

Panel on Contracting Integrity 2010 Report to Congress



Department of Defense
Office of the Under Secretary of Defense
Acquisition, Technology, and Logistics (AT&L)

Preparation of this study cost the Department of Defense a total of
approximately \$18,000 for the 2010 Fiscal Year. Generated on
2011Jan28 1732 RefID: B-89F0B27

EXECUTIVE SUMMARY

Why We Submitted This Report

Section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 directed the Department of Defense (DoD) to convene a panel of senior leaders representing a cross section of the Department to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur. It directed the panel to prepare an annual report containing a summary of the panel's findings and recommendations for the year. This report covers the 25 actions identified for 2010 including one required by section 207 of the Weapons Systems Acquisition Reform Act of 2009.

Panel on Contracting Integrity Accomplishments in 2010:

- Issued a memorandum to DoD senior leadership to address acquisition requirements development training in their organizations
- Issued a memorandum to DoD senior leadership communicating the Department's commitment to promoting an ethical culture in the workplace and encouraging its personnel to lead by example, provide ethical decision making, and do the right thing
- Issued a memorandum to DoD senior leadership outlining a DoD standard for certifying Contracting Officer's Representatives for Service Acquisitions
- Developed recommendations on a standardized DoD Contracting Officer Warranting Program
- Developed recommendations on "back to basics" on-the-job training (OJT) for new contracting workforce members
- Developed recommendations designed to provide better tools for contracting officers to use in developing/determining fair and reasonable contract prices
- Issued a memorandum to DoD survey participants on Values-based Ethics
- Issued a memorandum to DoD leadership regarding focus group sessions on Values-based Ethics

What We Recommend: Actions in 2011

In 2011, the Panel plans to implement the 25 actions listed in Exhibit 7 of this report.



Shay D. Assad
Chair,
Panel on Contracting Integrity

TABLE OF CONTENTS

SECTION A. INTRODUCTION

1. PURPOSE	1
2. BACKGROUND	3
3. PANEL STRUCTURE	4
4. OVERVIEW OF 2010 METHODOLOGY AND SUCCESSES	8
5. ACTIONS IDENTIFIED FOR IMPLEMENTATION IN 2010	10
6. PANEL STRUCTURE FOR 2011	11
7. ACTIONS IDENTIFIED FOR IMPLEMENTATION IN 2011	12

SECTION B. ACTIONS FOR IMPLEMENTATION IN 2010

1. CURRENT STRUCTURE OF CONTRACTING INTEGRITY	14
a. Develop recommendations for OMB regarding inherently governmental functions.	
b. Develop training to professionalize requirements development.	
2. SUSTAINED SENIOR LEADERSHIP	15
a. Consider additional initiatives that senior leadership can undertake to demonstrate the importance of integrity and ethics in the workplace.	
3. CAPABLE CONTRACTING WORKFORCE	16
a. Analyze feasibility of standardized DoD warranting program that includes panel interviews, scenario questions, etc.	
b. Develop and implement ‘back to basics’ on-the-job training for new, inexperienced contracting workforce.	
4. ADEQUATE PRICING	18
a. Assess prime contract surveillance and pricing of its subcontracts.	
b. Assess current DoD policy regarding the definition of adequate price competition.	
c. Explore expansion of cost estimating and contract cost/pricing training and guidance.	
5. APPROPRIATE CONTRACTING APPROACHES AND TECHNIQUES	22
a. Study UCAs throughout DoD for possible abuse – implement DoD policy and instill greater oversight.	
b. Review use of level of effort contracts, including firm fixed price and cost plus.	
c. Consider developing doctrine for selection of contract type in R&D environment, aimed at better mgt of risk and cost growth.	
6. SUFFICIENT CONTRACT SURVEILLANCE	26
a. Develop a DoDI for the COR standard/certification.	

b. Develop a COR handbook.	
7. CONTRACTING INTEGRITY IN A COMBAT/CONTINGENT ENVIRONMENT	27
a. Provide Contingency Contracting Officers with standardized systems, tools, and resources for success.	
b. Provide Contingency Contracting Officers with effective contingency contracting policy to support their mission.	
c. Lead a Worldwide Contingency Contracting Conference in May 2010 in Orlando, Florida.	
8. PROCUREMENT FRAUD INDICATORS	31
a. Review the DoD’s “analysis of the Interim Report of the Commission on Wartime Contracting in Iraq and Afghanistan,” dated November 4, 2009, to determine if additional actions need to be taken to address fraud, waste, and abuse.	
9. CONTRACTOR EMPLOYEE CONFLICTS OF INTEREST	31
a. Review use of senior mentors/advisors/highly qualified experts and potential conflicts of interest and prepare report to Congress IAW Section 833 of FY2010 NDAA.	
b. Develop guidance for use of personal services contracts in the PGI.	
10. RECOMMENDATIONS FOR CHANGE	35
a. Establish a DoD-wide value-based ethics program.	
b. Draft a legislative proposal to amend the Program Fraud Civil Remedies Act of 1986.	
11. EVALUATION OF CONTRACTOR BUSINESS SYSTEMS	37
a. Review current DoD policy covering contractor business systems (such as purchasing, estimating, etc) to include reviews, approvals, and surveillance.	
b. Publish a DPAP memorandum on a policy to resolve differences between contract audit recommendations and contracting officer determinations.	
c. Evaluate requirements placed on DCAA for reports and reviews to determine if all are necessary or can be performed by others.	
12. PEER REVIEWS	
a. Assess peer review process, including implementation plans.	39
SECTION C. APPENDICES	
APPENDIX 1: COMPLETED ACTIONS	TAB
a. Action 1B – PDUSD(AT&L) Memorandum entitled “Improving Department of Defense Acquisition Requirements Development,” dated November 19, 2010	A
b. Action 2A – DEPSECDEF Memorandum entitled “Ethics, Integrity and Accountability,” dated December 21, 2010	B
c. Action 3A – DAU Memorandum entitled “Analysis and Recommendations: Action 3a: Analyze Feasibility of Standardized Department of Defense (DoD) Warranting Program,” dated November 5, 2010	C

