



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

APR 25 2011

In reply refer to
DARS Tracking Number: 2011-O0004

MEMORANDUM FOR COMMANDER, UNITED STATES CENTRAL COMMAND
(ATTN: ACQUISITION EXECUTIVE)
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 LOGISTICS MANAGEMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Class Deviation–Contractor Personnel Performing in the United States Central
Command Area of Responsibility

Effective immediately, class deviation 2011-O0004 replaces and supersedes class deviation 2007-O0010. Use the attached clause in lieu of FAR clause 52.225-19, Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular mission Outside the United States, to account for contractor personnel and certain equipment in the United States Central Command (USCENTCOM) area of responsibility. This class deviation provides—

- A clause for use in all contracts that require performance in the USCENTCOM area of responsibility by contractor personnel not already covered by DFARS 252.225-7040, Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States; and
- Requires the use of the Synchronized Predeployment and Operational Tracker (SPOT) for all personnel and equipment used in performing private security functions and all other contractor personnel except personnel hired under contracts valued at less than \$100,000 and personnel in USCENTCOM AOR for less than 30 continuous days.

This class deviation is effective upon signature, and remains in effect until incorporated in the DFARS or otherwise rescinded. My point of contact is Mr. William Reich, who may be reached at 571-256-7009, or at william.reich@osd.mil.

A handwritten signature in black ink, appearing to read "Shay D. Assad", is written over a large, faint circular stamp or watermark.

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated

Attachment – Deviation 2011-O0004

252.225-7995 CONTRACTOR PERSONNEL PERFORMING IN THE UNITED STATES CENTRAL COMMAND AREA OF RESPONSIBILITY (DEVIATION 2011-O0004) (APR 2011)

Clause Prescription:

Insert the clause 252.225-7995, Contractor Personnel Performing in the United States Central Command Area of Responsibility (DEVIATION 2011-O0004), in solicitations and contracts that will require contractor personnel to perform in the United States Central Command (USCENTCOM) Area of Responsibility (AOR), unless all such contractor personnel—

- (a) Are authorized to accompany the U.S. Armed Forces; and
- (b) Will be covered by the clause at DFARS 252.225-7040, Contractor Personnel Authorized to Accompany the U.S. Armed Forces.

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252.225-7995 CONTRACTOR PERSONNEL PERFORMING IN THE UNITED STATES CENTRAL COMMAND AREA OF RESPONSIBILITY (DEVIATION 2011-O0004) (APR 2011)

- (a) *Definition.* As used in this clause—

“Chief of mission” means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 502(c) of the Foreign Service Act of 1980 (Public Law 96-465) to be temporarily in charge of such a mission or office.

- (b) *General.* (1) This clause applies when contractor personnel are required to perform in the United States Central Command (USCENTCOM) Area of Responsibility (AOR) and are not covered by the clause at DFARS 252.225-7040, Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States.

- (2) Contract performance may require work in dangerous or austere conditions. Except as otherwise provided in the contract, the Contractor accepts the risks associated with required contract performance in such operations.

(3) Contractor personnel are civilians.

(i) Except as provided in paragraph (b)(3)(ii) of this clause, and in accordance with paragraph (i)(3) of this clause, contractor personnel are only authorized to use deadly force in self defense.

(ii) Contractor personnel performing security functions are also authorized to use deadly force when use of such force reasonably appears necessary to execute their security mission to protect assets/persons, consistent with the terms and conditions contained in the contract or with their job description and terms of employment.

(4) Service performed by contractor personnel subject to this clause is not active duty or service under 38 U.S.C. 106.

(c) *Support.* Unless specified elsewhere in the contract, the Contractor is responsible for all logistical and security support required for contractor personnel engaged in this contract.

(d) *Compliance with laws and regulations.* The Contractor shall comply with, and shall ensure that its personnel in the USCENTCOM AOR are familiar with and comply with, all applicable—

(1) United States, host country, and third country national laws;

(2) Treaties and international agreements;

(3) United States regulations, directives, instructions, policies, and procedures; and

(4) Force protection, security, health, or safety orders, directives, and instructions issued by the USCENTCOM Commander; however, only the Contracting Officer is authorized to modify the terms and conditions of the contract.

