

From: Catington, Susan M.
Sent: Tuesday, April 08, 2008 12:42 PM
To: Marchese, Cathy E
Subject: DoD & State

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E.O. 12958: N/A
TAGS: AMGT
SUBJECT: PROCUREMENT ROLES AND RESPONSIBILITIES - GSO AND DOD PERSONNEL

REF: (A)98 STATE 164061, (B)00 STATE 22587, (C)01 STATE 5905, (D)03 STATE 037835, (E)04
STATE 057058

1. Introduction. This cable from State's Procurement Executive Corey Rindner has been reviewed and approved by the Office of DoD's Director, Defense Procurement, Acquisition Policy and Strategic Sourcing, Shay Assad. This cable outlines the roles and responsibilities of DoD and State Management/General Service Officer (MGMT/GSO) personnel at overseas posts on procurement matters. Referenced Telegrams (Reftels) C and D were issued with Defense Intelligence Agency (DIA) and Defense Energy Support Center (DESC) respectively, and Reftel E provided more DoD generalized

guidance. However, we have found a need for more updated guidance to be provided for all DoD personnel. State and DoD want to make the procurement process work as smoothly as possible. DoD personnel employing the services of GSO Contracting Officer's are reminded of their responsibility to provide documentation to the assisting agency, as circumstances dictate, that specifies any DoD-unique requirements and otherwise provides assurance that such DoD requirements comply with all applicable statutes, regulations and directives.

2. Using Governmentwide Commercial Purchase Card (GCPC): DoD employees are encouraged to use the DoD governmentwide commercial purchase card for acquisitions while at posts and consulates. While most commonly used for purchases at or below the micro-purchase threshold of \$3,000 per transaction, DoD may approve the use of governmentwide commercial purchase cards for individual transactions up to USD 25,000 by Defense Attache Offices (DAO's) in accordance with Defense Federal Acquisition Regulation Supplement (DFARS) 213.301. The card provides a quick and reliable means for DoD personnel to meet its small dollar value needs without having to submit procurement requests to GSO and pay the associated International Cooperative Administrative Support Service (ICASS) charges. It also provides an excellent record of acquisition transactions. Contact the respective procurement office at the Headquarters providing support to request a governmentwide commercial purchase card. For DAO contact Robert (Chris) Mohn, DIA GCPC Program Manager at 301-394-5309.

3. Direct Procurement for DoD offices: If a purchase card transaction is not appropriate, DoD employee should look to respective Procurement Offices at headquarters (as defined in paragraph #17) for acquisition support. State Department post and Embassy Acquisition personnel can provide support for routine non-complex services and supplies used by US Government personnel (even if funded with Foreign Military Sales (FMS) case money). However, the Embassy/ Consulate Procurement Office is not staffed or sufficiently knowledgeable regarding DoD special authorities and programs to provide procurement support for complex program procurements, nor do they possess the needed assistance authorities to complete certain transactions. Certain categories of procurements defined in Reftel B (such as Partnership for Peace, Humanitarian Assistance, FMS case related work for host government, Military exercises/training, base operations, weapons procurement, aviation fuels and construction, President's Emergency Plan for Aids Relief (PEPFAR) projects) must be handled by DoD procurement offices.

Below we have provided guidance in chronological order following the steps in the procurement process. Procurement actions submitted to your DoD Procurement Office may not follow the same requirements found in the paragraphs below if Special authorities exist; however, the basic procedure should be similar.

4. Acquisition Planning: Sound procurement begins with adequate planning. All procurement actions take a certain amount of lead time. The most successful procurements are planned in advance. DoD personnel should hold an acquisition planning meeting at the beginning of each fiscal year with the MGMT/GSO section to discuss upcoming procurement requirements. Additional, regularly scheduled meetings are also advisable. For guidance you may also review State's Office of the Procurement Executive's (A/OPE) sample on acquisition planning (<http://AOPE.A.STATE.GOV>).

5. Requisition Practices: Splitting a procurement request to avoid a mandated procurement threshold is illegal. Obligation of funds with specifics to be determined later, in order to obligate funds prior to the end of a fiscal year, is not acceptable. Obligation of funds on a procurement document for needs that may arise in the next fiscal year, in order to save the funds, is also illegal and violates Appropriation Law.

