

Consolidated List of Did You Knows as published through July 23, 2012

May 31, 2011

The PARC Policy and Compliance Team is establishing a series of "Did You Know" questions that provide interesting facts and tidbits relating to contracting. With some of these, you may say, "Hey, I knew that." For others, the information may be new or updated. Finally, you may decide that you need more information, maybe even a policy, guidance, checklist, a TIPS, or even a training session. Our goal is to send out 3 to 5 of these Did You Know questions every Monday (or Tuesday in this case). Please feel free to provide feedback on these questions to the PARC Policy and Compliance Team.

Here we go!

Did you know . . .

1. . . . that, before awarding a contract in excess of the simplified acquisition threshold, the contracting officer shall review the Federal Awardee Performance and Integrity Information System (FAPIIS), (available at [www.ppirs.gov](http://www.ppirs.gov), then select FAPIIS)? See FAR 9.104-6.

2. . . . that, when using FAR Part 12 procedures for acquisitions exceeding \$1M in value, the contracting officer shall determine in writing (in the contract file) that the acquisition meets the commercial definition in FAR 2.101? (See DFARS 212.102(a)(i)).

3. . . . that the contract file must be documented if the Contracting Officer determines that an exception at FAR 5.202 applies to the synopsis requirements? See FAR 5.202.

4. . . . that the term, "Information Other than Cost or Pricing Data", has changed to "Data Other than Cost or Pricing Data"? See FAR 2.101.

5. . . . that any questions or concerns relating to policy and guidance may be directed to the PARC Policy and Compliance Office at [DL-409CSB-HQ-CMD-PARCPolicy@eur.army.mil](mailto:DL-409CSB-HQ-CMD-PARCPolicy@eur.army.mil)?

June 5, 2011

6. . . . that, when using FAR 13.5, Test Program for Certain Commercial Items, the contract file must contain a brief written description of the procedures used in awarding the contract, including the fact that the test procedures in FAR 13.5 were used? See FAR 13.501(b).

7. . . . that all members, advisors, and persons involved in a source selection or receiving source selection information must sign a non-disclosure statement for that procurement? See the Department of Defense Source Selection Procedures (DFARS 215.300) and the Army Source Selection Manual (AFARS Appendix AA).

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8. . . . that DCAA has sole authority for approving interim payment request for all T&M, Labor Hour, and Cost Reimbursement contracts or CLINS, even commercial ones? See FAR 52.212-4 Alt 1, FAR 42.8, DFARS 42.803, and OSD AT&L Memo dated Apr 14, 2008 titled "Approving Payments under Cost-Reimbursement, T&M and LH Contracts".

9. . . . that for services acquisitions that are not performance based, higher level approval is required? See DFARS 237.170-2 and AFARS 5137.170-2.

June 13, 2011

10. . . . that a contracting officer has only 3 days to report in FAPIIS after issuing a final termination for cause or default notice? See FAR 42.1503(f).

11. . . . that the Contracting Officer must verify that a prospective contractor is registered in CCR and include documentation in the file that this was accomplished? See FAR 4.1103.

12. . . . that the FAR contains a preference for Multiple Award IDIQ Contracts and that the Contracting Officer must document the decision whether or not to use multiple awards in the acquisition plan/strategy or contract file? See FAR 15.504(c).

13. . . . that Single Source IDIQ Contracts over \$103M must have a Determination and Findings (D&F) approved at the Head of the Contracting Activity? See FAR 15.404(c).

June 20, 2011

14. . . . that a Determination and Findings (D&F) is required to be executed and included in the contract file anytime a procurement is both commercial and T&M or LH? See FAR 12.207.

15. . . . that PGI 204.2 has procedures for Contract Distribution that must be followed when distributing contracts?

16. . . . that, unless otherwise specified, a specific dollar threshold for the purpose of applicability is the final anticipated dollar value of the action, including the dollar value of all options? And, if the action establishes a maximum quantity of supplies or services to be acquired or establishes a ceiling price, the final anticipated dollar value must be the highest final priced alternative to the Government, including the dollar value of all options? See FAR 1.108(c).

17. . . . that the PARC may approve one time FAR/DFARS/AFARS deviations? See AFARS 5101.403(1).

June 27, 2011

18. . . . that PGI 204.804 has procedures for Contract Close Out that must be followed when closing out contracts?

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19. . . . that, for the 409th CSB, Mr. Tony Baumann is the Special Competition Advocate? See AFARS 5106.502.

20. . . . that the DoD CORT (Contracting Officer's Representative Tool) is required for contracts or options that are exercised after 1 Apr 11? See ACC-P-70-1.

21. . . . that, for DoD awards, Congressional Notification is required for all contractual actions, including modifications, that have a face value, excluding unexercised options, of more than \$6.5 million? See DFARS 205.303. Additionally, contracts awarded to foreign vendors for overseas performance are excluded from this reporting requirement. Also exempt are contracts placed with the Small business Administration 8(a) Program and those contracts for which synopsis was exempt under FAR 5.202(a)(1) (See FAR 5.303).

#### July 1, 2011

22. . . . that a D&F is required to be executed before each option is exercised on T&M and LH contracts? See FAR 16.601(d)(1)(i) and FAR 16.602.

23. . . . that it is appropriate to address all the General Standards of responsibility that are listed in FAR 9.104-1? And, that documents and reports supporting a determination of responsibility or non-responsibility must be included in the contract file? See FAR 9.104-1 and FAR 9.105-2(b).

24. . . . that, for competitive actions over the SAT, a written notification to unsuccessful offerors is required within three days after contract award? See FAR 15.503(b).

25. . . . that for using "brand name or equal," the solicitation must specify the salient physical, functional, or performance characteristics that make an item "equal" to the brand name one? See FAR 11.104(b). And, that in Germany, if these characteristics are addressed by a DIN, the solicitation should clearly state it?

#### July 11, 2011

26. . . . that contracting officers shall use only Firm-Fixed-Price Contracts, Fixed-Price Contracts with Economic Price Adjustment or Time and Materials/Labor Hour contracts (with certain restrictions) in the acquisition of commercial items? See FAR 12.207. The clause, 52.212-4 Alternate 1, addresses the handling of materials and travel; so any Material CLIN or Travel CLIN in commercial contracts should be considered as T&M CLINs in PD2.

27. . . . that Acquisition Strategies are required for all services efforts exceeding the Simplified Acquisition Threshold? See AFARS 5137.590-4 for the review thresholds. For the contents of an acquisition strategy, see the ACC Deskbook (Aug 2010) Part 37 Annex A.

28. . . . that the contracting officer shall justify in writing the quantities or the term under option, the notification period for exercising the option, and any limitation on option price and shall include the justification document in the contract file? See FAR 17.205.

29. . . . that, when a COR is not appointed for service contracts, the contracting officer must document the file explaining who will be responsible for oversight and surveillance functions to include performance assessment of contractors? See DASA(P) Memo dated Oct 21 2010 titled "Post Award Oversight and Surveillance of Contracts".

July 18, 2011

30. . . . that all solicitations must be posted to the Army Single Face to Industry (ASFI) Acquisition Business Website at <https://acquisition.army.mil/asfi/> ? See AFARS 5104.502.

31. . . . that all J&As over \$150,000, to include ones under the commercial test program, must be posted within the times frames set forth in the applicable FAR references? See FAR 6.305, 8.405-6(a)(2), and 13.501(a)(1)(iii).

32. . . . that the 409th's Head of Contracting Activity (HCA) is the Commander of the Expeditionary Contracting Command (ECC), Brigadier General Joseph L. Bass?

