



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION
AND SUSTAINMENT

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
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
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Considerations Regarding the Acquisition of Firearms

In accordance with Executive Order 14092, Reducing Gun Violence and Making Our Communities Safer, the Department is committed to help make our communities safer. In response to the EO's paragraph 3(e), directing the Department to develop and implement principles to further firearm and public safety practices through its acquisition of firearms, consistent with applicable law, effective as of the date of this memorandum, acquisitions involving the funding of the research and development of DoD-specific firearms technologies will comply with the following.

- 1) As part of acquisition planning, the Head of the Contracting Activity or designee will decide, in writing, whether restricting, or having an option to restrict, an awardee's ability to use technical data that the awardee generates during contract performance is in the Government's interest. Such restrictions would include the contractor's right to make commercial sales of the product(s) covered by the technical data. In making this decision, the Head of the Contracting Activity or designee shall consider the following:
 - a. The technologies being directly funded by the Department;
 - b. The lethality of the DoD-specific technologies and their possible effect on civilian safety should the technologies be used for commercial firearms;
 - c. The cost of obtaining the restriction;
 - d. The length of time for which the restriction would effectively prevent the technology from entering the civilian market, given potential patent expirations or other factors;
 - e. Whether those specific or similar technologies are already available in the commercial marketplace from firearms manufacturers; and
 - f. Whether the firearms technologies are already restricted from commercial sale.

The acquisition authority's decision will be memorialized in the acquisition plan or a memorandum for the contract file.

- 2) If the acquisition authority decides it is in the Government's interest to either restrict or have an option to restrict an awardee's ability to use its technical data as described above, the contracting officer will consult with supporting legal counsel about how best to proceed, including the drafting of appropriate contract-specific language or the inclusion of contract clauses, such as FAR 52.227-13, "Patent Rights-Ownership by the Government," or DFARS 252.227-7020, "Rights in Special Works."

My point of contact for this memo is Ms. MaryKathryn Robinson, osd.pentagon.ousd-a-s.mbx.asda-dp-c-contractpolicy@mail.mil.

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting