



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

June 21, 2006

ACQUISITION
TECHNOLOGY
AND LOGISTICS

MEMORANDUM FOR TECHNICAL DIRECTOR AUDIT FOLLOWUP & GAO AFFAIRS
OFFICE OF THE INSPECTOR GENERAL

for THROUGH: Director, Acquisition Resources & Analysis *car 6/22/06*

SUBJECT: Followup on GAO Report GAO-04-854, "Military Operations: DoD's Extensive Use of Logistics Support Contracts Requires Strengthened Oversight," July 19, 2004

This responds to your memorandum of May 11, 2006, on the subject GAO report. DoD Instruction 3020.41, "Contractor Personnel Authorized to Accompany the U.S. Armed Forces," was issued on October 3, 2005 and provides the policy on procedures for the use of contractors to support deployed forces (TAB A). Please use this to close Recommendation 1.

The Defense Acquisition University (DAU) has established a "Best Practices/Lessons Learned" database at its Contractors Accompanying the Force Community site and has also developed a Continuous Learning Module for Contractors Accompanying the Force (CLM-CAF). DAU has submitted the CLM-CAF for final external review and estimates it will be online by September 2006. Please use this to close Recommendations 3 and 4.

With the issuance of DoDI 3020.41 implementing Section 1205 of the FY 2005 National Defense Authorization Act, the establishment of the "Best Practices/Lessons Learned" database and the development of the CLM-CAF, there is no longer a need to direct the Military Departments to send teams of subject matter experts to locations where contractor services are being provided by logistics support contracts. Please use this to close Recommendation 2.

Based on the information above, recommend this case be closed. Tom Carter may be reached at (703) 614-6137 if there are any questions.

for James D. Hall
Acting Assistant Deputy Under Secretary
(Logistics Plans and Programs)



5.8. The Secretaries of the Military Departments and the Directors of the Defense Agencies shall incorporate this Instruction into applicable Component policy, doctrine, programming, training, and contracts and ensure:

5.8.1. The Military Departments plan for the effective retention or replacement of contingency contractors, in wartime or contingency operations, who are performing essential contractor services according to references (d), (e) and (g).

5.8.2. The joint database addressed in subparagraph 6.2.6. is designated and its use required in all external support contracts and systems support contracts where CDF have the potential to support contingency operations or other military operations.

5.8.3. Assigned contracting activities populate the joint database addressed in subparagraph 6.2.6. with a summary of contract services or capability information when external support contracts or systems support contracts are awarded.

5.8.4. Contingency contractor personnel meet all theater and/or JOA admission procedures and requirements prior to entering the theater or JOA.

5.8.5. Contracting officers include in the contract appropriate DFARS clause(s) according to subparagraphs 5.1.2. and 6.1.4.; specific deployment and theater admission requirements according to subparagraphs 6.2.7. and 6.3.1.; specific medical preparation requirements according to subparagraph 6.2.7.5.; and the level of protection to be provided to contingency contractor personnel according to subparagraph 6.3.4.

6. PROCEDURES

This section provides an authoritative and comprehensive roadmap of policy and procedures applicable to contractor personnel authorized to accompany the U.S. Armed Forces. Key areas addressed include: contractor legal status; planning requirements; visibility; deployment, theater reception, and in-theater management processes; force protection and security; and medical. This section is organized in near-chronological sequence to address actions required during phases of contingency operations. These include pre-deployment planning, deployment, reception, management within the theater, and redeployment.

6.1. The DoD Components shall abide by applicable laws, regulations, DoD policy, and international agreements as they relate to contingency contractor personnel supporting contingency operations.

6.1.1. International Law and Contractor Legal Status. Under applicable law, contractors may support military operations as civilians accompanying the force, so long as such personnel have been designated as such by the force they accompany and are provided with an appropriate identification card under the provisions of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War (GPW) (reference (j)). If captured during armed conflict, contingency contractor personnel accompanying the force are entitled to prisoner of war status.

5.2. The Deputy Under Secretary of Defense for Logistics and Material Readiness, under the USD(AT&L), shall monitor and manage the implementation of this Instruction.

5.3. The Under Secretary of Defense for Personnel and Readiness, in coordination with the USD(AT&L), shall:

5.3.1. Designate or develop a web-based joint database and procedures for its use according to subparagraph 6.2.6. as the central repository of information for all CDF personnel and contract capability information provided by external support and systems support contracts.

5.3.2. Establish procedures to maintain by-name accountability and visibility of CDF personnel and relevant contract capability information.