July 25, 2011

33. . . . that Contracting Officers are required to ensure that the requiring activity has made the appropriate OCONUS and anti-terrorism (AT) considerations in their requirements package, and document and retain that information in the contract file? See DFARS PGI 225.7401.

34. . . . that Defense Acquisition University offers a variety of Continuous Learning Points at their website [www.dau.mil](http://www.dau.mil)?

35. . . . that, for all contracts greater than \$25K, contractors are required to report their first tier-subcontractor(s) and their five highest paid executives information at [www.fsrs.gov](http://www.fsrs.gov) <<http://www.fsrs.gov>> and [www.ccr.gov](http://www.ccr.gov) <<http://www.ccr.gov>> respectively, and that they only have one month after contract award to complete this unless otherwise specified by the KO? See FAR 52.204-10.

36. . . . that, for requirements greater than the SAT using non-DoD contracts (GSA Schedule, NASA-SEWP, other agency contracts), the requiring activity is required to complete and provide a non-DoD certification document? See DFARS 217.7800. The attached template provides the format for use in these situations.

August 1, 2011

37. . . . that FAR 19, Small Business Programs, only applies to contracts in the Unites States or its outlying areas? See FAR 19.000(b). However, FAR 19.6, Certificates of Competency and Determinations of Responsibility apply to

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contracts worldwide when dealing with U.S. small business concerns. See FAR 19.601(e).

38. . . . that there are staggered closing dates for ending the Fiscal Year for our major customers? (AFRICOM, IMCOM, USAREUR, etc.? See attached schedule.

39. . . . that all hardware and software requirements must be purchased through CHES unless a Waiver is obtained? See FAR 5139.101.

40. . . . that the requirement for obtaining cost or pricing data is \$700,000 unless an exception applies? See FAR 15.403-4(a)(1).

#### August 8, 2011

41. . . . that FAR Part 6 authorities for sole source or limiting competition are not the authorities for sole source under the SAT or FAR 13.5 or the authorities for sole source or limiting sources under Federal Supply Schedule Procurements?

42. . . . that the "authority" for sole source justifications under the Simplified Acquisition Threshold is FAR 13.106-1(b)? See FAR 13.106-1(b).

43. . . . that the authority for sole source under FAR 13.5, Test Program for Certain Commercial Items, is Section 4202 of the Clinger-Cohen Act of 1996 as implemented by FAR 13.5? See FAR 13.501(a)(ii).

44. . . . that the authority for limiting sources when placing orders or establishing BPAs under Federal Supply Schedules is the Federal Property and Administrative Service Act of 1949 as implemented by FAR 8.4. See FAR 8.401 and 8.405-6.

45. . . . that justifications (sole source or limiting sources) based on unusual and compelling are the only ones that are allowed to be approved after the fact? See FAR 6.302-2(c)(1).

#### August 15, 2011

46. . . . that Contracting Officers are required to get cost or pricing data for the award of any negotiated contract or modification of any sealed bid or negotiated contract unless an exception applies? See FAR 15.403-4 and FAR 15.403-1.

47. . . . that FAR Part 12 terminations are either for Cause or Convenience, and that non-commercial terminations are either for Default or Convenience? See FAR 12.403(a) and FAR 49.

48. . . . that the Service Contract Approval (SCA) approval limit for Garrison Commanders is \$100,000 (not the SAT)? See AFARS 5107.503.

49. . . . that the IMCOM-E Regional Director conducts a Service Contract review quarterly to approve SCAs?

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August 22, 2011

50. . . . that, under Requirements contracts, the government is not required to award task orders that exceed the maximum order limitation to the contract holder? See FAR 52.216-19(c).

51. . . . FAR 15.4 includes the techniques and pricing methodologies for pricing any effort?

52. . . . that, IAW with the Better Buying Power Initiatives dated Sept 14, 2010, we are not allowed to consider that we have adequate price competition when only one offer/bid is received as a result of a solicitation? Furthermore, we are required to perform price or cost analysis in accordance with FAR 15.404-1 to determine the price to be fair and reasonable. See attached e-mail on Improving Competition in Defense Procurements.

53. . . . that a J&A is not required when modifying a contract within the scope of the changes clause? See FAR 43.2.

August 29, 2011

54. . . . that you can visit the find DoD Contractor Personnel Office (DOCPER) webpage to obtain information on the accreditation process for Germany and Italy? See the DOCPER webpage at <http://www.per.hqusareur.army.mil/content/CPD/docper.html> <<http://www.per.hqusareur.army.mil/content/CPD/docper.html>> ?)

55. . . . that, in Germany, status accreditation provides contractor employees status under SOFA? This means that contractor employees may receive logistics support and have a certain amount of their income as tax exempt. Additionally, this saves the government money on contracts and increases US government contractors ability to acquire and retain high quality employees

56. . . . that, in Germany, there are four types of status that can be approved through DOCPER; Technical Expert (TE) - accomplishes complex tasks of a technical-military or technical-scientific nature; Analytical Support (AS) - military planning and intelligence analysis; Troop Care (TC) - provides care to members of the force (doctors, nurses, physical therapists, social workers, and military career counselors); Troop Care Information Technology (IT): IT support to TC missions? Article 73 covers TE status and an Article 72 covers the other types of status. Approval times can vary but may take up to 18 weeks or more in some cases.

57. . . . that, in Germany, DOCPER can grant immediate, temporary, unilateral status when a Military Exigency (ME) exists? This is valid for 10 weeks to allow regular processing to take place and can only be authorized for strong candidates requesting TE or AS status.

September 6, 2011

58. . . . that, for orders placed under multiple award contracts (MATOCs), the contracting officer must provide each awardee a fair opportunity to be considered for each order exceeding \$3,000? See FAR 16.505(b)(1).

59. . . . that, when not giving every awardee under a MATOC a fair opportunity to be considered for an order exceeding \$3,000, (i.e., limiting competition), the contracting officer must justify the exception to fair opportunity, and the justification must be approved at the levels stated? See FAR 16.505(b)(2) for justification requirements and approval levels.

60. . . . that the Alternate Special Competition Advocate for the 409th CSB is LTC Patrick J. Badar?

61. . . . that the Time-and-Materials and/or Labor-Hour Determination and Findings must be re-executed each time an option period is exercised? See FAR 16.601(d)(1)(i).

September 12, 2011

62. . . . that Federal Acquisition Circulars (FACs) are used to amend the Federal Acquisition Regulation (FAR)? These can be found at <https://www.acquisition.gov/far>.

63. . . . that the DFARS has DFARS Procedures, Guidance and Information (PGIs) that must also be consulted when referenced in a particular DFARS Subpart?

64. . . . that DoD published new source selections procedures that must be used when conducting negotiated competitive acquisitions utilizing FAR 15 procedures? See DoD Source Selection Procedures at DFARS PGI 215.300. This includes commercial acquisitions above the commercial test program at \$6.5M.

65. . . . that the Changes Clause(s) should only be used to make changes within the general scope of a contract in the following areas: (1) Description of services to be performed; (2) Time of performance (i.e., hours of the day, days of the week, etc.); (3) Place of performance of the services; (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government, in accordance with the drawings, designs, or specifications, (5) Method of shipment or packing of supplies; and/or (6) Place of delivery? See Changes clauses 52.243-1 and 52.243-2 with alternates for specifics.

September 19, 2011

66. . . . that the KO shall not knowingly award a contract to a Government employee? And that the HCA is the only one authorized to grant an exception to this policy? See FAR 3.601, FAR 3.602 and AFARS 5103.602.