- d. **Action 3B** – DAU Memorandum entitled “Analysis and Recommendations: Action 3b: D Develop “back-to basics” On-the-Job Training (OJT) for New, Inexperienced Contracting Workforce,” dated November 5, 2010
- e. **Action 4A** – DCAA Memorandum entitled, “Analysis and Recommendations: Action 4a: E Assess Prime Contract Surveillance and Pricing of its Subcontracts,” dated January 31, 2011
- f. **Action 6A** – USD(AT&L) Memorandum entitled, “DoD Standard for Certification of Contracting Officer's Representatives (COR) for Service Acquisitions,” dated March 29, 2010 F
- g. **Action 9A** – PDUSD(AT&L) Memorandum entitled “Department of Defense (DoD) Survey on Values-based Ethics, dated March 9, 2010 G
- h. **Action 9A** – PDUSD(AT&L) Memorandum entitled “DoD Survey on Values-based Ethics – Part 2,” dated May 27, 2010 H

APPENDIX 2. NEW SUBCOMMITTEE INFORMATION

- a. Director, DPAP Charter for New Subcommittee 13 “Opportunities For More Effective Competition,” July 27, 2010

APPENDIX 3. LIST OF ABBREVIATIONS

TABLE OF EXHIBITS

EXHIBIT 1	John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, section 813	2
EXHIBIT 2	Weapon Systems Acquisition Reform Act of 2009, Public Law 111–23, section 207	3
EXHIBIT 3	Panel on Contracting Integrity Membership	4-6
EXHIBIT 4	Subcommittee Structure of Panel on Contracting Integrity	7-8
EXHIBIT 5	Schedule of Panel Meetings in 2010	9
EXHIBIT 6	Actions for Implementation in 2010	11
EXHIBIT 7	2011 Panel Structure and Actions	13

SECTION A. INTRODUCTION

Purpose

Section 813 of the John Warner National Defense Authorization Act (NDAA) for Fiscal Year 2007, Public Law 109-364, directed the Department of Defense (DoD) to establish a Panel on Contracting Integrity consisting of senior leaders representing a cross-section of the Department. The Panel's purpose is twofold: review progress made by DoD to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur, and recommend changes in law, regulations, and policy to eliminate the areas of vulnerability. Exhibit 1 provides the full text of Section 813.

In a February 16, 2007, memorandum, the Under Secretary of Defense (Acquisition, Technology and Logistics), USD(AT&L), complied with Section 813 by formally establishing the Panel on Contracting Integrity. USD(AT&L) designated the role of the Panel as a formal body to take a holistic view of all ongoing efforts and initiatives to improve performance in identified areas of weakness. To ensure actionable participation across DoD, the Panel was created with representatives from 19 military departments, agencies, and other DoD organizations. The Panel submitted its first three required reports to Congress in December 2007, January 2009, and January 2010. By statute, the Panel's charter was initially set to expire December 31, 2009.

On May 22, 2009, President Obama signed the Weapon Systems Acquisition Reform Act of 2009 (WSARA) (Public Law 111-23) into law. Section 207 of the law included two provisions directly affecting the Panel on Contracting Integrity:

- The law imposed a requirement for the Panel to present recommendations to the Secretary of Defense on eliminating or mitigating organizational conflicts of interest in major defense acquisition systems no later than 90 days after enactment (August 20, 2009).
- The law formalized DoD's intent to extend the Panel on Contracting Integrity. By statute, the Panel will exist until directed otherwise by the Secretary of Defense (SECDEF), and at a minimum through December 31, 2011.

On June 28, 2010, the Under Secretary of Defense for Acquisition, Technology, and Logistics, Dr. Carter, wrote to DoD's acquisition professionals regarding "Better Buying Power: Mandate for Restoring Affordability and Productivity in Defense Spending." The memorandum highlighted an important priority "delivering better value to the taxpayer and improving the way the Department does business." On September 14, 2010, Dr. Carter released another memorandum to the Department's acquisition professionals entitled "Better Buying Power: Guidance for Obtaining Greater Efficiency and Productivity in Defense Spending." This memorandum provided specific guidance for achieving the June 28th mandate by outlining 23 principal actions to improve efficiencies in five major areas. As the panel evaluated potential actions for 2011, the leadership considered the guidance contained in both of these important memoranda and assessed how the subcommittees could contribute in the five identified areas and support the underlying tenets of the Panel on Contracting Integrity.

This is the Panel's fourth annual report to Congress. It contains a summary of the panel's findings and recommendations for 2010. It also identifies the actions selected for implementation in 2011.