5.4. The Under Secretary of Defense for Intelligence shall develop and implement, as required, procedures for counterintelligence and security screenings of contingency contractor personnel and assist in drafting appropriate contract clauses for counterintelligence briefings and debriefings, in coordination with the USD(AT&L).

5.5. The Chairman of the Joint Chiefs of Staff shall take appropriate actions to incorporate this Instruction into relevant joint doctrine and training as appropriate.

5.6. The Geographic Combatant Commanders, through the Chairman of the Joint Chiefs of Staff, shall:

5.6.1. Implement this Instruction within their AOR including integration of contingency contractor personnel in OPLANs and OPORDs and provide this information to the DoD Components to incorporate into applicable contracts according to subparagraph 6.2.2.

5.6.2. Develop contingency plans to ensure continuation of essential contractor services according to references (d) and (e) and DoD Instruction 1100.19 (reference (g)).

5.6.3. Establish theater and/or joint operations area (JOA) admission procedures and requirements, including country and theater clearance, waiver authority, immunizations, required training or equipment, and any restrictions necessary to ensure proper deployment, visibility, security, accountability, and redeployment of contingency contractor personnel deploying to their AOR. Update the DoD 4500.54-G (reference (h)), with the specific procedures according to DoD Directive 4500.54 (reference (i)).

5.6.4. Develop a security plan according to subparagraph 6.3.4.

5.7. The Commanders of the Functional Combatant Commands, through the Chairman of the Joint Chiefs of Staff, shall follow the implementing guidance established by the geographic Combatant Commanders pursuant to paragraph 5.6. depending on the geographic location for execution of the contract.

4.8. Require defense contractors provide medically and physically qualified contingency contractor personnel to perform duties in contingency operations. Medical support procedures shall be consistent with the following:

4.8.1. All external support and systems support contracts contain or incorporate by reference: minimum medical and dental standards for CDF; a requirement to make available CDF medical and dental records (including current panograph) for deployment center validation; a requirement to submit a specimen sample suitable for deoxyribonucleic acid (DNA) analysis for CDF; and immunization requirements for the relevant joint operations area (JOA). Selected theater support contracts (e.g., for food handlers) should, as appropriate, contain minimum medical and dental standards and immunization requirements.

4.8.2. Generally, all contingency contractor personnel who support U.S. forces in contingency operations or other military operations may be provided resuscitative care, stabilization, hospitalization at level III military treatment facilities (MTF), and assistance with patient movement in emergencies where loss of life, limb, or eyesight could occur. Hospitalization will be limited to stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system. The contract and the appropriate medical authorities must specifically authorize medical or dental care beyond this standard.

4.8.3. All costs associated with treatment and transportation of contingency contractor personnel to a selected civilian facility will be the responsibility of the contingency contractor personnel, their employer, or their health insurance provider.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Acquisition, Technology, and Logistics shall:

5.1.1. Serve as the Principal Staff Assistant for this Instruction.

5.1.2. Develop and implement standard DFARS (reference (c)) clauses for inclusion in DoD contracts for which contingency contractor personnel are expected to support contingency operations or other military operations, or exercises designated by the geographic Combatant Commanders, in coordination with the Under Secretary of Defense for Personnel and Readiness (USD (P&R)), the Under Secretary of Defense for Intelligence (USD(I)), and the DoD Components as appropriate. This action will facilitate efficient deployment, visibility, protection, sustainment, and redeployment of contingency contractor personnel. The DFARS clause(s) appropriate for contracts associated with CDF shall require the Letter of Authorization addressed in subparagraph 6.2.7.4. A template of the Letter of Authorization shall be included in the DFARS Procedures, Guidance & Information (reference (f)).

5.1.3. Ensure the joint database addressed in subparagraph 6.2.6. is established.

4.3. Ensure contracts clearly and accurately specify the terms and conditions under which the contractor is to perform, describe the specific support relationship between the contractor and the Department of Defense, and contain standardized clauses to ensure efficient deployment, visibility, protection, authorized levels of health service and other support, sustainment, and redeployment of contingency contractor personnel. The contract shall also specify the appropriate flow-down of these provisions and clauses to subcontracts. Generally, defense contractors are responsible for providing for their own logistical support and logistical support for their employees. Logistical support shall be provided by the Department of Defense only when the commander or the contracting officer determines provision of such support is needed to ensure continuation of essential contractor services and adequate support cannot be obtained by the contractor from other sources.