67. . . . that the Ethics Counselors for the 409th CSB are the members of the 409th CSB's Legal team? See AFARS 5103.104-1.

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68. . . . that, effective October 11, 2011, foreign concerns will no longer exempt from the cost accounting standards? In accordance with 76 FR 49365, the exception to cost accounting standards for "contracts executed and performed entirely outside the United States, its territories, and possessions" is being removed.

69. . . . that KOs must ensure that 52.222-50 (and its Alternate 1 for performance outside the US) is included in all solicitations and contracts? Note that this clause is included in the 52.212-5 commercial clause. See FAR 22.1705.

September 26, 2011

70. . . . that PD2 closes before 0000 (midnight) (GMT) on 30 September and that contracting officers cannot expend FY 11 funds after this time? The PD2 system cannot be manipulated to alter the time of award. (Recommend not cutting it this close :)). ADDITIONAL INPUT: Ahhh, the ever-present debate...I think that's 2400 on 30 Sep, which is the same as 0000 on 1 Oct. Of course, clocks will never show 2400, as they go from 2359 on 30 Sep to 0000 on 1 Oct. Funny, but I once Googled "midnight" to see what it meant officially, and you can find people arguing that it's entering the day and others arguing it's exiting the day. Regardless, we know what it means for us...the FY is over in the second set of darkness on 30 Sep! Oh, and it's not GMT, it's CET for us...always local time.  
TB

71. . . . that the Army Agency Head authority for contracting, procurement and acquisition matters is the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT))? See General Orders No. 3 dated 9 July 2002.

72. . . . that one of reasons for a company to protest is the cancellation of the solicitation? See FAR 33.101.

73. . . . that files for cancelled solicitation must be kept for 5 years? See FAR 4.805.

74. . . . that PARC Policy and Compliance has started including the TIPS, Did You Know's, policies and other information on the 409th website? See <http://www.409csb.army.mil/> and click on the Policy and Procedures tab.

October 3, 2011

75. . . . that, in situations where there is a Mistake in Bid, the PARC, in coordination with Legal Counsel, is delegated the authority to allow the bidder to correct its bid if the conditions of FAR 14.407-3 are met? See FAR 14.407-3.

76. . . . that bids in response to an Invitation for Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids? See FAR 14.304(e).

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77. . . . that proposals received in response to a Request for Proposal may be withdrawn by written notice at any time before award? See FAR 15.208(e).

78. . . . that, if any portion of a proposal received by the KO electronically or by fax is unreadable, the KO shall immediately notify the offeror and permit the offeror to resubmit the unreadable portion of the proposal? And, resubmission shall be considered as if it were received at the date and time of the original unreadable submission for the purpose of determining timeliness? See FAR 15.207(c)?

79. . . . that Oct 1, 2011 started Fiscal Year 2012? Happy New year!

October 11, 2011

80. . . . that, when a prospective contractor has completed representations and certifications electronically via ORCA, the KO must reference the date of ORCA verification in the contract file or include a paper copy of the electronically-submitted representations and certifications in the file? See FAR 4.1201(c).

81. . . . that, when making a determination to exercise an option, KOs shall ensure that the contractor's record is active in the CCR database and that the contractor's DUNS number, CAGE code, name and physical address and accurately reflected in the contract document? See DFARS 204.1103.

82. . . . that KOs must include evidence of Performance Assessment Reports (CPARS, ACASS, CCASS) in the contract file? See AFARS 5142.1502-90.

83. . . . that KOs must ensure that the COR provides documentation of contractor performance and include that documentation in the file? See AFARS 5153.9001.2.(d).

October 17, 2011

84. . . . that the Army is operating under a Continuing Resolution from 1 October 2011 through 18 November 2011?

85. . . . that the PARC has the authority to waive the requirement to resolicit for an additional 30 days when only one offer is received in response to a solicitation issued for less than 30 days? See attached ECC Policy. Note that this authority has not been re-delegated below the PARC.

86. . . . that the PARC has the authority to waive the requirement to negotiate when only one offer is received in response to a solicitation? See attached ECC Policy. Again, this authority has not been re-delegated below the PARC. Note that in order to support a waiver to the negotiation requirement, the KO must clearly document why the proposed price is fair and reasonable and must scrutinize the offeror's proposal for excess cost.

87. . . . that, when citing 52.212-4 as the authority for modifying a commercial contract, the KO shall also cite the applicable paragraph of the clause that is being modified or the paragraph that authorizes the modification?

88. . . . that Commander's Critical Information Requirements (CCIR) are identified by the commander as being critical in facilitating timely information management and the decision-making process that affect successful mission accomplishment? This list of CCIRs is FOUO and maintained by the Brigade S3. The list and a reporting format will be forwarded to RCO/TCC Chiefs to facilitate notification to the commander upon their occurrence.

October 31, 2011

89. . . . that performance and payment bonds are required for any construction contract exceeding \$150,000? However, this requirement may be waived by the KO for work that is performed in a foreign country by finding it is impracticable for the contractor to furnish such bonds. See FAR 28.102-1(a).

90. . . . that the Chief of the Contracting Office (TCC Director/RCO Chief) must approve, in writing, the use of any warranty clause except in acquisitions for commercial items and in a few other situations? See DFARS 246.704. This approval shall only be given when the benefits of the warranty are expected to outweigh the cost.

91. . . . that Germany has a unique Warranty of Construction clause at DFARS 252.246-7002? See DFARS 246.710.

92. . . . that this is Joy's last "Did you know . . ." and that Ms Zenaida Delgado will be taking these over?

November 7, 2011

93...that an IGCE is required for every new service acquisition that exceeds the SAT? See Army Regulation 70-13.

94...that you can use CCR to conduct market research/search for sources by NAICS code and location?

95...that BPAs can be established under FAR 13.1 when meeting the criteria set forth in 13.303-2, and may be established with a single or multiple vendors but that the Army preference is to award to multiple vendors? See FAR 13.303 and AFARS 5113.303-1.

November 13, 2011

96...that as of 28 November Zenaida Delgado will be joining the PARC Policy and Compliance Team? And, that she will then be dubbed the Queen of the DYK's?

97...that it is not necessary to procure IT services through CHES, and no waiver is required. However, if IT hardware or software is required as a part of the

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services contract, a waiver for the hardware and software portion(s) is required. See AFARS 5139.101 (c).

98...that the government can authorize contractors to use government supply sources (like GSA Schedules) when it is in their best interests, and when they authorize it in writing and provide the minimum information stipulated in the regulations? See FAR 51.102 and DFARS 251.1.

99...that the requiring activity is responsible for conducting market research to ascertain if the required service(s) is commercially available and to identify industry interest and capabilities? And, that it is their responsibility, in coordination with the designated contracting office? See Army Regulation 70-13, 2-2 and 3-3.

November 21, 2011

100...that when simplified acquisition procedures (SAP) have been used, a contract should be considered closed when the contracting officer receives evidence of receipt of property and final payment? But, DoD further requires a completed DD Form 1597 (or agency equivalent) for orders greater than the simplified acquisition threshold (SAT)? See FAR 4.804-1 and DFARS PGI 204.804-1(2).

101...that for contract close-out, locally developed forms or a statement of completion may be used instead of the DD Form 1594, and that the document must be retained in the contract file? See DFAR PGI 204.804-1(1).

102...that there are certain requirements for the level of detail/information required in IGCE's, and it depends on the complexity of the effort and contract type? See Army Regulation 70-13.

103...that an acquisition strategy is required for all service contracts greater than the SAT and that approval levels, depending on the dollar value, range from the Chief of the Contracting Office to USD(AT&L). See AFARS 5137.590.

November 28, 2011

104...that ECC has a portal and the Contracting Operations Directorate's (COD) page contains statistics on various contracting activities and useful policy information? Visit <https://ecc.aep.army.mil/ContractPolicy/default.aspx> to see what it offers. When it prompts you for your credentials, select the email version.

105...that all requiring activities shall:

- (1) ensure that the requirement for CMR data reporting is a deliverable within each solicitation, contract, and contract modification issued on or after 8 March 2005 and provide resources, including funding, associated with the collection and reporting of data.
- (2) provide the unit identification code (UIC) of the Army requiring activity to the contracting officer for inclusion in a contract line item number to allow for pricing for this reporting requirement.

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(3) monitor and assist the contractor to complete reporting takes place no later than 31 October each year.

(4) assist the contractor in identifying the fund cite on the contract.  
See Army Regulation (AR) 70-13.

106...that contracting officers shall:

(1) ensure that the need for CMR data reporting is a deliverable within each solicitation, contract and contract modification issued on or after 8 March 2005.

(2) ensure that the UIC for the Army requiring activity is included as a part of a contract line item number of each service contract.

(3) ensure that the data collection costs charged by the contractor are reasonable.

(4) include the requirement to monitor the contractor's reporting of required information in the COR appointment letter.

(5) verify the status of reporting by the contractors in the CMR system.

See AR 70-13.

107...the Government Purchase Card (GPC) is the authorized method of payment for all commercial training authorized by the SF 182, or equivalent, and valued at or below \$25,000. See AR-715-xx, pg 43.

Attachments (2): AR-70-13 and AR-715-xx

December 5, 2011

108... GPC billing officials and cardholders are pecuniary liable for erroneous payments that result from the negligent performance of duties in the amount of the erroneous payment, up to one months' pay. AR 715-xx, pg 33

109...that AR-715-xx states that Cardholders must obtain pre-purchase approval and documentation for requirements that appear to be outside the normal needs of the requesting organization. This documentation must address the bona fide need for the item that is being acquired.

110...that FAR Part 13.301 encourages use of the GPC in greater dollar amounts by contracting officers to place orders and to pay for purchases against contracts under Part 8 procedures.

December 12, 2011

111... that, when a COR is appointed for contracts, a surveillance plan (QASP) shall be prepared, unless specifically exempted in writing by the contracting officer? See page 2 of DASA(P) Memo dated Oct 21 2010 titled "Post Award Oversight and Surveillance of Contracts".

112... that, within the Army, contracting officers shall appoint a properly trained Contracting Officer's Representative (COR) in writing before awarding any service contract if one or more of the following apply: total dollar value of contract (including options) is greater than \$150,000; action is complex or critical service; poor prior contract past performance; or contracting officer

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determines COR is needed. See DFARS 201.602-2 and AFARS 5101.602-2(i)(A)) and DASA(P) Memo dated Oct 21 2010 titled "Post Award Oversight and Surveillance of Contracts".

113... that for a sole source (only one offer received) commercial services acquisition (including those under the test program on FAR 13.5), a T&M/LH contract is prohibited using commercial procedures. You may still use the T&M/LH contract if FAR Part 15 procedures are followed. See FAR 12.207(b)(1)(i).

Attachment: DASA(P) Memo dated Oct 21 2010 titled "Post Award Oversight and Surveillance of Contracts"

#### December 19, 2011

114...that files for FFP contracts, other than those using simplified acquisition procedures (SAP), should be closed within 6 months after the date on which the contracting officer receives evidence of physical completion, if requiring settlement of indirect cost rates should be closed within 36 months of the month in which the contracting officer receives evidence of physical completion; all other contracts should be closed within 20 months of the month in which the contracting officer receives evidence of physical completion? See FAR 4.804-1(a).

115...that a contract file shall not be closed if the contract is in litigation or under appeal; or in the case of a termination, all termination actions have not been completed? See FAR 4.804-1(c).

116...that FAR 4.805(b) states the file retention periods for all acquisitions?

#### December 27, 2011

117...that the Army's Senior Procurement Executive (SPE) is the Assistant Secretary of the Army for Acquisition, Logistics and Technology (ASA(ALT))? Currently it is Ms. Heidi Shyu, Acting ASA(ALT).

118...that effective January 1, 2012, there is a new revision of the North American Industry Classification System (NAICS) Codes? You can read more at <http://www.census.gov/eos/www/naics/>. You need to know for preparing Contract Action Reports (CARs) in FPDS-NG.

119...that the 409th CSB competition goal for FY 12 is 70%? We almost accomplished the 75% competition goal for FY 11 with 74.5%.

#### January 3, 2012

120...that the DD Form 254, the Contract Security Classification Specification, shall be used to inform contractors and subcontractors of the security classifications and requirements assigned to the various documents, materials, tasks, subcontracts, and components of a classified contract? (FAR 4.403(c)) For preparation of the DD 254 you may go to [http://www.dss.mil/seta/security\\_brochures\\_and\\_guides.html](http://www.dss.mil/seta/security_brochures_and_guides.html) or

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<http://www.dami.army.pentagon.mil/site/IndustSec/docs/DD%20254%20Handbook,%20HQDA%20G-2.pdf>.

121...that it is Army policy that the Security Manager, as the authorized representative referred to in FAR 4.403(c)(1), must sign the DD Form 254? (AFARS 5104.403)

122...that the DD Form 254 has to be revised when a contract is modified or an option year is exercised to ensure security requirements remain current and relevant throughout the contract lifecycle? There are other circumstances when the DD 254 must be revised. See <http://www.dami.army.pentagon.mil/site/IndustSec/DD254.aspx> for more details.

123...that the Army is not operating under a Continuing Resolution and a budget for FY 2012 was approved and made into law on December 31, 2011?

January 9, 2012

124...that the attached contract file index shall be used for all contract files regardless of value or complexity? (See 409th CSB PARC Policy and Compliance Flash Notice dated Oct 4, 2011, sent by Joy Lloyd through e-mail.)

125...that the Service Contract Approval (SCA) is only required for "Army Requiring Activities" in support of the Army as defined in SECARMY memo dated 7 Jan 2005 and titled Accounting for Contract Services? See attached.

126...that the COR Tool (CORTT) was originally developed by the Army but now shall be used by all DoD? See attached memo titled Deployment of the Department of Defense (DoD) Contracting Officer Representative Tracking Tool (CORT Tool).



Contract File

Index\_925 (03-09).doc



CORTT.pdf

Attachments

January 17, 2012

127...that you shall use a "P" in your Procurement Instrument Identifier (PIID) for purchase orders? See AFARS 5104.7000(b), DFARS 204.7003(a)(3) and FAR 4.16.

128 ...that a purchase order, when issued by the Government, means an offer by the Government to buy supplies or services, including construction and research and development, upon specified terms and conditions, using simplified acquisition procedures (FAR Part 13 procedures)? See FAR 2.101.

129...that FAR Part 13 prescribes policies and procedures for the acquisition of supplies and services, including construction, research and development, and commercial items, the aggregate amount of which does not exceed the simplified acquisition threshold (SAT)? See FAR 13.000.

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130...that now that the authority under FAR 13.5 expired, you will not use a "P" PIID for any acquisition exceeding the simplified acquisition threshold?

January 23, 2012

131...that FAR Clause 52.223-18, Contractor Policy to Ban Text Messaging While Driving, shall be included in all solicitations and contracts. See FAR 23.1105.

132 ...that the contracting officer may use Part 12 for any acquisition for services that does not meet the definition of commercial item in FAR 2.101, if the contract or task order- (i) Is entered into on or before November 24, 2013; (ii) Has a value of \$29.5 million or less; (iii) Meets the definition of performance-based acquisition at FAR 2.101; (iv) Uses a quality assurance surveillance plan; (v) Includes performance incentives where appropriate; (vi) Specifies a firm-fixed price for specific tasks to be performed or outcomes to be achieved; and (vii) Is awarded to an entity that provides similar services to the general public under terms and conditions similar to those in the contract or task order? See FAR 12.102 (g)(1).

133...that when acquiring information technology services, solicitations must not describe any minimum experience or educational requirement for proposed contractor personnel unless the contracting officer determines that the needs of the agency- (a) Cannot be met without that requirement; or (b) Require the use of other than a performance-based acquisition? See FAR 39.104.

January 30, 2012

134...that COL Daniels, the 409th CSB Commander and Principal Assistant Responsible for Contracting (PARC), recently signed a "no-gift" acceptance policy for the Command? See attached.

135...that this Command Policy can be found at the 409th CSB website along with the following Contracting Policies and Procedures (CPPs): Unauthorized Commitments and T&M/LH D&F and Template? And the Consolidated List of DYKs up to Jan 23, 2012. More to be added soon...stay tuned.

136...that contracting officers shall use FAR Clause 52.212-4 with its Alternate 1 for the acquisition of commercial items when T&M/LH CLINs are used? And that paragraph (i)(7) of the Alternate 1 titled Release of Claims requires the contractor to execute and deliver a release discharging the Government of all liabilities, obligations, and claims under the contract prior to final payment? See FAR Clause 52.212-4 Alternate 1 as prescribed by FAR 12.301(b)(3).

137...that the existence of a Blanket Purchase Agreement (BPA) does not justify purchasing from only one source? And that for calls under a BPA in excess of the micro-purchase threshold, the contracting officer shall solicit quotations from other sources, or establish additional BPAs? See FAR 13.303-5.

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Command Policy on  
Acceptance of Gifts.p

Attachment

February 6, 2012

138...that there is a new revision to the ACC Desk Book dated October 2011? See attached for your convenience. Soon to be uploaded in the 409th CSB website.

139...that the 409th CSB Policy on D&Fs to use T&M/LH contract type or CLINs effective 1 October 2011 requires PARC approval on the D&F for all solicitations, task orders under contracts that have an approved D&F, exercise of options, and modifications to obligate funds under contracts and task orders that previously have an approved D&F? Note that this policy can be found at the 409th CSB website. The policy provides a template and a matrix of appropriate uses of a Class D&F. A class D&F will not be used to cover more than a period of performance (i.e.: base period, each option period (irrelevant of the length of the period)).

140...that a class deviation was issued on Jan 31, 2012 to revise the cost accounting standards threshold from \$650,000 to \$700,000? See attached DPAP Memo.



ACC\_DESK\_BOOK\_Fi DPAP Memo Class  
nal\_Revision.pdf Dev CAS threshold.p

Attachments

February 13, 2012

141...that FAR Clause 52.222-50, "Combating Trafficking in Persons" is required in all solicitations and contracts? See FAR 22.1705(a).

142...that Quality assurance surveillance plans (QASPs) should describe how the COR will monitor the contractor's performance regarding trafficking in persons such that non-compliance with FAR Clause 52.222-50, Combating Trafficking in Persons, is brought to the immediate attention of the KO? See DFARS 222.1703 and PGI 222.1703.

143...that contract lawyers are business counselors and, as such, they participate fully in the discussions about the propriety or wisdom (business, financial, need, or otherwise) of a proposed action? See AR 27-1, Chapter 15, Paragraph 15-4(d).



Army Regulation  
27-1.pdf

Attachment

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February 21, 2012

144...that the DoD Source Selection Procedures are not required for FAR Part 12 Streamlined Acquisitions? See DFARS 215.300, DoD SSP paragraph 1.3. However, nothing forbid the use of the language in the DoD SSP in FAR 12 streamlined acquisitions. As a matter of fact, it is a great idea!!!

145...that FAR Part 12.602 provides optional procedures for streamlined evaluation of offers for commercial items intended to simplify the process consistent with customary commercial practices?

146...that an opinion that an action is not legally sufficient has a significantly different impact than suggesting that it is not a good idea and accordingly, contract lawyers must differentiate legal opinion from business counsel for themselves and their clients? See AR 27-1, Chapter 15, Paragraph 15-4(d).

February 27, 2012

147...that the 409th CSB PARC Review threshold is \$1.5 MILL? This means that all solicitations and contract awards with an estimated total value equal or greater than \$1.5MILL, including options, require PARC review and approval prior to issuance.

148...that the Department of the Army issued Government Purchase Card Operating Procedures on February 23, 2012 that supersedes previous guidance issued in the Draft Army Regulation (AR715-xx)?

149...that the new 409th CSB HQ MOD (Mission Operations Directorate) Director is Eileen Hipe?

March 5, 2012

150...that the KO shall insert the FAR Clause 52.245-1, Government Property, in contracts or modifications awarded under FAR Part 12 procedures where Government property that exceeds the simplified acquisition threshold (SAT) is furnished or where the contractor is directed to acquire property for use under the contract that is titled in the Government? See FAR 45.107(a)(iii).

151...that purchase orders for property repair need not include a Government property clause when the acquisition cost of Government property to be repaired does not exceed the SAT, unless other Government property (not for repair) is provided? See FAR 45.107(d) and FAR 2.101.

152...that the paragraphs in FAR Clause 52.212-4 entitled "Termination for the Government's Convenience" and "Termination for Cause" contain concepts which differ from those contained in the termination clauses prescribed in Part 49. Consequently, the requirements of Part 49 do not apply when terminating contracts for commercial items and contracting officers shall follow the procedures in FAR 12.403. Contracting officers may continue to use Part 49 as guidance to the

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extent that Part 49 does not conflict with FAR 12.403 and the language of the termination paragraphs in 52.212-4? See FAR 12.403.

March 12, 2012

153...that contracting officers shall use the policies in Part 12 in conjunction with the policies and procedures for solicitation, evaluation and award prescribed in Part 13, Simplified Acquisition Procedures; Part 14, Sealed Bidding; or Part 15, Contracting by Negotiation, as appropriate for the particular acquisition? See FAR 12.102(b).

154...that when soliciting quotations or offers, the contracting officer shall notify potential quoters or offerors of the basis on which award will be made (price alone or price and other factors, e.g., past performance and quality)? Yes, this is for Simplified Acquisitions even if you are using price alone! See FAR 13.106-1(a)(2).

155...that the contract file must be documented if the Contracting Officer determines that an exception at FAR 5.202 applies to the synopsis requirements? Yes, even if you are using the "local sources" exception at FAR 5.202(a)(12).

156...that the synopsis exception at FAR 5.202(a)(12) does not apply to proposed contract actions covered by the World Trade Organization Government Procurement Agreement or a Free Trade Agreement? What does this mean to us? That acquisitions for supplies with an estimated value equal or exceeding \$202,000 cannot use this exception and the period of time between publication of the synopsis notice and receipt of offers must be no less than 40 days. See the following FAR citations for more details and exceptions: 5.202, 25.402 and 5.203(h).

March 19, 2012

157...that the KO shall insert FAR Clause 52.237-2, Protection of Government Buildings, Equipment, and Vegetation, in solicitations and contracts for services to be performed on Government installations? Note that this Clause provides remedies for the contractor's failure to use reasonable care to avoid damage to Government property. See FAR 37.110(b).

158...that when soliciting quotations or offers, the contracting officer shall notify potential quoters or offerors of the basis on which award will be made (price alone or price and other factors, e.g., past performance and quality)? Yes, this is for Simplified Acquisitions even if you are using price alone! See FAR 13.106-1(a)(2).

159...that the ACC contract file index cannot be modified in any way, shape or form? Note that you may create your personal "cheat sheet" for simplified acquisitions but the index shall be on file in its original form. See 409<sup>th</sup> CSB PARC Policy and Compliance Flash Notice sent by Joy Lloyd through e-mail on Oct 4, 2011. See "Did you know" sent by Zenaida Delgado through e-mail on January 9, 2012.

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March 20, 2012 (SPECIAL EDITION)

160...that any request requiring PARC review and approval or the Special Competition Advocate's approval (i.e.: for J&A's) shall be sent to LTC Gary Davis ([Gary.j.davis8.mil@mail.mil](mailto:Gary.j.davis8.mil@mail.mil)) at the S-3/Operations Division under the Mission Operations Directorate (MOD) with copy (Cc) to Eileen Hipe ([Eileen.m.hipe.civ@mail.mil](mailto:Eileen.m.hipe.civ@mail.mil)) and Janet Jones ([Janet.h.jones.civ@mail.mil](mailto:Janet.h.jones.civ@mail.mil)) for managing and staffing?

161...that very soon the MOD Director, Eileen Hipe, will issue a revised PARC Staff review timeline to assist KO's in their milestones planning? Stay tuned...

March 26, 2012 on PAST PERFORMANCE

162...that a past performance evaluation is required in accordance with Director of Defense Procurement Class Deviation 2011-00014 titled Past Performance Reporting dated June 27, which states the requirement thresholds are: (1) \$5 million for systems and operations support; (2) \$1 million for services, IT; and (3) all other acquisitions above SAT? A past performance evaluation may be accomplished for acquisitions below these thresholds at the discretion of the Source Selection Authority. See DFARS 215.304 and the DoD Source Selection Procedures (SSP) at DFARS 215.300. Note that the referred Class Deviation superseded the one referred to in paragraph 2.3.1.2.2 on page 13 of the DoD SSP.

163...that the attached Class Deviation also states the same thresholds for CPARS reporting? See DFARS 242.1502 and FAR 42.1502.

164...that past performance need not be evaluated if the KO documents the reason past performance is not an appropriate evaluation factor for the acquisition? See FAR 15.304(c)(3)(iii).

Attachment



DPAP Class Deviation  
2011-00014 Past Per

April 2, 2012

165...that there is no Army or local policy regarding close-out thresholds? The 409th CSB position on this matter is that contracts that have a residual balance should be closed out and unused funding should be de-obligated.

166...that the KO should establish and maintain records of oral price quotations in order to reflect clearly the propriety of placing the order at the price paid with the supplier concerned? See FAR 13.106-3(b)(1).

167...that Kathleen Marin assumed her duties as IMCOM-Europe Region Director on October 23, 2011? She is the SES authorized to sign the Service Contract Approval form for IMCOM here.

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April 9, 2012 on SOURCE SELECTION

168...that the DoD Source Selection Procedures (SSP) are not required for competitive acquisitions when the only evaluated factor is price? See DFARS 215.300. See paragraph 1.3 on page 2 of the DoD SSP for all exceptions to use the Procedures.

169...that a Source Selection Plan is required for all best-value, negotiated, competitive acquisitions under FAR Part 15? If you are required to use the DoD SSP, then you are required to have a Source Selection Plan (See par. 2.2 on page 10 of the DoD SSP). Note that for most of the 409th CSB acquisitions, the threshold for a SS Plan is over the SAT, currently \$150K.

170...that the Source Selection Decision Document (SSDD) is fully releasable to the Government Accountability Office (GAO) and others authorized to receive proprietary and source selection information? See par. 3.9.2 on page 23 of the DoD SSP.

April 16, 2012

171...that there are multiple online versions of the Federal Acquisition Regulation (FAR) but you need to use the FAR Site at <http://farsite.hill.af.mil/farsite.html> since it is the most up-to-date one? Be aware!!! Some individuals have cited incorrect information based on outdated versions of the FAR.

172...that although not mandated by Government Regulation, Statute, or Policy, it is the position of the Expeditionary Contracting Command (ECC) that construction contracts awarded by ECC over \$150,000 shall have properly trained and appointed CORs to ensure proper contract oversight is taking place? Should the KO decide that the utilization of a COR is not necessary, the decision shall be documented in the contract file to include rationale for why a COR is not being utilized. Note that ECC is our higher Command, therefore, their position IS our position (the 409th CSB).:)

173...that KOs must ensure that DFARS Clause 252.233-7001, Choice of Law (Overseas), is included in solicitations and contracts when contract performance will be outside the United States and its outlying areas, unless otherwise provided for in a government-to-government agreement? For contract performance in Italy, the KO may use the local Clause CCE 233-4001 CHOICE OF LAW - OVERSEAS (ITALY). See DFARS 233.215-70. NOT USING THE CHOICE OF LAW CLAUSE HAS RESULTED IN NEEDLESS EXPENSES TO THE U.S. GOVERNMENT IN LITIGATION ON FOREIGN COURTS. PLEASE, CHECK IT ONCE, TWICE OR THREE TIMES, IT WILL SAVE US TIME AND MONEY IN THE LONG RUN.

April 23, 2012

174...that the policies and procedures in FAR Part 45, Government Property, do not apply to Government property that is incidental to the place of performance, when the contract requires contractor personnel to be located on a Government site or installation, and when the property used by the contractor within the

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location remains accountable to the Government? Items considered to be incidental to the place of performance include, for example, office space, desks, chairs, telephones, computers, and fax machines. See FAR 45.000(b)(5).

175...that the KO must include an Independent Government Cost Estimate (IGCE) in every procurement action over the SAT (\$150K) and ensure, prior to accepting it, that the IGCE: contains enough detail to verify the validity of the contractor's proposal, provides sufficient narrative and analytical data, to include reference material, is signed by the preparer and the preparer's immediate supervisor and includes a signed certification that the IGCE was developed independently by the Government prior to seeking formal proposals from contractors? See DASA PARC Policy Alert # 12-26 effective April 13, 2012 (e-mailed to 409th CSB on Apr 18, 2012).

176...that, effective 1 July 2012, the KO should ensure that all requisite requirements packages contain the "AT/OPSEC Cover Sheet" and assist the requiring activity in directing them to the appropriate technical experts as needed? However, the implementation of AT/OPSEC considerations in the requirements package is the responsibility of the requiring activity, not contracting activities. Reference DASA PARC Policy Alert #12-22: Integrating Antiterrorism (AT) and Operations Security (OPSEC). Stay tuned...More AT/OPSEC guidance will follow.

177...that the 409th's Head of Contracting Activity (HCA) is the Commander of the Expeditionary Contracting Command (ECC), Brigadier General Theodore (Ted) C. Harrison?

April 30, 2012

178...that "Multi-year contract" means a contract for the purchase of supplies or services for more than 1, but not more than 5, program years? For DoD, a multi-year contract requires the head of the agency approval. See FAR Part 17.1, DFARS 217.1 and AFARS 5117.171.

179...that the key distinguishing difference between multi-year contracts and multiple year contracts is that multi-year contracts, defined in the statutes cited at FAR 17.101, buy more than 1 year's requirement (of a product or service) without establishing and having to exercise an option for each program year after the first? See FAR 17.103.

