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MAR 15 2010

TRICARE  
MANAGEMENT  
ACTIVITY

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Implementing Processes to Ensure Ethics and Integrity in TRICARE  
Management Activity Acquisition

The purpose of this memorandum is to reinforce the necessity for ethical behavior and identify TRICARE Management Activity (TMA) methods to sustain and improve contracting integrity. Section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364), directed the Department to establish a "Panel on Contracting Integrity" to eliminate vulnerabilities within the defense contracting system that allow fraud, waste, and abuse to occur. One of the panel's findings identified the inconsistency of the "tone at the top" as a vulnerability. The Under Secretary of Defense, Acquisition, Technology and Logistics (USD(AT&L)) memorandum, "Implementing Processes to Measure Consistency of Tone at the Top," dated November 6, 2008, discussed this vulnerability and identified methods to improve contracting integrity. Most recently, on October 9, 2009, the Deputy Secretary of Defense (DepSecDef) stated his expectations in the attached memorandum, "Ethics and Integrity in Acquisition." The DepSecDef expects that Department of Defense will further its emphasis on this subject as we grow a new and larger workforce across the program management, logistics, contracting, auditing, and quality assurance functions of acquisition and in our day-to-day dealings with industry.

Ethical conduct and maintaining integrity are daily responsibilities of everyone, and they must be intrinsic parts of our everyday activities from the top down. All TMA personnel, at every level, not only those involved with managing our contracts, must work to ensure integrity and eliminate both actual and perceived unethical behavior.

The Procurement Integrity Act, conflict-of-interest statutes, and Anti-Kickback statutes represent just a few of the laws which govern our conduct as we engage in the business of contracting on behalf of the Government. As participants in the acquisition process, we are obligated to ensure that our services and supplies are acquired in an environment exhibiting the highest standards of ethical conduct. I want to add my personal expectation regarding the importance of maintaining an ethical environment while protecting the public trust as you proceed with the Government's and TMA's business of acquisition. It is not only required by law, it is simply the right thing to do. I have identified several methods we can employ to improve Contracting Integrity, grouped by the functions most affected (Attachment 1). I will look to a newly organized

Acquisition Compliance activity, operating under the TMA Component Acquisition Executive, to devise appropriate follow-up review, to ascertain the extent of application of these methods. Regardless of organizational placement, I fully expect all employees to adhere to the highest ethical standards at all times.

In addressing another finding of the “Panel on Contracting Integrity,” I am also announcing a new Ombudsman for Procurement Integrity. The primary function of the Ombudsman is to support acquisition personnel by acting as an independent sounding board to hear concerns about specific procurement integrity issues and to assist in the resolution of the concerns. More information on this new function may be found in the attached memo from the USD(AT&L), “Ombudsman for Procurement Integrity,” October 1, 2009. The TMA Procurement Integrity Ombudsman will be Ms. Cynthia Yee of the Acquisition Management and Support Directorate. Ms. Yee may be contacted at [Cynthia.Yee@tma.osd.mil](mailto:Cynthia.Yee@tma.osd.mil) or (703) 681-4628.



Charles L. Rice, M.D.  
Acting Director

Attachments:

1. Attachment 1, “TRICARE Management Activity Methods to Improve Contracting Integrity”
2. USD(AT&L) Memorandum, “Ombudsman for Procurement Integrity,” October 1, 2009
3. DepSecDef Memorandum, “Ethics and Integrity in Acquisition,” October 9, 2009

DISTRIBUTION:

DIRECTOR, TRICARE MANAGEMENT ACTIVITY  
DEPUTY DIRECTOR, TRICARE MANAGEMENT ACTIVITY  
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DIRECTOR, CONTRACT MANAGEMENT DIVISION  
CHIEF, ACQUISITION MANAGEMENT OFFICE A  
CHIEF, ACQUISITION MANAGEMENT OFFICE B  
CONTRACTING OFFICERS

## ATTACHMENT 1

### TRICARE Management Activity Methods to Improve Contracting Integrity:

#### Deputy Director, TRICARE Management Activity

- Highlight the relevance of contract integrity TRICARE Management Activity (TMA)-wide via verbal communications, e-mail, newsletters, memoranda, and other effective means
- Incorporate contracting integrity issues into TMA All Hands Meetings
- Incorporate into TMA Internal Management Control Program specific internal controls to detect and prevent improper ethical behavior

#### Component Acquisition Executive

- Meet one-on-one with key personnel to discuss the importance of integrating contracting integrity into everyday TMA activities
- Solicit employees' ideas on how to maximize involvement in ethics
- Demonstrate to employees that appropriate action is taken in the cases of violations of the conflict of interest laws and the Standards of Conduct
- Ensure corrective measures are promptly instituted and carried out

#### Head of the Contracting Activity

- Encourage staff to take various Defense Acquisition University Training ethics courses (e.g., Organizational Conflicts of Interest, Ethics Training for Acquisition Technology and Logistics)
- Highlight avenues that are available for employees seeking ethics advice and emphasize to employees the importance of reporting observed misconduct
- Facilitate timely discovery and disclosure of improper conduct in connection with Government acquisitions
- Identify time periods and circumstances, relative to acquisition issues, in which misconduct is especially likely to occur and work proactively to minimize the risk. Particular emphasis should be given to conflicts of interest and the revolving door between Government service and employment in the private sector

#### Chief Functionals

- Include and invite discussion of relevant contract integrity issues at TMA senior staff meetings or other meetings attended by TMA employees
- Demonstrate personal commitment to support ethics programs
- Include ethics and contracting integrity issues as a critical element in all TMA employees' performance objectives and formal appraisals

- Promote awareness of protection available to employees who report observed misconduct

All Staff

- Communicate frequently on questions of contracting integrity, as they arise
- Seek ethics advice and counsel before participating in any matter that may present a conflict of interest
- Demonstrate personal integrity
- All TMA employees shall receive Annual TMA Ethics Training



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

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

OCT -1 2009

MEMORANDUM FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARIES OF DEFENSE  
COMMANDER, UNITED STATES SPECIAL OPERATIONS  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES TRANSPORTATION  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
GENERAL COUNSEL OF THE DEPARTMENT OF  
DEFENSE  
INSPECTOR GENERAL OF THE DEPARTMENT OF  
DEFENSE  
DIRECTOR, COST ASSESSMENT AND PROGRAM  
EVALUATION  
DIRECTOR, NET ASSESSMENT  
DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(PROCUREMENT), ASA (ALT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION & LOGISTICS MANAGEMENT),  
ASN (RDA)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING), SAF/ACQ  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Ombudsman for Procurement Integrity

Section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364) directed the Secretary to establish a "Panel on Contracting Integrity." The purpose of the Panel is to conduct a Department-wide review of vulnerabilities to contracting fraud, waste, and abuse and provide Congress with recommendations for improvement. One of the Panel recommendations is to designate an Ombudsman for Procurement Integrity (Ombudsman) in each DoD Component with Component Acquisition Executives/Senior Procurement Executives (CAEs/SPEs).

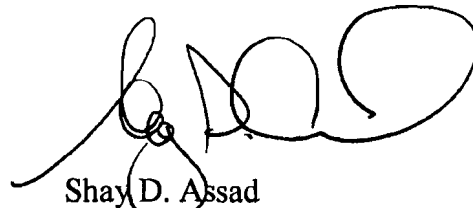
Recognizing the Contracting Officer (CO) has the primary responsibility for Procurement Integrity, the Ombudsman will provide a neutral, informal, confidential and independent alternative for employees, managers and customers to seek assistance in resolving procurement integrity issues (see 41 U.S.C. § 423). The primary function of the Ombudsman is to support acquisition personnel by acting as an independent sounding

board to hear concerns about specific procurement integrity issues and to assist in the resolution of the concerns.

DoD Components with CAEs/SPEs shall designate an Ombudsman for Procurement Integrity. The Ombudsman will be an experienced senior official, independent of the contracting officer and program manager functions, who will foster communication between concerned individuals regarding procurement integrity issues.

All DoD Organizations will establish and designate this collateral duty to a senior official as the Ombudsman for Procurement Integrity or build on their existing procurement integrity advisory function or Ombudsman Program. Each component shall publicize its designation to its respective workforce by January 1, 2010.

The attached Ombudsman tenets are to be used as guidelines in implementing this advisory role or expounding on an existing Ombudsman Program.



Shay D. Assad  
Director, Defense Procurement  
and Acquisition Policy

Attachment:  
As stated

# **Tenet Guidelines for the Ombudsman for Procurement Integrity**

## **Ombudsman Purpose**

Recognizing that the contracting officer (CO) has the primary responsibility for Procurement Integrity, the Ombudsman for Procurement Integrity (Ombudsman) provides a neutral, informal, confidential, and independent alternative for employees, managers, and customers to seek assistance in resolving procurement integrity issues (See 41 U.S.C. Sec 423). The primary function of the Ombudsman is to assist acquisition personnel by acting as an independent sounding board to hear concerns about specific procurement integrity issues and to aid in the resolution of the concerns.

## **Ombudsman Responsibilities**

### **The Ombudsman shall:**

- a. Act upon complaints and questions about alleged acts, omissions, improprieties, and systemic problems regarding procurement integrity issues within the Ombudsman's purview;
- b. Act on the Ombudsman's own initiative to address issues within his/her purview;
- c. Function by such means as:
  - o conducting inquiries;
  - o developing, evaluating, and discussing options available to affected individuals;
  - o facilitating, negotiating, and mediating;
- d. Call upon other resources of his/her organization as needed to assist in resolving procurement integrity issues or concerns (e.g. DoD ethics specialists, administrative support, independent review teams such as the Inspector General, General Counsel/JAG);
- e. Refer allegations of potential criminal misconduct discovered during the course of an Ombudsman inquiry to the appropriate investigative organization, and take no further action with regard to the potential misconduct;
- f. Assist acquisition personnel in the resolution of procurement integrity issues;
- g. Act in a manner that does not jeopardize the reporting individual(s) and, if requested, maintain their anonymity to the extent allowed by applicable laws and regulations;



- h. Ensure all affected offices and appropriate officials are consulted as part of any resolution process;
- i. Inform senior management personnel responsible for oversight, to include the Senior Procurement Executive, as appropriate, of issues raised, actions taken, and proposed or implemented resolutions.
- j. Document the review, key findings and recommendations;
- k. Recuse him/herself from the matter, when appropriate, in the event of a conflict of interest or the appearance of a conflict of interest (using the standards in 5 C.F.R. Part 2635, Subparts D and E).

**The Ombudsman shall not:**

- a. Interfere with or usurp normal procurement and related authorities [e.g., CO/source selection authority, program manager (PM), Suspension and Debarment Official, or Designated Agency Ethics Official (DAEO)];
- b. Render a decision that purports to bind the Organization, Agency, or agency personnel.
- c. Take any action or make a recommendation inconsistent with a law, policy, or applicable administrative decision;
- d. Directly compel or attempt to compel an entity or any person to implement the Ombudsman's recommendations; or
- e. Participate in the evaluation of proposals, the source selection process, or the adjudication of protests or formal contract disputes.

**DoD Components with CAEs/SPEs Responsibilities**

Organizations shall:

- a. Designate an Ombudsman for Procurement Integrity. The Ombudsman will be an experienced senior official, independent of the CO and PM functions, who will foster communication between concerned individuals regarding procurement integrity issues;
- b. As deemed warranted and appropriate for mission enhancement (e.g. multiple Contracting Activities), designate additional Ombudsmen, aligned to organizational structure;
- c. Identify and publicize the Ombudsman on their public and internal websites;

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d. Provide the Ombudsman with access to the appropriate offices to collect all facts and data relevant to the resolution of the issue(s), consistent with security requirements. This may include information subject to protection under FAR 3.104;

e. Ensure the Ombudsman does not replace or interfere with agency level protests, Inspector General reviews/audits, Government Accountability Office (GAO) bid protests, contract dispute procedures (to include Alternative Disputes Resolution), requests for debriefing, employee-employer actions, contests of OMB Circular A-76 competition performance decision, post-Government employment ethics advice or any other administrative or investigative processes. It is, however, appropriate for the contracting activity to consult with the Ombudsman in the course of these actions. Consulting an Ombudsman does not alter or postpone the timelines for any of these processes, nor provide a forum to review a GAO decision. Upon transfer of issue/concern to formal resolution process, the Ombudsman shall cease further review of the issue.



**DEPUTY SECRETARY OF DEFENSE**  
1010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1010

MEMORANDUM FOR: SEE DISTRIBUTION

OCT 09 2009

SUBJECT: Ethics and Integrity in Acquisition

Operating within high ethical standards and with integrity is absolutely key to the success of the Department. Therefore, I want to communicate clearly my expectations regarding ethics and integrity in DoD acquisition and procurement. Core ethical values and corresponding conduct must permeate the Acquisition Community, both in the Government and throughout the defense industry. As DoD senior leaders, you are to reinforce this imperative by properly setting the ethical tone in your organization.

With the anticipated addition of thousands of acquisition professionals over the next few years, we must ensure ethics and integrity are woven into the fabric of everything we do. Every member of the Defense acquisition workforce – whether program managers, logisticians, contracting officers, auditors, or quality assurance personnel – must understand ethical behavior and integrity are not optional qualifications, but absolute requirements for these positions. We can achieve this goal by embedding core ethical values like honesty, transparency, fairness, and respect into our day-to-day business practices and processes. This will build a sustainable ethical culture in the Acquisition Community and will promote public trust and confidence in the integrity of DoD programs and operations. We must also understand and comply with ethics laws and rules, particularly in the area of conflicts of interest and the revolving door between Government service and employment in the private sector. As you proceed, remember to ensure industry demonstrates ethics and integrity in all dealings with the Department.

As you know, acquisition reform is a strategic objective of the Secretary of Defense. The Department is working with Congress to develop an improved, better-trained acquisition work force. We must embed ethics and integrity throughout both formal and informal curricula and ensure our government acquisition professionals complete annual ethics training.

With your help, the Department will develop and promote a professional acquisition environment based on ethical decision making that flows from the basic ethical values of integrity, transparency and mutual respect. Thank you in advance for making this important undertaking a success.

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NEW YORK, NY

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