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

ACQUISITION TECHNOLOGY AND LOGISTICS

JAN 30 2009

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 (POLICY AND PROCUREMENT), ASA(ALT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION & LOGISTICS MANAGEMENT), ASN(RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING), SAF/AQC
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: Delay in Implementation Dates of Employment Eligibility Verification

On November 14, 2008, the final rule implementing the Federal Acquisition Regulation (FAR) requirement entitled Employment Eligibility Verification was published at 73 FR 67650 as FAC 2005-29. This rule had an effective date of January 15, 2009. Amendment 1 to the FAC was published on January 14, 2009, changing the effective date of this coverage to January 19, 2009, and adding an applicability date of February 20, 2009.

In order to permit the new Administration an adequate opportunity to review the Employment Eligibility Verification rule, amendment 2 to the FAC was published on January 30, 2009, extending the applicability date to May 21, 2009.

Contracting officers shall not include the new clause at 52.222-54, Employment Eligibility Verification, in any solicitation or contract prior to the applicability date of May 21, 2009. On or after May 21, 2009, contracting officers—

- Shall include the clause in solicitations in accordance with the clause prescription at 22.1803 and FAR 1.108(d)(1); and
- Should modify, on a bilateral basis, existing indefinite-delivery/indefinite-quantity contracts in accordance with FAR 1.108(d)(3) to include the clause for future orders if the remaining period of performance extends beyond August 20, 2009, and the amount of work or number of orders expected under the remaining performance period is substantial.

For questions concerning this memorandum, please contact Amy Williams, 703-602-0328, or Amy.Williams@osd.mil.

Shay D. Assad
Director, Defense Procurement