



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE OHIO

JAN 04 2005

MEMORANDUM FOR ALHQCTR/CC

FROM: AFMC/CV
4375 Chidlaw Road
Wright-Patterson AFB OH 45433-5001

SUBJECT: Proper Use of Non-Department of Defense (DoD) Contracts

1. Effective 1 Jan 05, the attached DoD and Air Force policies apply to AFMC's use of non-DoD contracts. These requirements apply to both direct acquisitions of supplies and services (orders placed by Air Force Contracting Officers against non-DoD contracts) and assisted acquisitions (contracts awarded or orders placed by non-DoD organizations using Air Force funds) for amounts greater than the simplified acquisition threshold (\$100,000).
2. The new policy requires an affirmative determination that: (a) use of non-DoD contracts is in the best interest of the Air Force, (b) the requirement is within the scope of the non-DoD contract, (c) funding is appropriate for the acquisition, and (d) applicable terms, conditions, and requirements unique to DoD or the Air Force will be incorporated. Although the program manager or requirements official is ultimately responsible to ensure compliance with this policy, the determination requires a team approach with specific support from the financial management and contracting communities.
3. This new policy requires your immediate attention. AFMC activities should use non-DoD contractual vehicles only when it is in the Air Force's best interest and when it makes prudent business sense. Questions regarding this policy should be directed to Ms. Elaine K. Smith, HQ AFMC/PKPA, DSN 986-0364.

A handwritten signature in black ink, appearing to read "Richard V. Reynolds".

RICHARD V. REYNOLDS
Lieutenant General, USAF
Vice Commander

Attachments:

1. Joint OUSD(Comptroller) and OUSD(AT&L) Memo, 29 Oct 04
2. Joint SAF/FM and SAF/AQ Memo, 6 Dec 04

cc: ALINST/CC



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.

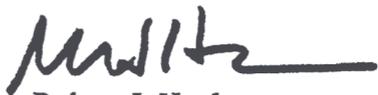


This new policy satisfies the requirements of Section 2330(b)(1)(C)(ii) of Title 10, United States Code as amended by Section 801 of the National Defense Authorization Act for Fiscal Year 2002. Section 801 requires advance approval to buy services via use of a "contract entered into or a task order issued, 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.

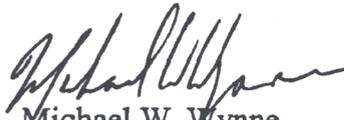
The use of multiple award contracts must be consistent with the requirements of Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Competition Requirements for Purchase of Services Pursuant to Multiple Award Contracts); Federal Acquisition Regulation (FAR) Part 8.002 (Priorities 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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DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

6 DEC 2004

MEMORANDUM FOR ALMAJCOM-FOA-DRU/CV/LG/FM/PK

SUBJECT: Proper Use of Non-DoD Contracts

This memo establishes Air Force policy 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 (\$100K). These procedures are being implemented to comply with Section 854 of the FY05 National Defense Authorization Act and an OSD memo on Proper Use of Non-DoD Contracts, dated 29 OCT 04.

Ensuring the proper use of non-DoD contracts requires an emphasis on market research, acquisition planning and early involvement by contracting and financial management personnel in the acquisition process. Acquisition program managers and requirements personnel, financial management personnel and contracting officers must work closely together to ensure the selected acquisition strategy complies with the requirements and procedures contained in this policy memo and to ensure use of a non-DoD contract is in the best interest of the Air Force.

This memo addresses both direct acquisitions (i.e. orders placed by Air Force Contracting Officers against non-DoD contracts) and assisted acquisitions (i.e. contracts awarded or orders placed by non-DoD organizations using Air Force funds) for supplies and services.

DFARS, AFFARS and financial management regulation changes as a result of this policy will be forthcoming. In the interim, see the attachment for Air Force procedures that are effective as of January 1, 2005.