180...that AFARS 5137.590-7(a)(6) addresses Multi-year contracts in the acquisition strategy for service contracts? Note that if your procurement is not "multi-year," the acquisition strategy should state it as such. Any discussion of option periods should be addressed under the Business Arrangements, AFARS 5137.590-7(a)(5).

181...that only new requirement packages received after Apr 19, when the PARC Policy and Compliance Office communicated the new policy to the field, must comply with the new IGCE substantiation guidance?

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May 7, 2012

182... that the head of each agency shall ensure that systems, technologies, procedures, and processes used by the agency to conduct electronic commerce include a single means of providing widespread public notice of acquisition opportunities through the Government-wide point of entry and a means of responding to notices or solicitations electronically? For us in the Army, it is ASFI. See FAR 4.502 and AFARS 5104.502.

183... that the Army Single Face to Industry (ASFI) Acquisition Business website provides industry partners with a single Army entry point and a simplified method for conducting new business opportunities searches? See AFARS 5104.502.

184... that it is this Command's position that all solicitations requiring publicizing, in accordance with FAR Part 5, shall be posted on ASFI? Note that in the past, some interpretations of AFARS 5104.502 that states: "All contracting offices will post all solicitations to ASFI...", led KOs to believe that every single solicitation needed posting. However, if that was true we would have to post classified solicitations which it will be totally incorrect, wouldn't it?

May 15, 2012 on Changes at PARC

185... that COL William J. Bailey is the new 409th CSB Commander and Principal Assistant Responsible for Contracting (PARC)? Note that his signature block is as follows:

a) NORMAL SIGNATURE BLOCK (as Commander):

WILLIAM J. BAILEY  
COL, LG  
Commanding

b) PARC SIGNATURE BLOCK:

WILLIAM J. BAILEY  
COL, LG  
Principal Assistant Responsible for Contracting

186... that the Expeditionary Contracting Command (ECC) is currently conducting a PMR of the 409th CSB? The Team will be in Germany until May 25, 2012.

187... that any request requiring PARC review and approval or the Special Competition Advocate's approval (i.e.: for J&A's) shall be sent to LTC Jeffrey Redecker ([jeffrey.e.redecker.mil@mail.mil](mailto:jeffrey.e.redecker.mil@mail.mil)), Deputy Mission Operations Directorate (MOD) with copy (Cc) to Eileen Hipe ([Eileen.m.hipe.civ@mail.mil](mailto:Eileen.m.hipe.civ@mail.mil)) and Janet Jones ([Janet.h.jones.civ@mail.mil](mailto:Janet.h.jones.civ@mail.mil)) for managing and staffing? LTC Gary Davis is out processing, if you sent any requests to him, please, forward to LTC Redecker.

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#### May 21, 2012 on Contract Documentation

188... that the documentation in the contract files SHALL be sufficient to constitute a complete history of the transaction for the purpose of: (1) Providing a complete background as a basis for informed decisions at each step in the acquisition process; (2) Supporting actions taken; (3) Providing information for reviews and investigations; and (4) Furnishing essential facts in the event of litigation or congressional inquiries? See FAR 4.801(b) and FAR 4.803. This may be accomplished by annotating the Contract File Index, using a memo for record or a timeline of events/summary of events. The contract file should stand on its own without the KO having to verbally explain every little detail.

189... that the KO may reference the contract action report (CAR) approval date in the contract file instead of including a paper copy of the electronically submitted CAR in the file? Such reference satisfies contract file documentation requirements of FAR 4.803(a). See DFARS 204.604(2). Note that annotating that the CAR is in PD2 is not enough. HOWEVER, a better practice is to include the complete "final" (NOT DRAFT) version of the FPDS-NG CAR so all reported fields can be verified. A more stringent requirement may be imposed to comply with required information for audits, PMRs or any external reviews/investigations. Stay tuned...more to follow on this one.

190...that when using the uniform contract format (UCF), the solicitation Section K (Representations, certifications, and other statements of offerors or respondents) shall be incorporated by reference in the resulting contract? See FAR 15.204-1(b). Note that PD2 will not annotate this automatically in your contract. It requires the KO/CS to add such a statement in the contract.

#### May 29, 2012 on More on Contract Documentation

191... that Army KOs shall review the EPLS prior to solicitation of offers (except when performing this review for those solicitations posted on FEDBIZOPS where it will not be practicable), prior to award of a new contract, prior to placement of a new purchase/task or delivery order, prior to exercise of an option or award of any modification that adds new work or extends the duration of the contract or the period of performance? And place the hardcopy or electronic results of the reviews in the contract file? See AFARS 5109.405(d)(S-90).

192...that all members, advisors, and persons involved in a source selection or receiving source selection information must sign a non-disclosure agreement (NDA) for that procurement? No surprise here, right? This is a DYK from June 5, 2011. But did you know that the KO must maintain the NDAs in the contract file? See Chapter 4 of the Department of Defense Source Selection Procedures for a list of the Source Selection Documents that must be included in the contract file (DFARS 215.300).

193...that the KO must include evidence of legal review, if applicable, in the contract file? Note that for terminations, claims, ratifications of unauthorized commitments, when limiting competition, and when contracting with a Government employee, the KO must obtain a legal review even if the estimated value is below the 409th CSB legal review threshold (currently \$300,000). This list is not all

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inclusive, it is meant to remind you of some common situations. See FAR 4.803, the 409th CSB Thresholds and the 409th CSB Legal SOP.

#### June 4, 2012 on Publicizing

194...that whenever agencies are required to publicize notice of proposed contract actions under FAR 5.201, KOs must provide access to presolicitation notices through the GPE? The notice must be published at least 15 days before issuance of a solicitation. Note there are exceptions for acquisitions of commercial items. See FAR 5.203 and 5.204.

195...that when transmitting notices using electronic commerce (ASFI), KOs must ensure the notice is forwarded to the GPE (FedBizOpps (FBO))? See FAR 5.201(b)(2) and AFARS 5104.502.

196...that if you upload a solicitation in ASFI, without having posted a presolicitation notice (see DYK #1 above) before, ASFI will not transmit the solicitation to the GPE (FBO)? Note that ASFI has a radio button for Frequently Asked Questions that gives you access to User Guides on a variety of actions. The Guides are very detailed.

197...that the KO needs to include the synopsis of proposed acquisitions as required by FAR Part 5 or a reference to the synopsis in the contract file? See FAR 4.803. Note that a print out from ASFI may not necessarily show evidence of the synopsis to FBO. However, once you complete the action in ASFI, you will see a system-generated message that will confirm whether the transmissions (ASFI and FBO) were successful. A screen shot of such a message may constitute better evidence of the synopsis.

#### June 11, 2012 on Combating Trafficking in Persons

198...that FAR Clause 52.222-50, "Combating Trafficking in Persons" is required in all solicitations and contracts and the KO must use the basic clause with its Alternate I when the contract will be performed outside the United States AND the contracting officer has been notified of specific U.S. directives or notices regarding combating trafficking in persons (such as general orders or military listings of "off-limits" local establishments) THAT APPLY TO contractor employees at the contract place of performance? Note that the "off-limits" listing only should be included in the Alternate I if it applies to contractor employees. See FAR 22.1705.

199...that USAREUR issued Circular 190-24 on Feb 29, 2012 titled Consolidated List of Off-Limits Areas, Establishments, Firms, Individuals, and Organizations and it does not apply to contractor employees? See attached. Note that Commands at other areas of performance may apply their listings of "Off-limits" establishments to contractor employees. However, this is not the case for performance in Europe. This Circular is updated as needed and for the latest version you may visit this website <https://aepubs.army.mil/ae/public/Search-Index.aspx>

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200...that the U.S. Government has adopted a zero tolerance policy regarding trafficking in persons and, accordingly, the FAR Clause 52.222-50 contains severe remedies for the Contractor's failure to comply with its requirements including termination of the contract, suspension or debarment? See FAR Clause 52.222-50.

Attachment



AE Circular 190-24  
Off limits.pdf

June 18, 2012 on Potatoe or potato?

201...that a claim and an assignment of claims are two different things? A claim is a contractor written demand to the Government for payment of money under the Contract Disputes Act of 1978 (See FAR 33.2). An Assignment of Claims is to redirect payments to a third party made by the Government to a contractor under the Assignment of Claims Act of 1940, as amended (See FAR 32.8). Note that FAR 32.802 states the conditions required under the Assignment of Claims Act for a contractor to assign moneys due or to become due under a contract. For a complete definition of claim and assignment of claims, see FAR 2.101(b).

202...that acquisition planning is required for all acquisitions but an acquisition plan is required for some acquisitions? Note that a written acquisition plan is required for cost reimbursement contracts; acquisitions for R&D when the total cost of all contracts for the acquisition program is estimated at \$10 million or more; acquisitions for production or services when the total cost of all contracts for the acquisition program is estimated at \$50 million or more for all years or \$25 million or more for any fiscal year and any other acquisition considered appropriate by the department or agency. See FAR 7.102, FAR 7.103(e), and DFARS 207.103(d).

203...that an acquisition strategy and an acquisition plan cover similar elements but they are not the same thing? An acquisition strategy is required for services only, whereas an acquisition plan is driven by the acquisition estimated value and complexity. Note that in accordance with the ECC Acquisition Instruction (AI), they can be combined in one document for service acquisitions that equal or exceed \$50M for all years or \$25M for any single fiscal year and are below \$500M. For acquisition strategies, see AFARS 5137.590.

June 25, 2012 on terminations

204...that the KO shall effect a no-cost settlement instead of issuing a termination notice when it is known that the contractor will accept one, Government property was not furnished, and there are no outstanding payments, debts due the Government, or other contractor obligations? Note that the KO shall only terminate contracts, whether for default or convenience, when it is in the Government's interest. See FAR 49.101(b).

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205...that if a purchase order (PO) (below SAT by definition) that has been accepted in writing by the contractor is to be terminated, the KO shall process the termination in accordance with FAR 12.403 and Clause 52.212-4(1) or (m) for commercial items or FAR Part 49 or FAR Clause 52.213-4 for other than commercial items? Note that if a PO that has not been accepted in writing by the contractor is to be canceled, the KO notifies the contractor in writing of the cancellation and requests acceptance of the cancellation, and the contractor does not accept the cancellation or claims that costs were incurred as a result of beginning performance under the purchase order, the KO shall process the action as a termination. See FAR 13.302-4.

206...that the KO may, in lieu of a termination for default when in the Government's interest, do the following: allow the contractor, the surety, or the guarantor, to continue performance of the contract under a revised delivery schedule, allow the contractor to continue performance of the contract by means of a subcontract or other business arrangement with an acceptable third party, provided the rights of the Government are adequately preserved, or, if the requirement for the supplies and services in the contract no longer exists, and the contractor is not liable to the Government for damages, execute a no-cost termination settlement agreement? See FAR 49.402-4.

#### July 3, 2012 on policy changes

207...that the ECC issued an Acquisition Instruction (AI) (See attached) that is organized by FAR part? You may conduct searches on the attached document. Note that if a template is required by local policy, it will take precedence to the one provided in the AI.

208...that Army funded services acquisition strategies (AS) valued between \$10M and \$250M need to be forwarded to DASA and copied to ECC? Note that PARC Review is already forwarding the approved strategy as required. The approval is still at the PARC level but the document has a lot of visibility. Please, be aware and put your best foot forward when preparing the documents.

209...that the approval level for acquisition strategies (AS) valued between \$250M and \$500M is the Army Senior Services Manager? Note that the HCA still reviews the AS.



2. ECC Acquisition  
Instruction (AI) - Signe

Attachment

#### July 9, 2012 on extension of services (AKA -8)

210...that the 409th CSB published Contracting Policies and Procedures (CPP) 12-001 titled FAR Clause 52.217-8, Extension of Services effective on April 1, 2012? You may find this and other policies in the 409th CSB webpage at <http://www.409csb.army.mil/>. I recommend double clicking on the Policies and Procedures tab for ease of navigation.

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211...that the local CCE Clause 217-4000, Option to Extend Services, is no longer authorized for use? All previous policies or procedures regarding the Option to Extend Services Clause were rescinded by CPP 12-001.

212...that on current contracts that include the Option to Extend Services Clause (FAR 52.217-8 or CCE 217-4000) but did not include evaluation of that option prior to award, a properly approved Justification for Other Than Full and Open Competition (J&A), or similar document limiting competition, is required prior to exercising the option? Note that the KO shall use the process flow chart included in the policy, CPP 12-001, to process the option to extend services.

#### July 16, 2012 on unsolicited proposals

213...that "Unsolicited proposal" means a written proposal for a new or innovative idea that is submitted to an agency on the initiative of the offeror for the purpose of obtaining a contract with the Government, and that is not in response to a request for proposals, Broad Agency Announcement, Small Business Innovation Research topic, Small Business Technology Transfer Research topic, Program Research and Development Announcement, or any other Government-initiated solicitation or program? See FAR 2.101.

214...that before initiating a comprehensive evaluation of an unsolicited proposal, the agency contact point shall determine if the proposal is valid, meeting the requirements of FAR 15.603(c)? The vendor calling it an unsolicited proposal does not make it so. Note that for the 409th CSB, the agency contact point is the KO. If the proposal is not a valid unsolicited proposal, the KO shall promptly inform the offeror of the reasons for rejection in writing. We strongly recommend having legal review of the intended response to the offeror. See FAR 15.606-1 and DA PAM 70-3.

215...that the Army procedures pertaining to unsolicited proposals are found in Department of the Army Pamphlet (DA PAM) 70-3, Army Acquisition Procedures? See AFARS 5115.606 and Chapter 10 (Army Unique Procedures), Section VI (unsolicited Proposals) at [http://www.apd.army.mil/AdminPubs/series\\_range\\_pams.asp?search=70](http://www.apd.army.mil/AdminPubs/series_range_pams.asp?search=70)

#### July 23, 2012 on ABG-75

216...that the ABG-75 is an international agreement between the United States Forces and the Federal Republic of Germany applicable to all U.S. Forces construction in Germany? Note that ABG stands for Auftragsbauten Grundsätze, this is Principles of Construction. For more information on this matter you may visit [www.abg-plus.de/abg2/ebuecher/abg\\_us/index.htm](http://www.abg-plus.de/abg2/ebuecher/abg_us/index.htm) or search the internet for "ABG 75."

217...that the Agreement covers direct and indirect procedures where direct is work acquired by U.S. under U.S. procurement law and indirect is work acquired by the German Government under German law?

218...that under the present ABG-75 agreement, U.S. Forces have no authority to unilaterally incorporate additional FAR clauses into Host Nation construction contracts executed using the indirect procedure? However, the spirit and intent

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of many FAR clauses used by the U.S. Forces are mirrored in German contracting laws and regulations applied by the German authorities in their execution of indirect procedure construction projects.