4.4. Develop a security plan for protection of contingency contractor personnel in locations where there is not sufficient or legitimate civil authority and the commander decides it is in the interests of the Government to provide security because the contractor cannot obtain effective security services, such services are unavailable at a reasonable cost, or threat conditions necessitate security through military means. The contracting officer shall include the level of protection to be provided to contingency contractor personnel in the contract. In appropriate cases, the geographic Combatant Commander may provide security through military means, commensurate with the level of security provided DoD civilians. Specific security measures shall be mission and situation dependent as determined by the geographic Combatant Commander and the following contractor arming policy:

4.4.1. Subject to the approval of the geographic Combatant Commander, contingency contractor personnel may be armed for individual self-defense.

4.4.2. Contracts for security services shall be used cautiously in contingency operations where major combat operations are ongoing or imminent. Authority and armament of contractors providing private security services will be set forth in their contracts.

4.5. Maintain by-name accountability of all CDF personnel and contract capability information in a joint database. This database shall provide a central source of CDF personnel information and a summary of services or capabilities provided by all external support and systems support contracts. This information shall be used to assist planning for the provision of force protection, medical support, personnel recovery, and other support. It should also provide planners an awareness of the nature, extent, and potential risks and capabilities associated with contracted support in the area of responsibility (AOR). This requirement may be waived by the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)).

4.6. Designate in all external support and system support contracts the specific deployment center or process CDF must use to prepare for deployment and redeployment.

4.7. Designate the requirement for all CDF to process through the joint reception center (JRC) designated by the geographic Combatant Commander in all external support and system support contracts. This requirement may be waived by USD(AT&L).

2. APPLICABILITY AND SCOPE

This Instruction:

2.1. Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

2.2. Applies to contingency contractor personnel who deploy with or otherwise provide support in a theater of operations to U.S. Armed Forces deployed outside the United States conducting contingency operations or other military operations.

2.3. Applies to the geographic Combatant Commanders who may also apply this Instruction, or portions thereof, to exercises, subject to applicable law.

2.4. Does not apply to contracts being performed in the United States and U.S. possessions and territories; nor does it apply to contracts being performed at a location other than where U.S. military forces are deployed for a contingency operation or other military operation.

3. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

4. POLICY

It is DoD policy to:

4.1. Implement appropriate contractor planning, visibility, deployment, and redeployment requirements; adhere to theater management procedures; abide by applicable laws, regulations, policies, and international agreements; and use contractor support only in appropriate situations consistent with the Defense Federal Acquisition Regulation Supplement (DFARS) (reference (c)).

4.2. Implement this Instruction in operations plans (OPLANs) and operations orders (OPORDs) and coordinate any proposed contractor logistic support arrangements that may affect the OPLAN/OPORD with the affected geographic Combatant Commands. Contingency plans shall be developed to ensure continuation of services if a defense contractor is unable to perform according to DoD Directive 1100.4 and DoD Instruction 3020.37 (references (d) and (e)).



Department of Defense

INSTRUCTION

NUMBER 3020.41

October 3, 2005

USD(AT&L)

SUBJECT: Contractor Personnel Authorized to Accompany the U.S. Armed Forces

- References:
- (a) Section 133 of title 10, United States Code
 - (b) Deputy Secretary of Defense Memorandum, "DoD Directive Review – Phase II," July 13, 2005
 - (c) Defense Federal Acquisition Regulation Supplement (DFARS), current edition¹
 - (d) DoD Directive 1100.4, "Guidance for Manpower Management," February 12, 2005
 - (e) through (bi), see enclosure 1

1. PURPOSE

Under the authority of references (a) and (b), this Instruction establishes and implements policy and guidance, assigns responsibilities, and serves as a comprehensive source of DoD policy and procedures concerning DoD contractor personnel authorized to accompany the U.S. Armed Forces. This includes defense contractors and employees of defense contractors and their subcontractors at all tiers under DoD contracts, including third country national (TCN) and host nation (HN) personnel, who are authorized to accompany the U.S. Armed Forces under such contracts. Collectively, these persons are hereafter referred to as contingency contractor personnel. One significant sub-category of contingency contractor personnel, called contractors deploying with the force (CDF), is subject to special deployment, redeployment, and accountability requirements and responsibilities. Definitions for these personnel and other key terms are addressed in enclosure 2.

¹ The Defense Federal Acquisition Regulation Supplement (DFARS) can be found at <http://akss.dau.mil/jsp/default.jsp>