THE UNDER SECRETARY OF DEFENSE
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ACQUISITION,
TECHNOLOGY,
AND LOGISTICS

JAN - 4 2017

MEMORANDUM FOR: SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES
AT&L DIRECT REPORTS

Subject: Implementation of Defense Federal Acquisition Regulation Supplement Final Rule 2016-D002, Enhancing the Effectiveness of Independent Research and Development

The Independent Research and Development (IR&D) initiative outlined in Better Buying Power 3.0 is intended to improve the effectiveness of IR&D investments by the defense industrial base that are reimbursed as allowable costs. After considering public comments, the Department of Defense (DoD) published a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) on November 4, 2016, to implement this IR&D initiative (DFARS Case 2016-D002, "Enhancing the Effectiveness of Independent Research and Development"). Subsequently, on December 1, 2016, DoD issued a Class Deviation to address industry concerns that the required technical exchanges occur before costs are generated for IR&D projects (Enclosure 1). This Class Deviation alleviates the requirement that the technical interchanges occur before costs are generated for IR&D projects initiated in a contractor's Fiscal Year 2017 so as to afford contractors a phase-in period to develop processes and procedures.

This new IR&D rule requires "major" defense contractors to engage in a technical interchange with a technical or operational DoD Government employee prior to initiation of an IR&D project. Any contractor not meeting the threshold of a "major" contractor are encouraged to use the Defense Technical Information Center (DTIC) online input form to report IR&D projects to provide DoD with visibility into the technical content of the contractor's IR&D activities. The dollar threshold to identify contractors designated as "major" is prescribed at DFARS 231.205. By law and DoD policy, contractor IR&D investments are not directed by the Government. The intent of this rule is to promote transparency, communication, and dialogue between IR&D participants and DoD, ensuring that both IR&D performers and their potential DoD customers have sufficient awareness of each other's efforts and to provide industry with some feedback on the relevance of proposed IR&D work. To fulfill the technical interchange requirement, contractors should communicate with a knowledgeable DoD Government employee who is cognizant of related ongoing and potential future opportunities in the area of interest. Appropriate DoD Government employees include, but are not limited to, scientists/engineers or other subject matter experts working similar science and technology projects, acquisition officials working similar projects, and/or operators who might use the technology in a future fight, such as a Combatant Command official.

I would like to stress this new IR&D rule merely codifies a long-standing practice that many Services and DoD agencies already use to engage industry on IR&D projects, to include presentations at official forums, industry visits to Government offices, and Government official visits to contractor offices, laboratories, and manufacturing facilities. The rule has two requirements: that a knowledgeable DoD Government employee be informed of future IR&D plans or projects, and that industry document the name of the DoD Government employee and the date the technical interchange occurred in the DTIC database. The DoD Government employee may provide feedback on relevance to DoD missions, but in no case has the authority to stop the project. The DoD Government employee will not issue any official declaration stating whether any project should or should not be pursued and/or whether project costs are reimbursable or that they should be declined. Face-to-face discussions to allow an opportunity for informed questions and answers about planned IR&D projects are the preferred approach to conduct the technical interchange; however, the DFARS rule does not require face-to-face discussions, as the interchange may be accomplished via alternate means.

For those companies or researchers who may not have access to an informed DoD Government official with which to discuss their project, we are developing an additional approach using the existing IR&D database hosted in the Defense Innovation Marketplace (http://www.defenseinnovationmarketplace.mil/). By no later than January 31, 2017, DoD will implement an electronic process to facilitate this approach. Once activated, a future IR&D opportunity may be submitted through the Defense Innovation Marketplace, which will then be directed to the appropriate Service/Agency/Command for awareness of the IR&D project. The targeted organization will respond to the submitter with a written statement with the date of receipt and name of the DoD Government employee who was made aware of the project. This website will maintain the necessary security to ensure protection of proprietary information and facilitate compliance with the DFARS requirement.

I want to emphasize that this is a requirement on industry to communicate its IR&D plans to some relevant Government individual and record that this has been done. There is no Government approval required or expected. The simplest approach for industry is to use existing well established relationships to meet this requirement as part of the internal corporate IR&D approval process.

Please provide your Service/Agency/Command IRAD POC information and/or any questions on the implementation of this rule to Lisa Hilton at lisa.a.hilton2.civ@mail.mil. Please do not send proposals to this address.

Frank Kendall

Enclosure:
As stated

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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)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION AND PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Class Deviation— Enhancing the Effectiveness of Independent Research and Development

Effective immediately, in lieu of the requirements at Defense Federal Acquisition Regulation Supplement (DFARS) 231.205-18(c)(iii)(C)(4), contracting officers shall apply the following cost principle in order for annual independent research and development (IR&D) costs to be allowable:

(4) For IR&D projects initiated in the contractor's fiscal year 2017, as a prerequisite for the subsequent determination of allowability, the contractor shall—

(i) Engage in a technical interchange with a technical or operational DoD Government employee sometime during the contractor's fiscal year 2017 so that contractor plans and goals for IR&D projects benefit from the awareness of and feedback by a DoD Government employee who is informed of related ongoing and future potential interest opportunities. If the contractor does not have a point of contact for the technical interchange, the contractor may contact the Office of the Assistant Secretary of Defense for Research and Engineering (OASD R&E). Contact information for OASD R&E can be found at http://www.acq.osd.mil/rd/contacts/; and

(ii) Use the online input form for IR&D projects reported to DTIC to document the technical interchange, which includes the name of the DoD Government employee and the date the technical interchange occurred.

This class deviation alleviates the requirement that the technical interchanges occur before costs are generated for IR&D projects initiated in the contractor's fiscal year 2017 to afford contractors a phase-in period to develop processes and procedures.

This class deviation remains in effect until incorporated in the DFARS or otherwise rescinded. My point of contact is Mr. Mark Gomersall, who may be reached at 571-372-6099, or at mark.r.gomersall.civ@mail.mil.

Claire M. Grady
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated