



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

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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: Noncompetitive Contracts Awarded Based on Urgency

This memorandum provides guidance in response to Government Accountability Office (GAO) Report, GAO-14-304, "FEDERAL CONTRACTING: Noncompetitive Contracts Based on Urgency Need Additional Oversight," dated March 26, 2014. The report included four recommendations to improve oversight of contracts awarded on the basis of unusual and compelling urgency. The first recommendation was addressed in a separate Defense Federal Acquisition Regulations Procedures, Guidance, and Information case. This memorandum addresses the remaining three recommendations restated here: establish a process for documenting that justifications were posted in compliance with the requirements in the Federal Acquisition Regulation (FAR); provide guidance to contracting staff on what actions to take when required approval signatures are not obtained in order to post the justifications within 30 days; and develop an oversight mechanism when the cumulative value of noncompetitive contracts awarded on the basis of unusual and compelling urgency increases considerably beyond the initial contract award value.

We concurred with GAO's recommendations. This memorandum reiterates requirements for preparing, obtaining approval, and posting justification and approval (J&A) documents for contracts awarded using the unusual and compelling urgency exception in accordance with FAR 6.3. In circumstances where approval signatures are not obtained within the required time, or the cumulative value of the contract increases beyond the initial contract award value, contracting officers are expected to elevate the issue with their management to ensure the approval signature is obtained at the appropriate level as defined in FAR 6.304. As a best practice, contracting officers are encouraged to retain documentation in the contract file showing the J&A was made publicly available to demonstrate compliance with the requirements in FAR 6.305. Components should establish oversight mechanisms to ensure the appropriate approval level is obtained for the contract value associated with the J&A.

My point of contact for this memorandum is Mr. Larry McLaury, 703-697-6710 or larry.j.mclaury2.civ@mail.mil.


RADM Althea Coetzee
Acting Director, Defense Procurement
and Acquisition Policy