



# DEFENSE INFORMATION SYSTEMS AGENCY

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ARLINGTON, VIRGINIA 22204-4502

IN REPLY  
REFER TO Procurement and Logistics (PLD)

20 JAN 2006

## MEMORANDUM FOR DISTRIBUTION

SUBJECT: Proper Use of Non-DOD Contracts

1. Effective immediately, DISA personnel will comply with the enclosed policy and procedures for reviewing and approving the use of non-Department of Defense (DOD) contracts that exceed the simplified acquisition threshold, currently \$100,000 (enclosure 1). Recent DOD and General Services Administration's Inspector General reviews have reported that the DOD incurred a variety of problems when using non-DOD contracts to acquire supplies and services. Consequently, the Office of the Secretary of Defense directed military departments and defense agencies to establish procedures for reviewing and approving the use of non-DOD contract vehicles that exceed the simplified acquisition thresholds. These procedures apply to both direct acquisitions (i.e., orders placed by DISA against non-DOD contracts) and assisted acquisitions (i.e., contracts awarded or orders placed on behalf of DISA, or by non-DOD entities, including franchise funds) that use DOD funds.

2. While Program/Project Managers and requirement officials are primarily responsible for complying with the policy and procedures for using non-DOD contracts/orders, successful implementation will require a team approach. All members of the DISA requirements, financial, and contracting communities must work together to ensure the integrity of our existing acquisition, contract and financial management processes. Requirements officials should seek the advice and support of the financial management, legal, and contracting communities, as appropriate. This policy is being promulgated pursuant to my authority as the Senior Procurement Executive for the Agency.

3. Any questions may be directed to Mr. Alvis David, PL22, at 703-681-1252 or DSN 761-1252, or Ms. Margot Alexander, PL22, at 703-681-0383 or DSN 761-0383.

MARILYN A. QUAGLIOTTI  
Vice Director  
Major General, USA

- 2 Enclosures:
- 1 DISA Policy and Procedures  
on Proper Use of Non-DoD  
Contracts
- 2 OSD Memo, Proper Use of  
Non-DoD Contracts

DISA Memo, PLD, Proper Use of Non-DOD Contracts,

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## **REVISED DISA POLICY AND PROCEDURES ON THE PROPER USE OF NON-DOD CONTRACTS**

### **1. Definitions.**

**Assisted Acquisition.** Contract awarded or a delivery or task order placed on behalf of the DISA or other DOD organization by an official of the United States outside of the DOD. This official is usually a warranted contracting officer of the Servicing Activity.

**Direct Acquisition.** Delivery or task order placed by a warranted DISA or other DOD contracting officer against a contract established by a non-DOD entity to satisfy a DOD requirement.

**Non-DOD contracts.** Contract awarded by an official outside the DOD. These include Federal Supply Schedules (FSS) and other contracts/schedules awarded by non-DOD entities.

**Processing Fee.** Fee charged by the servicing activity to place a task or delivery order against an existing contract based on an outgoing Military Interdepartmental Purchase Request (MIPR) or a Reimbursable Order (RO) for "assisted acquisitions." The fee associated with "direct acquisitions" may be embedded in the price; e.g., the General Services Administration (GSA) has a .075% fee embedded in their GSA Federal Supply Schedule contract prices. For direct acquisitions, the fee charged by the Defense Information Technology Contracting Organization (DITCO) is not considered a processing fee for purposes of the reporting requirements.

**Requirement Official (REO).** Program, Project, or Service Manager responsible for identifying, developing and/or managing the acquisition requirement.

**Requiring Activity Contracting Office.** Contracting office that normally provides the contracting support to the requirements office (i.e., for DISA requirements this would be the applicable DITCO contracting office).

**Servicing Activity.** Department/agency/activity outside of DOD with contracting responsibility for a DOD requirement.

**Simplified Acquisition Threshold.** \$100,000, except for the acquisition of supplies and/or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack (41 U.S.C. 428a). (1) \$250,000 for any contract to be awarded and performed, or purchase to be made inside the United States and (2) \$1 million for any contract to be awarded and performed, or purchase to be made, outside the United States.

### **2. Applicability.**

These policies and procedures apply whenever a non-DOD contract is to be used to satisfy a DISA requirement for supplies and/or services above the SAT. (This policy does not apply to non-DISA customers that may use DITCO as their contracting office).

### **3. Authority.**

This policy is issued under direction of a memorandum from the Under Secretary of Defense for Acquisition Technology and Logistics, Proper Use of Non-DOD Contracts, dated 29 October 2004 and 20 July 2005, and in accordance with DFARS Subpart 217.78.]

### **4. General.**

a. The use of non-DOD contracts is encouraged when it is in the best interest of the government to satisfy DOD requirements. Non-DOD contracts shall not be used to circumvent conditions and limitations imposed on the use of funds, nor as a substitute for inadequate market research or poor acquisition planning.

b. The primary responsibility for ensuring that non-DOD contracts are properly used lies with the REO(s). The REO(s) must seek early involvement and guidance from their legal, financial management, and contracting office support personnel to ensure that the selected acquisition approach is in the best interest of DOD and DISA, considering factors such as technical requirements, delivery schedule, cost/price (taking into account discounts and fees) and contract administration (including oversight). For major programs that must comply with the DOD Directive 5000.1, Defense Acquisition System, May 2003, the Component Acquisition Executive (CAE) will review and approve the Acquisition Strategy prior to the initial commitment of funds.

c. For "assisted acquisitions," legal, financial management, and the requiring activity contracting officer personnel, as appropriate, will advise REO(s) of DOD unique terms and conditions that are required by statute, regulation, or directive to apply to DOD acquisitions regardless of who makes the award or places the delivery or task order. REO(s) are responsible for ensuring that the servicing agency understands and incorporates DOD unique terms and conditions.

d. For "direct acquisitions," the DISA contracting officer shall assist the REO(s) in making the determination that the supplies or services to be provided are within scope of the contract to be used and ensuring that required DOD unique terms and conditions are incorporated into the contract, delivery, or task order.

### **5. Assisted Acquisitions of Supplies or Services.**

a. DISA's REO(s) shall document the following assurances for the record using the checklist at the attachment. The DISA REO should coordinate the completed checklist with the DISA Financial/Resource Manager (F/RM), legal, CAE, and the Servicing Agency's cognizant contracting officer (that will be awarding the contract, task, or delivery order), as appropriate. The Procurement and Logistics Directorates (PLD), Procurement Policy and Field Management Team (PL21) will receive the completed checklist from the REO(s) with the submission of an Economy Act D&F for review and approval. The Chief Financial Executive (CFE), Analysis and Internal Controls Division (CFE4) will receive the completed checklist from the REO(s) as part of their ISSA submission. Both PL21 (for Economy Act D&Fs) and CFE4 (for ISSAs) will

enter the data from the checklists on an Excel spreadsheet, which will subsequently be forwarded to the CFE Analysis and Reconciliation Branch (CFE5). The checklist addresses the following considerations:

(1) The use of a non-DOD contract/order is in the best interests of DOD and DISA considering such factors as technical requirements, delivery schedule, cost/price (taking into account discounts and fees), and contract administration (including oversight).

(2) The supplies and services to be provided are within the scope of the basic contract.

(3) The type of funding is appropriate, available, and properly documented for the acquisition.

(4) The terms and conditions unique to DOD and/or DISA have been identified and will be provided to the servicing activity for inclusion in the contract/order.

(5) The required contract/order reporting data (i.e., name of the servicing agency, estimated dollar amount of the contract action, the processing fee (percent and amount), and the contract/order number.

b. Assisted acquisitions must comply with the policies and procedures established in the Federal Acquisition Regulation (FAR) 17.503, DISA Acquisition Regulation Supplement (DARS) Subpart 17.5; DISA Instruction 640-50-6, Interservice and Intragovernmental Support, dated 12 April 2004; and Comptroller Policy Letter on Revisions to the Coordination of Interservice and Intragovernmental Support Agreements, dated 14 October 2005, which provides the approval authorities for "assisted acquisitions." The REO(s) is responsible for ensuring that the documentation requirements, i.e., Economy Act D&F or ISSA and accompanying checklist (attachment) are complete and fully documented.

## **6. Direct Acquisitions.**

a. DISA REO(s) shall document the following assurances as stated on the checklist at the attachment. The DISA Requirement Official should coordinate the completed checklist with the F/RM, legal, and the DISA contracting officer, as appropriate, prior to including the checklist with the DISA Form 1: DISA Purchase Request Coordination Sheet for MIPRs/ROs or as an essential document for the procurement package submission. The contracting officer will retain the original checklist in the contract file and forward a copy to the cognizant Head of the Contracting Office (HCO), who is responsible for ensuring the reporting data is entered on the prescribed Excel spreadsheet. The checklist addresses the following considerations:

(1) The use of a non-DOD contract/order is in the best interests of DOD and DISA considering such factors as technical requirements, delivery schedule, cost/price (taking into account discounts and fees), and contract administration (including oversight).

