



OFFICE OF THE UNDER SECRETARY OF DEFENSE
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APR 11 2005

ACQUISITION
TECHNOLOGY
AND LOGISTICS

MEMORANDUM FOR DIRECTORS, DEFENSE AGENCIES
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(POLICY AND PROCUREMENT), ASA(ALT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION MANAGEMENT), ASN(RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DEPUTY DIRECTOR FOR LOGISTICS OPERATIONS (DLA)
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, ARMY CONTRACTING AGENCY

SUBJECT: Two-Year Extension of Warranty Claims Recovery Pilot Program

Section 391 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85), as amended, authorizes the Secretary of Defense to carry out a pilot program to use commercial sources of services to improve the collection of the Department of Defense claims under aircraft engine warranties and to enter into contracts under the pilot program for collection related services. Section 391 also provides guidance with regard to the payment of contractor fees and the retention of recovered funds. Finally, section 391 includes a reporting requirement which (1) identifies the extent to which commercial firms have been used for collection related services under this pilot program; (2) describes any problems that has limited the ability of the Secretary of Defense to procure such services under the pilot program; and (3) any recommendations the Secretary may have regarding whether the pilot program should be made permanent or extended beyond the specified date in section 391.

The Fiscal Year 2005 Authorization Act extended the authority for the pilot program to September 30, 2006. The report on the program is due to Congress in February 2006. (A conformed copy of the law is enclosed.)

Request that you identify any contracts entered into under this pilot program for collection related services as identified in section 391(b), and provide me with the information required for the report, along with points of contact for follow up discussions



on these pilot programs. This data should be provided no later than June 30, 2005. If you have not utilized the authority provided under section 391, please provide a negative response and a brief summary as to why. My point of contact for this matter is Susan Hildner, (703) 695-4258, susan.hildner@osd.mil.



Deidre A. Lee
Director, Defense Procurement
and Acquisition Policy

Enclosure:
As stated

Warranty Claims Recovery Pilot Program

Pub. L. 105-85, div. A, title III, § 391, Nov. 18, 1997, 111 Stat. 1716, as amended by Pub. L. 106-65, div. A, title III, § 382, Oct. 5, 1999, 113 Stat. 583; Pub. L. 107-107, div. A, title III, § 364, Dec. 28, 2001, 115 Stat. 1068; Pub. L. 107-314, div. A, title III, § 368, Dec. 2, 2002, 116 Stat. 2524, provided that:

“(a) Pilot Program Required.—The Secretary of Defense may carry out a pilot program to use commercial sources of services to improve the collection of Department of Defense claims under aircraft engine warranties.

“(b) Contracts.—Exercising the authority provided in section 3718 of title 31, United States Code, the Secretary of Defense may enter into contracts under the pilot program to provide for the following services:

“(1) Collection services.

“(2) Determination of amounts owed the Department of Defense for repair of aircraft engines for conditions covered by warranties.

“(3) Identification and location of the sources of information that are relevant to collection of Department of Defense claims under aircraft engine warranties, including electronic data bases and document filing systems maintained by the Department of Defense or by the manufacturers and suppliers of the aircraft engines.

“(4) Services to define the elements necessary for an effective training program to enhance and improve the performance of Department of Defense personnel in collecting and organizing documents and other information that are necessary for efficient filing, processing, and collection of Department of Defense claims under aircraft engine warranties.

“(c) Contractor Fee.—Under the authority provided in section 3718 (d) of title 31, United States Code, a contract entered into under the pilot program shall provide for the contractor to be paid, out of the amount recovered by the contractor under the program, such percentages of the amount recovered as the Secretary of Defense determines appropriate.

“(d) Retention of Recovered Funds.—Subject to any obligation to pay a fee under subsection (c), any amount collected for the Department of Defense under the pilot program for a repair of an aircraft engine for a condition covered by a warranty shall be credited to an appropriation available for repair of aircraft engines for the fiscal year in which collected and shall be available for the same purposes and same period as the appropriation to which credited.

“(e) Regulations.—The Secretary of Defense shall prescribe regulations to carry out this section.

“(f) Termination of Authority.—The pilot program shall terminate on September 30, 2006, and contracts entered into under this section shall terminate not later than that date.”

“(g) Reporting Requirement.—Not later than February 1, 2006, the Secretary of Defense shall submit to Congress a report on the pilot program, including—

“(1) a description of the extent to which commercial firms have been used to provide the services specified in subsection (b) and the type of services procured;

“(2) a description of any problems that have limited the ability of the Secretary to utilize the pilot program to procure such services; and

“(3) the recommendation of the Secretary regarding whether the pilot program should be made permanent or extended beyond September 30, 2006.”.