6. State Contracting Authority: The Procurement Executive appoints Management Officers and GSO's as Contracting Officers. Appointments are limited by dollar value, training, and need. Appointments are usually in the amount of \$100,000 or \$250,000. A Contracting Officer

must receive prior approval from OPE prior to soliciting proposals and awarding a contract with a dollar value over the warrant limitation.

7. Procurement Requests: The procurement process cannot begin without a proper purchase request, DS-1970 (or equivalent, if the embassy already requires a different form). The request must consist of, at a minimum, a statement of work, suggested source list, and evidence of funding, or if funding is not currently available, appropriate rationale in accordance with statute, FAR, and supplementing regulatory procedures as applicable, followed by estimated cost. A sample is found on State's intranet [HTTP://AOPE.A.STATE.GOV/CONTENT/DOCUMENTS/DS1970.DOC](http://AOPE.A.STATE.GOV/CONTENT/DOCUMENTS/DS1970.DOC) under DS1970, OVERSEAS PROCUREMENT REQUEST FORM.

8. Funding: Normally, DoD purchase requests should include a certification that funds are available, supported by an obligation number on the certification. If funding is not available at the time a purchase request is being prepared, then DoD must state on the procurement request that funding is currently unavailable, and provide any relevant documentation. The GSO must have some assurance that funds are or will soon be available to be able to start a procurement action. In no event may the Contracting Officer sign a contract or modification, purchase order, or delivery order without a written funds certification from DoD. This certification is required by FAR 32.702. Any procurement action that is not supported by adequate and proper funding may be a violation of the Anti-Deficiency Act, which imposes criminal penalties.

9. Market Surveys: DoD personnel and staff can be especially helpful to the GSO by conducting vendor market research for each procurement. Market research is defined by FAR part 10 as determining whether the commercial marketplace has the items needed to meet the government's requirements. At this early stage in the procurement process, the government is not soliciting formal quotations or proposals. DoD may provide names of prospective contractors to the GSO. These names should be representative of what the market has to offer, not simply favorite sources. DoD personnel are cautioned to make no commitments to prospective vendors (see paragraph 16).

10. Competition: Government policy is to compete procurements to the maximum extent practicable. Although there are exceptions to this policy, the general rule is that for simplified acquisitions (valued at USD 3,000 TO 100,000), at least three sources should be asked to provide price quotations in accordance with Federal Acquisition Regulation (FAR) 13.104. For procurements above that amount, all responsible sources should be given an opportunity to compete. Any exceptions must be documented in a signed justification that complies with FAR 6.303 (for contracts) or FAR 13.106-3 (for simplified acquisitions). The justification must include information such as description of efforts made to find competition, market survey data, basis for determining the price to be reasonable, unique qualifications of the contractor or basis for urgency determination, actions planned to promote competition in the future, etc. The FAR is accessible through A/OPE'S Intranet web site listed in paragraph 4 above.

11. Solicitation Process: The GSO or Management Officer, as Contracting Officer, has responsibility to prepare the solicitation, publicize the procurement action to promote competition, and issue the solicitation. In cases where the exact amount or delivery times for supplies or services is uncertain, blanket purchase agreements or indefinite quantity contracts/purchase orders can be awarded. These arrangements establish a means for placing orders when specific needs arise. Further information appears in A/OPE's Overseas Contracting and Simplified Acquisition Guidebook, Chapter 2 on A/OPE's web site.

12. Evaluation and Award: After responses are received, the Contracting Officer may ask DoD staff to assist in the evaluation process. The Contracting Officer decides who will be awarded the contract or purchase order. DoD's first appearance in the GSO office for a given procurement should not be to present a "done DEAL" with a pre-selected contractor and a purchase order prepared for signature by the

GSO. (see paragraph 16) The GSO must be involved in the procurement process from the beginning, and reduced ICASS charges are not available to DoD or other agencies that assist in the procurement process.