(2) The supplies and services to be provided are within the scope of the contract.

(3) The type of funding is appropriate, available, and properly documents for the acquisition.

(4) The terms and conditions unique to DOD have been identified and will be provided to the servicing activity for inclusion in the contract/order.

(5) The required contract/order reporting data (i.e., name of the servicing agency, estimated dollar amount of the contract action, the processing fee, (percent and amount), and the contract/order number.

b. The applicable DISA contracting Officer (CO) with appropriate warrant authority is the approval authority for "direct acquisitions."

c. The General Services Administrations Federal Telecommunications Services (FTS) 2001 contracts are not exempt from these procedures. A checklist is not required for individual DISA FTS 2001 requirements; however, an annual FTS 2001 report summarizing the total processing fees associated with DISA FTS 2001 requirements for the fiscal year shall be forwarded by the DITCO Head of Contracting Offices (HCOs) to PL22 by 31 October of each year.

## **7. Reporting Requirements.**

a. For Fiscal Years 2005 and 2006, the Agency Head is required to submit a report on the checklist elements including the processing fees paid (reference 4a. (1) to (5)) for the use of non-DOD contracts and orders over the SAT to the Office for Defense Procurement and Acquisition Policy (DPAP). The authority for this requirement derives from a Memorandum from the Under Secretary of Defense for Acquisition Technology and Logistics, Subject: Proper Use of Non-DOD Contracts, dated 20 Jul 2005. The report is due to DPAP on or before 31 December for the calendar year in which the fiscal years ends.

b. The HCOs will compile the data for "direct acquisitions" on an Excel spreadsheet and forward to PL21 on or before 31 October of each calendar year. PL22 will collect the checklist data for acquisitions supported by Economy Act Determination and Findings (D&Fs). CFE4 will collect the checklist data for acquisitions supported by Intragovernmental Service Support Agreements (ISSAs). PL21 and CFE4 will provide the checklist data to CFE on an Excel spreadsheet by 15 November of each calendar year. The CFE will reconcile the total checklist data with a total listing of both all external Non-DOD MIPRs and ROs that it obtains from CFE5 and all "direct acquisitions" that it obtains from PLD. The CFE will then prepare the report and provide copies to PLD and CAE prior to forwarding to the DPAP.

**REQUIREMENT OFFICIAL  
CHECKLIST FOR USE OF NON-DOD CONTRACTS**

**PR NUMBER (If a Direct Acquisition):** \_\_\_\_\_

**MIPR NUMBER (If an Assisted Acquisition):** \_\_\_\_\_

**CFE AGREEMENT NUMBER:** \_\_\_\_\_

ITEM	YES	NO
1. The use of a non-DoD contract/order is in the best interests of DOD and DISA considering such factors as satisfying the customer requirement, schedule, cost effectiveness (taking into account discounts and fees) and contract administration (including oversight).		
2. The supplies or services to be provided are within the scope of the basic contract.		
3. Funding is appropriate, available and properly documented for the acquisition, (indicate type of funding; i.e., Operation and Maintenance (O&M), Research and Development (R&D), and Procurement (Proc).		
4. Terms, conditions and/or requirements unique to DOD and DISA are incorporated into the action to comply with applicable statutes, regulations, and directives.		
5. Data has been collected:  Contract/order number: _____ Estimated Dollar amount of action: \$ _____ Processing fee amount and percent: _____ % \$ _____ Name of servicing activity: _____		

\_\_\_\_\_  
 Program Manager/  
 Requirements Official  
 [Include typed name, title,  
 and organization code.]

Date: \_\_\_\_\_

Approved: \_\_\_\_\_

Date: \_\_\_\_\_

(Required for assisted acquisitions. Reference paragraph 4.a, DISA Memo, PLD, Proper Use of Non-DoD Contracts, XX Jan 06, for applicable approval authority.)



OFFICE OF THE SECRETARY OF DEFENSE

1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000



OCT 29 2004

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Proper Use of Non-DoD Contracts

Each year billions of Department of Defense (DoD) dollars are spent using non-DoD contracts to procure supplies and services. In many cases this represents an effective way to accomplish acquisitions in support of DoD's mission. For this reason, the use of non-DoD contracts is encouraged when it is the best method of procurement to meet DoD requirements. However, recent DoD and General Services Administration Inspector General reports identified several issues associated with the Department's use of non-DoD contracts for the acquisition of certain supplies and services. Non-DoD contracts may not be used to circumvent conditions and limitations imposed on the use of funds, nor are they a substitute for poor acquisition planning.

Military Departments and Defense Agencies must establish procedures for reviewing and approving the use of non-DoD contract vehicles when procuring supplies and services on or after January 1, 2005, for amounts greater than the simplified acquisition threshold. This requirement applies to both direct (*i.e.* orders placed by DoD) and assisted acquisitions (*i.e.* contracts awarded or orders placed by non-DoD entities, including franchise funds, on behalf of DoD), using DoD funds. These procedures must include:

- evaluating whether using a non-DoD contract for such actions is in the best interest of the DoD. Factors to be considered include:
  - satisfying customer requirements;
  - schedule;
  - cost effectiveness (taking into account discounts and fees); and
  - contract administration (including oversight);
- determining that the tasks to be accomplished or supplies to be provided are within the scope of the contract to be used;
- reviewing funding to ensure it is used in accordance with appropriation limitations;
- providing unique terms, conditions and requirements to the assisting agency for incorporation into the order or contract as appropriate to comply with all applicable DoD-unique statutes, regulations, directives and other requirements, (*e.g.* the requirement that all clothing procured with DoD funding be of domestic origin); and
- collecting data on the use of assisted acquisitions for analysis.

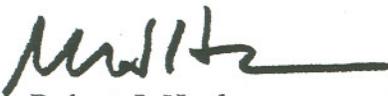


This new policy satisfies the requirements of Section 2330(b)(1)(C)(ii) of Title 10, United States Code as amended by Section 801 of the National Defense Authorization Act for Fiscal Year 2002. Section 801 requires advance approval to buy services via use of a "contract entered into or a task order issued, by an official of the United States outside of the DoD." Although Section 801 applies only to the procurement of services, we are applying this requirement to supplies in order to achieve consistency and discipline in the DoD acquisition process. The Defense Acquisition Regulation Council will issue coverage for the Defense Federal Acquisition Regulation Supplement that is consistent with the requirements of this memorandum.

The use of multiple award contracts must be consistent with the requirements of Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Competition Requirements for Purchase of Services Pursuant to Multiple Award Contracts); Federal Acquisition Regulation (FAR) Part 8.002 (Priorities for Use of Government Supply Sources); FAR Part 17.5 (Interagency Acquisitions under the Economy Act); FAR Part 7(Acquisition Planning); and DoD Instruction 4000.19 (Interservice and Intragovernmental Support).

While the Program Manager or requirements official has primary responsibility to ensure compliance with this policy, success will not be achieved without a team approach and specific support from the financial management and contracting communities. For example, the financial management community shall: (1) ensure the program manager or other appropriate individual has certified that the procedures established by the Military Department or Defense Agency have been followed and (2) ensure that funds are available and appropriate for the procurement action.

Please ensure widest dissemination of this memorandum and the procedures you establish. It is imperative that when non-DoD contracts are utilized to meet DoD requirements, they are utilized properly. The point of contact on this matter is Mr. Michael Canales. He can be reached at (703) 695-8571 or via email at michael.canales@osd.mil.



Robert J. Henke  
Principal Deputy Under Secretary  
of Defense (Comptroller)



Michael W. Wynne  
Acting Under Secretary of Defense  
(Acquisition, Technology, and Logistics)

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OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

June 17, 2005

ACQUISITION  
TECHNOLOGY  
AND LOGISTICS

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Proper Use of Non-DoD Contracts

The attached October 29, 2004, memorandum on the "Proper Use of Non-DoD Contracts" required you to establish procedures to help ensure that non-DoD contracts are used properly. This requirement and the corresponding implementation procedures have led some individuals and activities to conclude that they may no longer purchase from GSA's Multiple Award Schedule Contracts, Government-wide Acquisition Contracts, or other non-DoD Multiple Award Contracts. Some have also interpreted the October 29, 2004 memorandum as precluding the ability to utilize the services of "Assisting Agencies" to meet DoD requirements. These interpretations are incorrect.

As stated in the "Proper Use of Non-DoD Contracts" policy memo, "the use of non-DoD contracts is encouraged when it is the best method of procurement to meet DoD requirements." The Department of Defense continues to work with the General Services Administration and other "Assisting Agencies" to ensure that all acquisitions made by and on behalf of the Department comply with applicable statutes and regulations.

My POC on this subject is Michael Canales and he can be reached at 703-695-8571 or via e-mail at michael.canales@osd.mil

Deidre A. Lee  
Director, Defense Procurement  
and Acquisition Policy

Attachment:  
As stated



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