8)(B) of section 814) to evaluate this data on a regular basis to ensure that award and incentive fees are commensurate with contractor performance. As a result, I required each DoD Component to develop a process to evaluate the reported data to confirm this. However, based on the information provided to date, it is at best unclear whether this requirement is being met by every DoD Component.

We have received various levels of detail regarding the award fee process being used by DoD Components to ensure that all new contracts using award fees link such fees to acquisition outcomes. Some organizations have award fee processes that include one or more levels of independent review at the contract level. What appears to be missing in several cases, however, is a mechanism by which the summary data being sent to my office on a semi-annual basis is being evaluated at the component level, as required by paragraph (b)(8)(B) of section 814. Accordingly, my Deputy Director of Cost, Price, and Finance will be contacting each Component to address the results of our evaluation of your procedures for reviewing award fee data.

Although the Department conducts a summary review of your organization's award fee data, each DoD Component must have an established mechanism to evaluate the summary data before it is provided to my office. I must stress that the purpose of your evaluation is not to duplicate or question decisions made by fee determination officials on individual contracts. However, I expect you to take corrective action in cases where you identify inconsistencies between contractor performance and fees paid. Our shared goal is to ensure award and incentive fees are linked to acquisition outcomes, as required by the section 814. Your evaluation processes should be structured accordingly.

Each DoD Component must describe the process by which this evaluation is being conducted and provide the results of that evaluation when submitting their semi-annual award and incentive fee data to my office. When inconsistencies between contractor performance and fees paid are revealed, corrective actions taken or to be taken must also be described. Please include this evaluation in your CY 2009 award fee data submission, which is due March 31, 2010.

3. Collecting Additional Award Fee Data

In order to respond adequately to Congressional inquiries, we have inserted additional fields into the Excel spreadsheet being used to semi-annually collect award and

incentive fee data. The revised Excel spreadsheet will be sent to you via e-mail. As always, we welcome any suggestions that will enable us to improve our reporting.

My point of contact for this memorandum is Mr. Dave Mabee, who can be reached at 703-602-0326, or Dave.Mabee@osd.mil.

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy