



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-3000

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MEMORANDUM FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
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DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION & LOGISTICS MANAGEMENT), ASN
(RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTORS OF THE DEFENSE AGENCIES
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SUBJECT: Department of Defense Panel on Contracting Integrity –
Prime Contract/Subcontract Surveillance Information Request

Section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, directed the Department of Defense (DoD) to establish a Panel on Contracting Integrity. The purpose of the Panel is to conduct a Department-wide review of vulnerabilities that might lead to contracting fraud, waste, and abuse and, where appropriate, provide Congress with recommendations for improvement.

In its 2008 report to Congress, the Panel identified 28 actions for implementation in 2009 in ten core focus areas. One of the 2009 action items required the Panel's Adequate Pricing subcommittee to review and assess the current regulations, including Procedures, Guidance and Information (PGI), related to contracting officer surveillance over prime contractor's pricing of its subcontracts. This recommendation stemmed from the DoDIG's Report, D-2008-097, dated May 23, 2008, which identified cases where the Government or industry failed to perform the necessary subcontract cost or price analysis for emergent hurricane relief efforts to ensure the Government paid a fair and reasonable price.

Since contracting officers are responsible for determining price reasonableness of prime contracts, which often include subcontract costs, the subcommittee was tasked with assessing existing regulations/PGI to determine if they provide sufficient coverage with

regard to the contracting officer's oversight responsibility to ensure that prime contractor's are fulfilling their obligation to perform adequate subcontract pricing and monitoring. The subcommittee's initial assessment of subcontract pricing coverage of the Federal Acquisition Regulation (FAR), Defense Federal Acquisition Regulation Supplement (DFARS), and PGI indicates that the regulatory requirements and guidance appear adequate. However, in light of the DoDIG findings, there are concerns that the coverage may not be implemented effectively, especially for emergent requirements.

To accomplish a more comprehensive assessment and provide recommendations, the subcommittee is soliciting your input on specific policies, procedures and best practices that are in place at the Component level to ensure that prime contractors are properly monitoring their subcontractors. In addition, the subcommittee welcomes your comments and recommendations on how to improve subcontract pricing analysis within the Department.

Components are reminded that they should continue to assess compliance with the existing regulations and guidance during execution and procurement management reviews.

Please submit your response, if any, by December 31, 2009. Your responses and questions may be addressed to Mr. David Mabee at David.Mabee@osd.mil or 703-602-0288.

A handwritten signature in black ink, appearing to read 'Shay D. Assad', with a large, stylized flourish at the end.

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy