



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

MAR 24 2010

In reply refer to
DARS Tracking Number: 2010-O0007

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), DASA(P)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION & LOGISTICS MANAGEMENT),
DASN(A&LM)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: Class Deviation for Notification Requirements for Awards of Single-Source
Task- or Delivery-Order Contracts

Effective immediately, this class deviation requires that agency heads notify the congressional defense committees within 30 days when making a determination in accordance with FAR 16.504(c)(1)(ii)(D)(1) to award a single-source task- or delivery-order contract estimated to exceed \$100 million (including all options). The class deviation text is attached.

In addition, if the task- or delivery-order contract concerns intelligence activities of the DoD, the agency head is required to notify, within 30 days of the determination at FAR 16.504(c)(1)(ii)(D)(1), the Permanent Select Committee on Intelligence of the House of Representatives if the order relates to tactical intelligence and intelligence-related activities and the Select Committee on Intelligence of the House of Representative if the order relates to intelligence and intelligence-related activities other than those above.

This class deviation remains in effect until implemented in the DFARS or otherwise rescinded. We intend to publish an interim DFARS rule under DFARS Case 2009-D036. Comments received on this deviation will be considered in the formulation of the final DFARS rule. My point of contact is Ms. Meredith Murphy, who may be reached at 703-602-1302 or meredith.murphy@osd.mil

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated

SUBPART 216.5—INDEFINITE-DELIVERY CONTRACTS
(Revised January 15, 2009)

216.504 Indefinite-quantity contracts.

(c)(1)(ii)(D) *Limitation on single[-] award contracts.*

(1) The authority to make the determination authorized in FAR

16.504(c)(1)(ii)(D)(1)(iv) shall not be delegated below the level of the senior

procurement executive.

[(2) The head of the agency must notify the congressional defense committees within 30 days after any determination under this section and provide a copy of the determination and notification] (3) A copy of any determination made in accordance with FAR 16.504(c)(1)(ii)(D) shall be submitted to: [the] Deputy Director, Defense Procurement [and Acquisition Policy] (Contract Policy and International Contracting), OUSD(AT&L)/[DPAP(CPIC), 3060 Defense Pentagon, Washington, DC 20301-3060. [If the award concerns intelligence or intelligence-related activities of DoD, notification shall also be provided to the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives in accordance with PGI 216.504(c).]

(Added March 21, 2006)

PGI 216.5-- INDEFINITE-DELIVERY CONTRACTS

(See DFARS 216.5 - Pop-up window, PGI Viewer mode)

[PGI 216.504 Indefinite-quantity contracts.

(c) *Limitation on single-award contracts.*

Prepare and send a separate letter for each of the following congressional defense committees:

- **Committee on Armed Services of the Senate**
- **Subcommittee on Defense of the Committee on Appropriations of the Senate**
- **Committee on Armed Services of the House of Representatives**
- **Subcommittee on Defense of the Committee on Appropriations of the House of Representatives**

In addition to the above, if the task- or delivery-order contract concerns intelligence activities of the DoD, the agency head is required to notify, within 30 days of the determination, the Permanent Select Committee on Intelligence of the House of Representatives (if the order relates to tactical intelligence and intelligence-related activities) and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (if the order relates to intelligence and intelligence-related activities other than those above).

A sample congressional notification is provided:

Dear Chairman:

This notification is provided in accordance with 10 U.S.C. 2304a(d)(3) (when the head of the agency delegates the authority for the determination for a single-award task or delivery order contract greater than \$100 million, include: “and the authority delegated to me by the head of the agency”).

(Identify the buying activity, describe the requirement for a single-award task or delivery order contract, and provide the total estimated value and duration of the contract.)

I have determined, pursuant to the authority in 10 U.S.C. 2304a(d)(3)(A)() (*insert the basis for the determination; select from one or more of the following:*

“(i), that the task or delivery orders under the contract are so integrally related that only a single source can reasonably perform the work”;

“(ii), that the contract provides only for firm-fixed price task orders or delivery orders for “ and either “products for which unit prices are established in the contract” or “services for which prices are established in the contract for specific tasks to be performed”;

“(iii), that only one source is qualified and capable of performing the work at a reasonable price to the Government”; or

“(iv), that because of exceptional circumstances, it is necessary in the public interest to award the contract to a single source.” *

**(signature block of the
official executing the determination)**

**cc:
Ranking Member
OUSD(AT&L) DPAP/CPIC]**

*** Note that, if option (iv) is selected, the authority cannot be delegated below the head of the agency.**

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