



ACQUISITION

THE UNDER SECRETARY OF DEFENSE
WASHINGTON, DC 20301

SEP 24 1982

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
GENERAL COUNSEL, DEPARTMENT OF DEFENSE
DIRECTOR, DEFENSE LOGISTICS AGENCY

SUBJECT: Suspension and Debarment

During the past several months I have become aware of several issues concerning our suspension and debarment procedures which require clarification.

I am concerned that contractors may not be aware that they are being considered for suspension. The FAR currently allows contractors an opportunity to present information in opposition to the suspension, either in writing or in person, prior to or within 30 days of the suspension. It does not, however, require pre-suspension notification to contractors. When appropriate prior to the suspension, I want companies to be informed that we have extremely serious concerns with their conduct, that their suspension is imminent and that they may contact the suspension official, or his designee, if they have any information to offer on their behalf. Time constraints for submission of such information must be set to assure that the government's interests are protected. This is not a change to existing policy or an expansion of contractors' rights, but merely an enhanced opportunity for DoD to consider all available information before making a decision which will affect a company's future business dealings with the government.

Another area of concern is the interagency coordination and notification process prior to taking suspension or debarment actions. It is essential that all debarring officials coordinate fully within the Department to determine the possible effects of their actions on other organizations and to receive additional information which may affect their decisions. Although this is intended to be effective primarily within DoD, in certain cases coordination should also be carried out with civilian agencies. In addition, I expect debarring officials, or their designees, to notify the Director of Defense Procurement of all high interest suspension and debarment cases prior to taking final action. This may be telephonic or in writing, and should be early in the process.

My final area of concern is the procedure for designating one DoD component as the lead agency to act on behalf of all DoD components in determining whether to suspend or debar a contractor or to agree on conditions to be complied with as an alternative to suspension and debarment. The establishment of the Defense Contract Management Command rendered the policy established by Deputy Secretary Taft's 11 December 1986 memorandum obsolete. In its place, I wish to formalize the existing practice, which essentially gives the lead agency assignment to the agency with the predominant financial interest. If there are any questions or disagreements as to which agency has the lead, the matter will be referred to the Director for Defense Procurement for resolution. Once the lead agency is determined, the other debarring officials should be notified of the decision.

The Director of Defense Procurement is designated to act for me in all matters involving suspension and debarment. Any questions regarding these policies should be directed to that office.


DON YOCKEY