Please direct any questions to Lt Col Rich Unis, SAF/AQCP, DSN 425-7030 or (703) 588-7030, Richard.Unis@pentagon.af.mil or Ms. Judith Oliva, SAF/FMBMM, DSN 425-8250 or (703) 697-8250, Judith.Oliva2@pentagon.af.mil.

MARVIN R. SAMBUR
Assistant Secretary of the Air Force
(Acquisition)

MICHAEL MONTELONGO
Assistant Secretary of the Air Force
(Financial Management and Comptroller)

Attachment:
Air Force Policy for Proper Use of Non-DoD Contracts

Air Force Policy Proper Use of Non-DoD Contracts

1) Applicability and Definitions:

This policy applies to the use of non-DoD contract vehicles for all acquisitions of supplies or services above the Simplified Acquisition Threshold (SAT), other than procurements of the following services:

(1) Printing, binding or blank-book work to which 44 U.S.C. 502 applies; and

(2) Services available under programs pursuant to 2 U.S.C. 182c (section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (Public Law 106-481)).

Direct Acquisition - a task or delivery order placed by an Air Force official against a contract vehicle established outside the DoD.

Assisted Acquisition - a contract awarded or task or delivery order placed on behalf of DoD by an official of the United States outside DoD.

2) Direct Acquisition of Supplies - For all direct acquisition orders of supplies placed against non-DoD contracts (including GSA Federal Supply Schedule (FSS) Orders), and for each Blanket Purchase Agreement issued against a GSA FSS, the Program Manager, Project Manager (for Medical Treatment Facilities (MTFs), the Medical Logistics Flight Commander), requirement initiator (as appropriate) or the Contracting Officer must document the contract file to reflect:

a) Order is in the best interest of the Air Force. Consider such factors as satisfying customer requirements, cost effectiveness and price, delivery schedule, non-availability of a suitable contract within DoD, contract administration, small business opportunities and any other factors as applicable.

b) Supplies to be provided are within the scope of the basic contract.

c) Funding is available and appropriate for the acquisition. The financial management organization shall validate that the funds are appropriate for the acquisition.

d) Any terms, conditions and/or requirements unique to DoD or the Air Force are incorporated into the order to comply with applicable statutes, regulations and directives (e.g. the requirement that the items listed in DFARS 225.7002-1 and procured with DoD funds be of domestic origin, unique identification requirements, etc.)

e) Certify that procedures contained in this policy memo have been followed.

3) Assisted Acquisition of Supplies - The requiring organization (for the Air Force medical service at local level the Medical Logistics Flight Commander, and at Airstaff level, the Chief,

Procurement Services at the Air Force Medical Logistics Office) shall coordinate with their servicing Air Force contracting and financial management office on all supplies requirements proposed for award by non-DoD organizations using Air Force funds. The contracting organization shall advise the requiring organization as to the various contractual options available to obtain the supplies and any DoD terms and conditions that must be incorporated into the resultant order or contract. The requiring organization shall document the following:

- a) Use of a non-DoD contract is in the best interest of the Air Force considering the factors of satisfying customer requirements, cost effectiveness and price, delivery schedule, non-availability of a suitable contract within DoD, contract administration, small business opportunities and any other factors as applicable.
- b) The supplies to be provided are within the scope of the contract to be used. Coordinate with the non-DoD Contracting Officer to verify the requirement is within the scope of the assisting agency's selected contract.
- c) Funding appropriation is legal and proper for the acquisition and used in accordance with any appropriation limitations. The financial management organization shall validate that the funds are appropriate for the acquisition.
- d) Any terms, conditions and/or requirements unique to DoD or the Air Force that must be incorporated into the resultant order or contract to comply with applicable statutes, regulations and directives (e.g. the requirement that the items listed in DFARS 225.7002-1 and procured with DoD funds be of domestic origin, unique identification requirements, etc.)
- e) Certify that procedures contained in this policy memo have been followed.

For interagency acquisitions subject to the Economy Act (31 U.S.C. 1535), comply with the D&F requirements at FAR 17.503. A sample D&F template for Economy Act transactions is contained at AFFARS Informational Guidance 5317.5. Note - Assisted acquisitions by GSA are generally authorized by other statutes, e.g. Federal Property and Administrative Services Act, Clinger-Cohen Act, etc, and are not subject to the Economy Act, so no Economy Act D&F is needed. Similarly, health care supplies and equipment purchased under sharing agreements between the Air Force and the Veterans Administration pursuant to 38 U.S.C. 8111 are not subject to the Economy Act and no Economy Act D&F is needed (although other procurement laws and regulations still apply).

- 4) Direct Acquisition of Services - The Contracting Officer must ensure compliance with AFFARS 5337.170-3, Approval Requirements, for all orders of services placed against non-DoD contracts. The Program Manager, Project Manager (for Medical Treatment Facilities (MTFs), the Medical Logistics Flight Commander), requirement initiator (as appropriate) or the Contracting Officer must document the contract file to reflect:

- a) Order is in the best interest of the Air Force. Consider such factors as satisfying customer requirements, cost effectiveness and price, delivery schedule, non-availability of a suitable contract within DoD, contract administration, small business opportunities and any other factors as applicable.

- b) The services to be provided are within the scope of the basic contract.
 - c) Funding is available and appropriate for the acquisition. The financial management organization shall validate that the funds are appropriate for the acquisition.
 - d) Any terms, conditions and/or requirements unique to DoD or the Air Force are incorporated into the order to comply with applicable statutes, regulations and directives (e.g. the requirement that the items listed in DFARS 225.7002-1 and procured with DoD funds be of domestic origin, unique identification requirements, etc.)
 - e) Certify that procedures contained in this policy memo have been followed.
- 5) Assisted Acquisition of Services - Ensure compliance with AFFARS 5337.170-3, Approval Requirements, for all services requirements that are proposed for award by non-DoD organizations using Air Force funds. The requiring organization shall document the following:
- a) Use of a non-DoD contract is in the best interest of the Air Force considering the factors of satisfying customer requirements, cost effectiveness and price, delivery schedule, non-availability of a contract within DoD, contract administration, and any other factors as applicable.
 - b) The services to be provided are within the scope of the contract to be used. Coordinate with the non-DoD Contracting Officer to verify the requirement is within the scope of the assisting agency's selected contract.
 - c) Funding appropriation is proper for the acquisition and used in accordance with any appropriation limitations. The financial management organization shall validate that the funds are appropriate for the acquisition.
 - d) Any terms, conditions and/or requirements unique to DoD or the Air Force that must be incorporated into the resultant order or contract to comply with applicable statutes, regulations and directives (e.g. the requirement that the items listed in DFARS 225.7002-1 and procured with DoD funds be of domestic origin, unique identification requirements, etc.)
 - e) Certify that procedures contained in this policy memo have been followed.

For interagency acquisitions subject to the Economy Act (31 U.S.C. 1535), comply with the D&F requirements at FAR 17.503. A sample Economy Act D&F template is contained at AFFARS Informational Guidance 5317.5. Note - Assisted acquisitions by GSA are generally authorized by other statutes, e.g. Federal Property and Administrative Services Act, Clinger-Cohen Act, etc, and are not subject to the Economy Act, so no Economy Act D&F is needed. Similarly, health care supplies and equipment purchased under sharing agreements between the Air Force and the Veterans Administration pursuant to 38 U.S.C. 8111 are not subject to the Economy Act and no Economy Act D&F is needed (although other procurement laws and regulations still apply).

For assisted acquisitions of supplies and services, the Federal Procurement Data System - Next Generation (FPDS-NG), the acquisition data system to be used by all non-DoD agencies, will be relied upon to provide data for analysis on assisted acquisitions. FPDS-NG is currently scheduled for implementation in early calendar year 2005.