(e) *Preliminary personnel requirements.* (1) Specific requirements for paragraphs (e)(2)(i) through (e)(2)(vi) of this clause will be set forth in the statement of work or elsewhere in the contract.

(2) Before contractor personnel depart from the United States or a third country, and before contractor personnel residing in the host country begin contract performance in the USCENTCOM AOR, the Contractor shall ensure the following:

(i) All required security and background checks are complete and acceptable.

(ii) All personnel are medically and physically fit and have received all required vaccinations.

iii) All personnel have all necessary passports, visas, entry permits, and other documents required for contractor personnel to enter and exit the foreign country, including those required for in-transit countries.

(iv) All personnel have received theater clearance, if required by the Combatant Commander.

(v) All personnel have received personal security training. The training must, at a minimum—

(A) Cover safety and security issues facing employees overseas;

(B) Identify safety and security contingency planning activities;
and

(C) Identify ways to utilize safety and security personnel and other resources appropriately.

(vi) All personnel who are U.S. citizens are registered with the U.S. Embassy or Consulate with jurisdiction over the area of operations on-line at <http://www.travel.state.gov>.

(3) The Contractor shall notify all personnel who are not a local national or ordinarily resident in the host country that—

(i) Such employees, and dependents residing with such employees, who engage in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, may potentially be subject to the criminal jurisdiction of the United States (see the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261 *et seq.*);

(ii) Pursuant to the War Crimes Act, 18 U.S.C. 2441, Federal criminal jurisdiction also extends to conduct that is determined to constitute a violation of the law of war when committed by a civilian national of the United States;

(iii) Other laws may provide for prosecution of U.S. nationals who commit offenses on the premises of United States diplomatic, consular, military, or other Government missions outside the United States (18 U.S.C. 7(9)).

(f) *Processing and departure points.* The Contractor shall require its personnel who are arriving from outside the area of performance to perform in the USCENTCOM AOR to—

(1) Process through the departure center designated in the contract or complete another process as directed by the Contracting Officer;

(2) Use a specific point of departure and transportation mode as directed by the Contracting Officer; and

(3) Process through a reception center as designated by the Contracting Officer upon arrival at the place of performance.

(g) *Registration of Contractor personnel and private security contractor equipment.*

(1) The Contractor is required to register in the automated web-based Synchronized Predeployment and Operational Tracker (SPOT) following the procedures in paragraph (g)(4) of this clause.

(2) Prior to deployment of contractor employees, or, if already in the USCENTCOM AOR, upon becoming an employee under this contract, the Contractor shall enter into SPOT, and maintain current data, including actual arrival date and departure date, for all contractor personnel, including U.S. citizens, U.S. legal aliens, third-country nationals, and local national contractor personnel, who are performing this contract in the USCENTCOM AOR as follows:

(i) In all circumstances, this includes any personnel performing private security functions.

(ii) For personnel other than those performing private security functions, this requirement excludes anyone—

(A) Hired under contracts valued less than \$100,000;

(B) Who will be performing in the CENTCOM AOR less than 30 continuous days; or

(C) Who, while afloat, are tracked by the Diary message Reporting System

(3) Weapons, armored vehicles, helicopters, and other military vehicles used by personnel performing private security functions under this contract must be entered into SPOT, and the currency of such information must be maintained.

(4) Follow these steps to register in and use SPOT:

(i) SPOT registration requires one of the following login methods:

(A) A Common Access Card or a SPOT-approved digital certificate; or

(B) A Government-sponsored SPOT user ID and password or an Army Knowledge Online (AKO) account.

(ii) *To register in SPOT:*

(A) Contractor company administrators should register for a SPOT account at <https://spot.altess.army.mil>; and

(B) The customer support team must validate user need. This process may take two business days. Company supervisors will be contacted to validate Contractor company administrator account requests and determine the appropriate level of user access.

(iii) Upon approval, all users will access SPOT at <https://spot.altess.army.mil/>.

(iv) Refer SPOT application assistance questions to the Customer Support Team at 717-458-0747 or SPOT.helpdesk@us.army.mil. Refer to the SPOT Enterprise Suite Resource Center at <http://www.resource.spot-es.net/> for additional training resources and documentation regarding registration for and use of SPOT.

(5) The Contractor shall submit aggregate contractor personnel counts at a minimum quarterly or as directed by the Contracting Officer by category (i.e. U.S. third country national or local national) of those contractor personnel who are on contracts valued greater than \$100,000, but performing less than 30 days in the AOR (e.g. day laborers).

(6) The Contractor shall ensure that all contractor personnel in the database have a current DD Form 93, Record of Emergency Data Card, on file with both the Contractor and the designated Government official. The Contracting Officer will inform the Contractor of the Government official designated to receive the data card.

(h) *Contractor personnel.* The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any contractor personnel who fail to comply with or violate applicable requirements of this contract. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract, including termination for default or cause.

(i) *Weapons.*

(1) If the Contracting Officer, subject to the approval of the USCENTCOM Commander, authorizes the carrying of weapons—

(i) The Contracting Officer may authorize an approved Contractor to issue Contractor-owned weapons and ammunition to specified employees; or

(ii) The _____ [*Contracting Officer to specify individual, e.g. Contracting Officer Representative, Regional Security Officer, etc.*] may issue Government-furnished weapons and ammunition to the Contractor for issuance to specified contractor employees.

(2) The Contractor shall provide to the Contracting Officer a specific list of personnel for whom authorization to carry a weapon is requested.

(3) The Contractor shall ensure that its personnel who are authorized to carry weapons—

(i) Are adequately trained to carry and use them—

(A) Safely;

(B) With full understanding of, and adherence to, the rules of the use of force issued by the USCENTCOM Commander; and

(C) In compliance with applicable Department of Defense and agency policies, agreements, rules, regulations, and other applicable law;

(ii) Are not barred from possession of a firearm by 18 U.S.C. 922; and

(iii) Adhere to all guidance and orders issued by the USCENTCOM Commander regarding possession, use, safety, and accountability of weapons and ammunition.

(4) Upon revocation by the Contracting Officer of the Contractor's authorization to possess weapons, the Contractor shall ensure that all Government-furnished weapons and unexpended ammunition are returned as directed by the Contracting Officer.

(5) Whether or not weapons are Government-furnished, all liability for the use of any weapon by contractor personnel rests solely with the Contractor and the Contractor employee using such weapon.

(j) *Vehicle or equipment licenses.* Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the area of performance.

(k) *Military clothing and protective equipment.*

(1) Contractor personnel are prohibited from wearing military clothing unless specifically authorized by the USCENTCOM Commander. If authorized to wear military clothing, contractor personnel must wear distinctive patches, arm bands, nametags, or headgear, in order to be distinguishable from military personnel, consistent with force protection measures.

(2) Contractor personnel may wear specific items required for safety and security, such as ballistic, nuclear, biological, or chemical protective equipment.

(l) *Evacuation.* (1) If the Chief of Mission or USCENTCOM Commander orders a mandatory evacuation of some or all personnel, the Government will provide to United States and designated third country national contractor personnel the level of assistance provided to private United States citizens.

(2) In the event of a non-mandatory evacuation order, the Contractor shall maintain personnel on location sufficient to meet contractual obligations unless instructed to evacuate by the Contracting Officer.

(m) *Notification and return of personal effects.* (1) The Contractor shall be responsible for notification of the contractor personnel designated next of kin, and notification as soon as possible to the U.S. Consul responsible for the area in which the event occurred, if the individual—

(i) Dies;

(ii) Requires evacuation due to an injury; or

(iii) Is isolated, missing, detained, captured, or abducted.

(2) The Contractor shall also be responsible for the return of all personal effects of deceased or missing contractor personnel, if appropriate, to next of kin.

(n) *Mortuary affairs.* Mortuary affairs for contractor personnel who die in the area of performance will be handled in accordance with DoD Directive 1300.22, Mortuary Affairs Policy.

(o) *Changes.* In addition to the changes otherwise authorized by the Changes clause of this contract, the Contracting Officer may, at any time, by written order identified as a change order, make changes in place of performance or Government-furnished facilities, equipment, material, services, or site. Any change order issued in accordance with this paragraph shall be subject to the provisions of the Changes clause of this contract.

(p) *Subcontracts.* The Contractor shall incorporate the substance of this clause, including this paragraph (p), in all subcontracts that require subcontractor personnel to perform in the USCENTCOM AOR.

(End of clause)