13. Contract Administration: Awarding a contract or purchase order is no assurance that the necessary work will be done. Every contract or simplified acquisition must be administered. DoD personnel will normally serve as the Contracting Officer's Representative (COR) for requirements needed. The COR's duties include monitoring the contractor's work to ensure compliance with the contract, reporting problems to the Contracting Officer, reviewing invoices for adequacy, and related functions. Detailed guidance is found in State's COR Handbook, 6 fah- 2, available on the web sites listed above. COR training is also available from Defense Acquisition University (DAU) Continuous Learning Center (CLC012 and CLC106). The DAU website is www.dau.mil.

14. Procurement Files: The official file for any contract or simplified acquisition conducted by the GSO will remain with the GSO. The GSO will send a copy of the purchase order, delivery order, BPA, or contract to DoD personnel at post as the requiring office and to the COR, if in a different location from the requiring office.

15. Vehicles. After identifying a vehicle for DoD personnel use, DoD personnel will forward a purchase request to the local combatant commander in theatre (exception is middle eastern theatre in which case all vehicle requests must first be approved by US Central Command). Combatant commander in theatre will evaluate the request and notify the post of approval/disapproval. If the request is approved for a non-US vehicle, the DoD officer will forward the request to the GSO for processing. Since posts may not obtain vehicles from General Services Administration (GSA) or US source directly, such vehicles must be processed through DoD channels.

16. Unauthorized Commitments: An unauthorized commitment has been made if personnel, other than a bonafide warranted Contracting Officer with the authority to obligate the government, orders a contractor to do work, and no contract, purchase order, or other procurement instrument is in place. Additionally, if a Contracting Officer's Representative (COR) under a contract, purchase order, etc., directs the contractor to perform work not already required under that contract or purchase order, the COR has moved outside the scope of COR authority and an unauthorized commitment has been made. Work must stop, and the contractor may not be paid unless and until the unauthorized commitment is ratified. Procedures are found in FAR 1.602-3 and Department of State Acquisition Regulation (DOSAR) subpart 601.6. State will not ratify DoD unauthorized commitments; instead, post must send them to DOD Commander or senior staff officer (one level above the party that committed the unauthorized commitment) in accordance with appropriate component/service/agency regulations. In the event of inability to obtain resolution within the appropriate component/service/agency chain of command, contact the DoD point of contact listed in Paragraph 17 below. For Defense Attache organizations contact DIA's Ms. Denise Carter, Head of the Contracting Activity (HCA) at 202-231-2838 or Ms. Judith Oxman, Deputy HCA at 202-231-2822. In addition, disciplinary action may be taken and the person making the unauthorized commitment may be required to pay the contractor from personal funds if the ratifying official decides that it is not appropriate to ratify the action. Ratification is an unusual step, and must be supported by strong justification. Its approval should never be assumed.

17. Questions/Assistance: A/OPE is committed to providing continued support and assistance regarding these matters. Please don't hesitate to contact the following offices for further clarification or assistance:

DoD: Richard Ginman, 703-695-4235, EMAIL Richard.Ginman@OSD.MIL

DESC (for fuel purchases): George Atwood, 703-767-8502, fax 703-767-8506, or email GEORGE.ATWOOD@DLA.MIL.

EUCOM (European Command) (for partnership for peace,
humanitarian assistance, etc.): Charles Brady 011-49-
711-680-5084

PEPFAR (President's Emergency Plan For Aids Relief): Dr.
Michael Grillo, 619-553-8398, or email
MICHAEL.GRILLO@MED.NAVY.MIL.

DIA: Michael Earnhardt, 817-782-6132, fax 817-782-6460, email MICHAEL.EARNHARDT@DIA.MIL

STATE A/OPE/EAD DESK OFFICERS:

AF - NICK DINKEL, 703-812-2371

EAP - SUSAN CATINGTON, 703-816-1754

EUR (NORTH) - LORRI LOWTHER, 703-516-1682 EUR (SOUTH) - JOHN ROSE, 703-516-1690

NEA/SA - BARBARA MARSHALL, 703-516-1691 WHA - LILY SAVIC, 703-516-1687 FAX (703
875-6155 MINIMIZE CONSIDERED.

RICE

NNNN

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