Exhibit 1. John Warner National Defense Authorization Act for Fiscal Year 2007,
Public Law 109-364, Section 813

ESTABLISHMENT OF PANEL ON CONTRACTING INTEGRITY

(a) Establishment-

(1) IN GENERAL- The Secretary of Defense shall establish a panel to be known as the Panel on Contracting Integrity.

(2) COMPOSITION- The panel shall be composed of the following:

(A) A representative of the Under Secretary of Defense for Acquisition, Technology, and Logistics, who shall be the chairman of the panel.

(B) A representative of the service acquisition executive of each military department.

(C) A representative of the Inspector General of the Department of Defense.

(D) A representative of the Inspector General of each military department.

(E) A representative of each Defense Agency involved with contracting, as determined appropriate by the Secretary of Defense.

(F) Such other representatives as may be determined appropriate by the Secretary of Defense.

(b) Duties- In addition to other matters assigned to it by the Secretary of Defense, the panel shall-

(1) conduct reviews of progress made by the Department of Defense to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur;

(2) review the report by the Comptroller General required by section 841 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3389), relating to areas of vulnerability of Department of Defense contracts to fraud, waste, and abuse; and

(3) recommended changes in law, regulations, and policy that it determines necessary to eliminate such areas of vulnerability.

(c) Meetings- The panel shall meet as determined necessary by the Secretary of Defense but not less often than once every six months.

(d) Report-

(1) REQUIREMENT- The panel shall prepare and submit to the Secretary of Defense and the congressional defense committees an annual report on its activities. The report shall be submitted not later than December 31 of each year and contain a summary of the panel's findings and recommendations for the year covered by the report.

(2) FIRST REPORT- The first report under this subsection shall be submitted not later than December 31, 2007, and shall contain an examination of the current structure in the Department of Defense for contracting integrity and recommendations for any changes needed to the system of administrative safeguards and disciplinary actions to ensure accountability at the appropriate level for any violations of appropriate standards of behavior in contracting.

(3) INTERIM REPORTS- The panel may submit such interim reports to the congressional defense committees as the Secretary of Defense considers appropriate.

(e) Termination- The panel shall terminate on December 31, 2009.

Exhibit 2: Weapon Systems Acquisition Reform Act (WSARA) of 2009,
Public Law 111-23, Section 207

ORGANIZATIONAL CONFLICTS OF INTEREST IN MAJOR DEFENSE ACQUISITION PROGRAMS

(b) EXTENSION OF PANEL ON CONTRACTING INTEGRITY- Subsection (e) of section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 is amended to read as follows:

“(e) TERMINATION.—

“(1) IN GENERAL.—Subject to paragraph (2), the panel shall continue to serve until the date that is 18 months after the date on which the Secretary of Defense notifies the congressional defense committees of an intention to terminate the panel based on a determination that the activities of the panel no longer justify its continuation and that concerns about contracting integrity have been mitigated.

“(2) MINIMUM CONTINUING SERVICE.—The panel shall continue to serve at least until December 31, 2011.”.

Background

In recent years, DoD has increasingly relied on goods and services provided under contract by the private sector. Since FY00, DoD’s contracting for goods and services has nearly tripled. In FY10 alone, DoD obligated over \$366 billion on contracts for goods and services. The sheer magnitude of the cost creates increasing opportunities for fraud, waste and abuse in contracting.

Early efforts to identify and address areas of vulnerability in DoD contracting were undertaken by the DoD Inspector General (DoDIG) and the Procurement Fraud Working Group (PFWG). In addition, the Defense Science Board (DSB) addressed this issue and published *Report of the Defense Science Board Task Force on Management Oversight in Acquisition Organizations* in March 2005. Subsequently, in the NDAA for FY06, Congress required the Government Accountability Office (GAO) to review the areas of vulnerability in the defense contracting system. GAO also reviewed initiatives undertaken by DoD to address its vulnerabilities, including actions in response to the DSB report.

GAO’s July 2006 report, *Contract Management: DoD Vulnerabilities to Contracting Fraud, Waste and Abuse* (GAO-06-838R), identified five areas of vulnerability: sustained senior leadership, capable acquisition workforce, adequate pricing, appropriate contracting approaches and techniques, and sufficient contract surveillance. These vulnerabilities result in costly, less-than-optimal contracting scenarios involving excessive use of time and materials contracts, non-competitive awards, inadequate surveillance of subcontract pricing, and insufficient numbers of contracting professionals. DoD must be diligent in improving its contracting discipline to combat these situations and ensure it buys the right things, the right way, at the right time. The Panel on Contracting Integrity facilitates this by evolving a series of reforms that allow DoD to minimize fraudulent activity, provide for a better-equipped contracting workforce, and increase its return on investments.

Panel Structure

USD(AT&L) designated the Deputy Under Secretary of Defense (Acquisition and Technology), DUSD(A&T), as the Panel’s Chairman. Section 906(a)(3) of the National Defense Authorization Act for Fiscal Year 2010 amended section 138 of title X, United States Code, by inserting a new subsection “(a)(1) There are 12 Assistant Secretaries of Defense.” One of the new Assistant Secretaries is the Assistant Secretary of Defense for Acquisition (ASD(A)). Currently the Director, Defense Procurement and Acquisition Policy (DPAP), is performing the duties of the ASD(A) and is therefore serving as Panel’s Chairman. The Director, DPAP continues to perform his duties as the Panel’s the Executive Director as well. The Chairman and Executive Director are supported by an Executive Secretary and support staff.

The Chairman and Executive Director implemented the Section 813 requirement for the broadest DoD-wide participation by identifying Panel members from organizations representing all key facets of the defense contracting system. Exhibit 3 identifies the Panel member positions and the DoD organizations they represent.

Exhibit 3. The Panel on Contracting Integrity Membership














	Position	Organization
	Panel Chairman: Assistant Secretary of Defense (Acquisition)	Office of the Under Secretary of Defense (Acquisition, Technology and Logistics) (OUSD(AT&L))
	Executive Director: Director, Defense Procurement and Acquisition Policy	OUSD(AT&L)/DPAP
	Deputy Assistant Secretary of the Army (Procurement)	Department of the Army
	Director, Program Analysis & Business Transformation, Deputy Assistant Secretary of the Navy (Acquisition and Logistics Management)	Department of the Navy
	Chief of Staff, Deputy Assistant Secretary of the Navy (Acquisition and Logistics Management)	Department of the Navy
	Deputy Assistant Secretary of the Air Force (Contracting)	Department of the Air Force
	Director	Defense Contract Audit Agency (DCAA)
	President, Defense Acquisition University (DAU)	OUSD(AT&L)

Exhibit 3. The Panel on Contracting Integrity Membership

	Position	Organization
	Component Acquisition Executive	Defense Logistics Agency (DLA)
	Deputy General Counsel (Acquisition and Logistics)	DoD Office of the General Counsel
	Deputy Director, Cost, Price, and Finance (CPF)	OUSD(AT&L)/DPAP
	Acquisition Executive	U.S. Special Operations Command (USSOCOM)
	Deputy General Counsel	Department of the Air Force
	Director of Contracting	Missile Defense Agency (MDA)
	Assistant General Counsel (Acquisition Integrity)	Department of the Navy Office of the General Counsel
	Director	Defense Contract Management Agency (DCMA)
	General Counsel	DCMA
	Assistant Inspector General (Acquisition and Contract Management)	DoD Office of the Inspector General and representatives from Department of the Army Inspector General Department of the Navy Inspector General Department of Air Force Inspector General
	Chief of Staff	Defense Advanced Research Projects Agency (DARPA)
	Deputy Director, Acquisitions and Contracts	National Geospatial-Intelligence Agency (NGA)
	Chief of Procurement	Department of Defense Education Activity (DoDEA)

Exhibit 3. The Panel on Contracting Integrity Membership

	Position	Organization
	Deputy Director, Acquisition	U.S. Transportation Command (USTRANSCOM)
	Deputy Senior Acquisition Executive	National Security Agency (NSA)
	Director for Procurement	Defense Information Systems Agency (DISA)
	Chief, Health Planning Operations	Assistant Secretary of Defense (Health Affairs)/TRICARE Management Agency (TMA)
	Director of Procurement	Defense Human Resources Activity

Considering the issues identified in Section 813, GAO recommendations, along with the work of the DSB Task Force, DoDIG, and Procurement Fraud Working Group (PFWG), the Panel identified ten core focus areas and two emerging contract integrity issues for 2010.¹ The twelve subcommittees addressed the focus areas and emerging contract integrity issues. In response to Dr. Carter’s June 28, 2010 memorandum and the GAO-10-833 “Federal Contracting: Opportunities Exist to Increase Competition and Assess Reasons When Only One Offer is Received Report on Competition, dated June 25, 2010, the Panel Chairman established a new subcommittee at the end of July focusing on effective competition.

- ◆ Core focus areas:
 - Current Structure of Contracting Integrity
 - Sustained Senior Leadership
 - Capable Contracting Workforce
 - Adequate Pricing

vi

¹ Current and emerging contracting issues were identified in GAO-06-838R, *Contract Management: DOD Vulnerabilities to Contracting Fraud, Waste, and Abuse*, July 7, 2006; *Report of the Commission on Army Acquisition and Program Management in Expeditionary Operations*, October 2007, and GAO-08-169, *Defense Contracting: Additional Personal Conflict of Interest Safeguards Needed for Certain DoD Contractor Employees*, March 7, 2008.

- Appropriate Contracting Approaches and Techniques
- Sufficient Contract Surveillance
- Contracting Integrity in a Combat/Contingency Environment
- Procurement Fraud Indicators
- Contractor Employee Conflicts of Interest
- Recommendations for Change

- ◆ Emerging contract integrity issues:
 - Evaluation of Contractor Business Systems
 - Peer Reviews

The Panel’s Executive Director selected 2010 subcommittee chairs based on their expertise with a particular focus area or issue. The chairs of the subcommittees are leaders in the organizations that represent the many facets of the defense contracting system, as are many of the subcommittee members. Exhibit 4 lists the subcommittees and identifies their chairs including the newly established subcommittee. The subcommittee chairs reach out across the military departments and defense agencies for additional expertise to staff their focused working groups.

Exhibit 4. 2010 Subcommittee Structure of Panel on Contracting Integrity














Committee		Chair
	Current Structure of Contracting Integrity	Component Acquisition Executive, Defense Logistics Agency
	Sustained Senior Leadership	Deputy Assistant Secretary of the Army (Procurement)
	Capable Contracting Workforce	OUSD(AT&L)/President, DAU
	Adequate Pricing	Director, Defense Contract Audit Agency
	Appropriate Contracting Approaches and Techniques	Deputy Assistant Secretary of the Air Force (Contracting)

Exhibit 4. 2010 Subcommittee Structure of Panel on Contracting Integrity

Committee		Chair
	Sufficient Contract Surveillance	Director, Program Analysis & Business Transformation, Deputy Assistant Secretary of the Navy (Acquisition and Logistics Management)
	Contracting Integrity in a Combat/Contingent Environment	Deputy Director, DPAP/ Program Acquisition and Contingency Contracting
	Procurement Fraud Indicators	Assistant Inspector General, Acquisition and Contract Management, DoD Inspector General
	Contractor Employee Conflicts of Interest	Co-chairs: Director, Defense Contract Management Agency and General Counsel, Defense Contract Management Agency
	Recommendations for Change	Deputy General Counsel Department of the Air Force
	Evaluation of Business Systems	Deputy Director, DPAP/Cost, Price, and Finance (CPF)
	Peer Reviews	Deputy Assistant Secretary of the Navy (Acquisition and Logistics Management)
	Opportunities for More Effective Competition	Assistant Deputy Commandant, Installations and Logistics (Contracts)

Overview of 2010 Methodology and Successes

The Panel serves as a forum for leaders in the defense contracting system to align efforts and share successes, experiences, and lessons learned; manage implementation of the identified actions; address emerging issues; and maintain DoD leadership commitment and involvement. The leaders and subcommittees report upon the progress of their respective actions through a series of quarterly meetings each year. Exhibit 5 lists the 2010 meetings and the purpose of each.

Exhibit 5. Schedule of Panel Meetings in 2010

Date	Purpose
February 27, 2010	<ul style="list-style-type: none"> • Review the implementation progress on the actions
June 17, 2010	<ul style="list-style-type: none"> • Conduct quarterly rolling assessment and taskings
September 23, 2010	<ul style="list-style-type: none"> • Conduct quarterly rolling assessment and taskings • Subcommittee chairs brief close out of 2010 and give consideration to potential 2011 actions
November 18, 2010	<ul style="list-style-type: none"> • Review draft annual report • Review plan to continue progress in 2011

To complete each action and report on the Panel’s 2010 progress by December 31, 2010, the Panel initiated work beginning in January 2010. Panel work groups spent considerable time and exercised great care in developing and refining the 2010 actions to ensure clarity and support implementation. The process focused on developing and coordinating a succinct, clearly worded action, defining an associated product, assigning “ownership” for each action, and naming the responsible staff advisors. The implementation plans were formalized and proposed action approved by the Panel at the last 2009 Quarterly Panel meeting in November 2009.

The focus of the subcommittees during 2010 was to develop and implement the policy directives, memoranda, legislative proposals, and training materials that constitute the set of 2010 actions. The subcommittees have supporting working groups of individuals with expertise in specific subject areas. The working groups meet regularly to exchange research, share best practices, and discuss options and potential solutions.

The Panel uses the subcommittees and their working groups, bi-weekly working group conference calls, and quarterly Panel meetings to support discussion, coordination, and approval of all products that combine to effect the Panel’s actions.

The Panel employs a rolling assessment and tasking process, quarterly or upon completion of an action, to manage the efficient implementation of all subcommittee recommendations and identify new recommendations. The procedure is as follows:

- ◆ Subcommittees actively conduct informal preliminary exchanges to achieve consensus within the subcommittee prior to submitting a document or recommendation for formal coordination. Subcommittees submit actions involving recommended issuance of the Office of the Secretary of Defense (OSD) policy guidance to the Executive Secretary and support staff. The Executive Secretary's staff requests review and coordination at first the subcommittee level and then the Panel leadership level.
- ◆ If an organization has substantive comments, the Executive Secretary refers them to the initiating subcommittee and work group to adjudicate and revise. The Executive Secretary allows ten days for the coordination process.

- ◆ After receipt of all coordination responses, the Executive Secretary prepares the appropriate signature request package and coordinates with DoD General Counsel and other OSD offices, if applicable. The Executive Secretary completes the OSD signature request process by presenting the final package to, or through, the Panel's Executive Director, for the appropriate signature.

Actions Identified for Implementation in 2010

In its 2009 report to Congress, the Panel identified 25 actions for implementation in 2010. Four actions were identified for the subcommittees (SC) chartered in August 2009, SC 11 and 12. Early in 2010, the Panel chairman supported Subcommittee 8 chair's (Procurement Fraud Indicators) recommendation that action 8a, "*Review the DoD's "analysis of the Interim Report of the Commission on Wartime Contracting in Iraq and Afghanistan," dated November 4, 2009, to determine if additional actions need to be taken to address fraud, waste, and abuse,"* be held in abeyance. The rationale for not taking any action is the DoDIG Audit's independence would be impaired both in fact and appearance as chair on the subcommittee work given the mission. Participation in the Subcommittee would be an impairment to the DIG-Audit independence to perform an audit of DoD actions in response to the Wartime Contracting Commission report if requested by the Wartime Commission. However, the Subcommittee chair continued to participate in reviewing and commenting on other subcommittee's action throughout the calendar year and attended all Quarterly Panel Review Meetings.

In July 27, 2010, the Director, DPAP chartered a new subcommittee, SC 13 to focus on 'Opportunities for More Effective Competition.' This additional subcommittee, chaired by the Marine Corps Assistant Deputy Commandant, Installations and Logistics (Contracts), is looking at improvements for competitive opportunities and ways to be more effective at reducing single source buys. The subcommittee chair recruited and established a team of members and advisors from the service components and most ODAs. The team performed a comprehensive review of current policy, processes, and practices within the DoD and examined ways to improve competitive opportunities and explore ways to be more effective at reducing single source buys. The charter establishing this subcommittee can be found in appendix 2.

On November 1, 2010, the Deputy General Counsel in the Department of the Air Force became Chair of Subcommittee 10, Recommendations for Change and subsequently reported out on the Subcommittee's efforts at the 4th quarterly panel meeting held on November 18th.

Exhibit 6 lists the 25 actions for implementation in 2010.

Exhibit 6. Actions for Implementation in 2010

1. Current Structure of Contracting Integrity
A. Develop recommendations for OMB regarding inherently governmental functions B. Develop training to professionalize requirements development
2. Sustained Senior Leadership
A. Consider additional initiatives that senior leadership can undertake to demonstrate the importance of integrity and ethics in the workplace
3. Capable Contracting Workforce
A. Analyze feasibility of standardized DoD warranting program that includes panel interviews, scenario questions, etc B. Develop and implement 'back to basics' on-the-job training for new, inexperienced contracting workforce
4. Adequate Pricing
A. Assess prime contract surveillance and pricing of its subcontracts B. Assess current DoD policy regarding the definition of adequate price competition C. Explore expansion of cost estimating and contract cost/pricing training and guidance
5. Appropriate Contracting Approaches and Techniques
A. Study UCAs throughout DoD for possible abuse – implement DoD policy and instill greater oversight B. Review use of level of effort contracts, including firm fixed price and cost plus C. Consider developing doctrine for selection of contract type in R&D environment, aimed at better mgt of risk and cost growth
6. Sufficient Contract Surveillance
A. Develop a DoDI for the COR standard/certification B. Develop a COR handbook
7. Contracting Integrity in a Combat/Contingent Environment
A. Provide Contingency Contracting Officers with standardized systems, tools, and resources for success B. Provide Contingency Contracting Officers with effective contingency contracting policy to support their mission C. Lead a Worldwide Contingency Contracting Conference in May 2010 in Orlando, Florida
8. Procurement Fraud Indicators
A. Review the DoD's "analysis of the Interim Report of the Commission on Wartime Contracting in Iraq and Afghanistan," dated November 4, 2009, to determine if additional actions need to be taken to address fraud, waste, and abuse
9. Contractor Employee Conflicts of Interest
A. Review use of senior mentors/advisors/highly qualified experts and potential conflicts of interest and prepare report to Congress IAW Section 833 of FY2010 NDAA B. Develop guidance for use of personal services contracts in the PGI
10. Recommendations for Change
A. Establish a DoD-wide value-based ethics program B. Draft a legislative proposal to amend the Program Fraud Civil Remedies Act of 1986
11. Evaluation of Contractor Business Systems
A. Review current DoD policy covering contractor business systems (such as purchasing, estimating, etc) to include reviews, approvals, and surveillance B. Publish a DPAP memorandum on a policy to resolve differences between contract audit recommendations and contracting officer determinations. C. Evaluate requirements placed on DCAA for reports and reviews to determine if all are necessary or can be performed by others
12. Peer Reviews
A. Assess peer review process, including implementation plans

Panel Structure for 2011

The structure of the Panel for 2011 includes the new subcommittee responsible for actions regarding 'Opportunities for More Effective Competition.'

As noted earlier, Subcommittee 13 “Opportunities for More Effective Competition” was added in July 2010 to recommend ways to improve competition within the Department. Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD (AT&L)) identified some specific initiatives to improve competition in two recent memorandum: 1) Better Buying Power: Guidance for Obtaining Greater Efficiency and Productivity in Defense Spending of September 14, 2010 and 2) Implementation Directive for Better Buying Power- Obtaining Greater Efficiency and Productivity in Defense Spending of November 3, 2010. Subcommittee 13 will focus on implementing the USD (AT&L) direction to reduce the number of competitive actions when only a single offer is received; to require contracting officers to negotiate awards when only a single offer is received; and to revise past performance procedures to emphasize small business participation in the Department’s competitions. These formed the basis for the subcommittee’s proposed 2011 actions.

Additionally, the Panel chairman determined the scope of Subcommittee 4, Adequate Pricing, should be expanded and tapped his Deputy Director, Program Acquisition and Strategic Sourcing to co-chair the subcommittee with DCAA.

Actions Identified for Implementation in 2011

The Panel identified 25 actions for implementation in 2011. While many of them are a natural follow-on from the 2010 actions, others address the requirements of WSARA, GAO, the National Defense Authorization for Fiscal Year 2011, and build upon well-received Panel efforts. Additionally, several actions target Dr. Carter’s guidance and principal actions to obtain greater efficiency and productivity in defense spending. Subcommittee 13 actions specifically target initiatives in the area of Promote Real Competition and address the actions outlined in Dr. Carter’s November memorandum.

In the Department’s response to GAO-11-61R DEFENSE ACQUISITIONS: Additional Guidance Needed to Improve Visibility into the Structure and Management of Major Weapon System Subcontracts, dated the October 28th, 2010, the Director of Defense Procurement and Acquisition Policy indicated the Panel would take a 2011 action to develop additional guidance for contracting officers on implementing make or buy provisions in weapon system programs as outlined in the 2009 Weapon Systems Acquisition Reform Act, including factors to consider in conducting the required make or buy analyses. The Panel Chairman tasked Subcommittee 4 to develop the appropriate guidance for contracting officers by June 30, 2011.

On October 28th, GAO also issued a report, GAO-11-8, DEFENSE CONTRACTING: Enhanced Training Could Strengthen DOD's Best Value Tradeoff Decisions, recommending the Department develop training elements, such as case studies or scenarios that focus on reaching tradeoff decisions, including consideration of price differentials, as it updates the source selection curriculum. In the Department’s response, the Director of Defense Procurement and Acquisition Policy indicated subcommittee 5, Appropriate Contracting Approaches and Techniques, would develop the training case studies and scenarios.

Exhibit 7 details the new Panel structure, with the actions assigned to each subcommittee.

Exhibit 7. 2011 Panel Structure and Actions

1. Current Structure of Contracting Integrity
A. Assist USD (AT&L) and (P&R) adjudicating public comments regarding the definition of inherently governmental B. Develop requirements definition training, from requirements to contract execution, in concert with SC3, Capable Contracting Workforce to address acquisition skill gaps
2. Sustained Senior Leadership
A. Consider additional initiatives that senior leadership can undertake to demonstrate the importance of integrity and ethics in the workplace
3. Capable Contracting Workforce
A. Develop implementing approach for a standardized contracting officer warranting program B. Refine implementation approach for an on-the-job training tool for contracting workforce C. Support subcommittee one's requirements definition training efforts as appropriate
4. Adequate Pricing
A. Develop checklist to provide for contractor compliance with FAR Table 15-2 proposal requirements B. Assess FAR 15 Indirect Expense Proposal requirements C. Develop guidance for requiring and/or assessing contractor make-or-buy program plans
5. Appropriate Contracting Approaches and Techniques
A. Develop case studies or scenarios that focus on consideration of price differentials in reaching tradeoff decisions in concert with DAU and their update to the source selection curriculum
6. Sufficient Contract Surveillance
A. Publish DoD COR Handbook B. Develop guidance to institutionalize "Combating Trafficking in Persons" in Quality Assurance Surveillance Plans C. Review and recommend changes to regulations to improve contract surveillance
7. Contracting Integrity in a Combat/Contingent Environment
A. Develop recommendations to implement Standardized Automated Joint After-Action Reports B. Publish a hardcopy Defense Contingency Contracting Officer Representative Handbook C. Lead a Worldwide Contingency Contracting Conference in 2011
8. Procurement Fraud Indicators
A. No planned actions.
9. Contractor Employee Conflicts of Interest
A. Ensure that all Critical Acquisition Positions are properly identified as required to file an annual financial disclosure (SF 450 or 278) and receive annual standards of conduct training B. Review and Report on the Administrative Conference of the United States' (ACUS) draft recommendations on applying ethics rules to government contractor employees
10. Recommendations for Change
A. Establish a Department of Defense-wide values-based ethics program B. Draft a legislative proposal to amend the Program Fraud Civil Remedies Act of 1986 ("PFCRA") or draft a stand-alone statute to accomplish the aims of PFCRA
11. Evaluation of Contractor Business Systems
A. Continue with implementation of contractor business systems rule
12. Peer Reviews
A. Continue to assess peer review process and submit final recommendations
13. Opportunities for More Effective Competition
A. Reducing the number of competitive actions when only a single offer is received B. Requiring contracting officers to negotiate awards when only a single offer is received C. Revising past performance procedures to emphasize small business participation in the Department's competitions.

◆ SECTION B. ACTIONS FOR IMPLEMENTATION IN 2010

Current Structure of Contracting Integrity

Chair: Component Acquisition Executive, Defense Logistics Agency

Action 1a: Develop recommendations for OMB regarding inherently governmental functions.

Discussion

Training and guidance are needed to ensure contractors are not performing inherently governmental functions. Contracting Officer Representatives and technical personnel need direction on what constitutes “inherently governmental” and appropriate guidelines to prevent potential integrity issues.

OMB had already created a policy notice regarding the definition of inherently governmental. Therefore, it was determined that Subcommittee 1 (SC1) would become involved during the review of public comments. OMB published the policy notice on March 31, 2010 with public comments due by June 1, 2010.

USD (AT&L) and USD (P&R) signed a memo July 25, 2010, forwarding DOD comments to the Administrator, OFPP. SC1 is standing by to assist with the adjudication of public comments and Federal Agency comments from a procurement perspective.

Status

The subcommittee and DPAP staff members supported USD for Personnel and Readiness (DOD’s lead and liaison to OMB on this matter) in the review and response to the public comments from a procurement perspective. The subcommittee stands ready to provide additional support as actions/taskings are identified by P&R or OMB.

No further action is planned unless requested.

Current Structure of Contracting Integrity

Chair: Component Acquisition Executive, Defense Logistics Agency

Action 1b: Develop training to professionalize requirements development.

Discussion

The Panel determined the need to reinforce requirements development, which has been identified as a weakness in DOD and has led to cost and schedule overruns on many programs. Requirements development is paramount to successful acquisition outcomes. Properly developed requirements enhance competition, ensure sound business strategies, provide the basis

for realistic Government estimates, mitigate requirements creep, and help enable the Department to meet critical acquisition timelines.

To increase emphasis in this area, Subcommittee one (SC1) reviewed available requirements development training and related courses, which are compiled in a matrix of training offered by the Defense Acquisition University (DAU). Of special note is the Service Acquisition Workshop that is tailored to address performance-based requirements for services. Additionally, the matrix provides Agency-unique training or guides.

SC1 completed a memorandum re-invigorating the need for requirements training for acquisition professionals. The memo and matrix were distributed to SC Working Groups (WG) for review and concurrence. SC1 determined incorporation of SC WG comments into memorandum and/or matrix. Subsequently, senior panel leaders reviewed and approved the proposed memorandum.

Additionally, a gap in small 'a' requirements development training was identified from the review of all the training currently available. As a follow-on action for 2011, SC1 will be working in concert with SC3, Capable Contracting Workforce, chaired by DAU to develop training in this area.

On November 19, the Principal Deputy USD(AT&L) issued the memorandum and accompanying matrix entitled "Improving DoD Acquisition Requirements Development."

Status

This action is complete.

Sustained Senior Leadership

Chair: Deputy Assistant Secretary of the Army (Procurement)

Action 2a: Consider additional initiatives that senior leadership can undertake to demonstrate the importance of integrity and ethics in the workplace.

Discussion

The Panel determined the need for continued reinforcement of ethics and integrity in the Acquisition Community. The broader Acquisition Community is facing serious and distracting criticism resulting from decisions made by a few. The number of confirmed cases of misconduct is small, but troubling. Senior Leadership must communicate and demonstrate an ethical "tone at the top" to ensure decision-making reflects the very high standards we are expected to uphold to the ever-changing acquisition work force and in our business and acquisition processes.

In 2010, the Panel pursued two initiatives to reinforce the importance of ethics and integrity in the Acquisition Community in light of the anticipated addition of thousands of acquisition professionals over the next few years. The first action the subcommittee undertook was drafting a memorandum stating DoD is committed to promoting an ethical culture in the workplace and encouraging its personnel to lead by example, provide ethical decision-making, and do the right

thing. The proposed memorandum was coordinated at the subcommittee level and approved by the panel senior leaders.

On December 21st, the Deputy Secretary of Defense signed the memorandum entitled "Ethics, Integrity, and Accountability" reiterating the Department's commitment to promoting an ethical culture in the workplace and encouraging its personnel to lead by example.

In addition to the memorandum, the subcommittee drafted a script for use in a video highlighting Senior Leaderships' position on ethics and integrity. The video is intended for USD(AT&L) to set the tone by communicating expectations regarding ethics and integrity within the Acquisition Community. The video script was coordinated at the Subcommittee and senior leader level.

Status

The action will be carried over to 2011.

Capable Contracting Workforce

Chair: Director, Human Capital Initiatives, OUSD(AT&L)/HCI

Action 3a: Analyze feasibility of standardized DoD warranting program that includes panel interviews, scenario questions, etc.

Discussion

The Panel on Contracting Integrity identified the need to address competency gaps in the contracting workforce through recruiting, hiring, and retention initiatives as it continues to strive to increase the quality of its acquisition workforce. As part of this ongoing effort, a subcommittee conducted an analysis to determine the feasibility of establishing and implementing a standardized contracting officer warranting process. Consideration, in particular, was given to qualification requirements, online testing, and the warrant board/interview process.

The Subcommittee, which was comprised of representatives from OSD, the Military Departments and the Defense agencies, determined that a standardized program is feasible and recommends that a strong, flexible DoD Contracting Warranting program be established. Additionally, however, the subcommittee recommended allowing each Military Department and Defense agency to ultimately make the determination for granting contracting officer warrants. Such a process should include a requirement for all contracting officer warrant nominees to:

- ◆ Successfully completing a DoD-wide test for appointment as a contracting officer.
- ◆ Successfully complete a Contracting Officer Review Board/Interview that further verifies competency.

Status

This recommendation is currently being reviewed by the Panel for adoption DoD-wide.

Capable Contracting Workforce

Chair: Director, Human Capital Initiatives, OUSD(AT&L)/HCI

Action 3b: Develop and implement ‘back to basics’ on-the-job training for new, inexperienced contracting workforce.

Discussion

The Panel on Contracting Integrity identified the need to address competency gaps in the contracting workforce through recruiting, hiring, and retention initiatives as it continues to strive to increase the quality of its acquisition workforce. As part of this ongoing effort, the Panel determined that the Contracting career field lacks a standardized process to track on-the-job training (OJT). Consequently, it requested a subcommittee develop a “back-to” basics OJT tool for new, inexperienced members of the contracting workforce to ensure individuals have demonstrated a sufficient level of ability and expertise in the contracting competencies.

The Subcommittee 3 working group, which was comprised of representatives from OSD, the Military Departments and Defense agencies, has completed its charter and recommended a simple Excel spreadsheet OJT tool that identifies sample tasks for each of the 28 technical competencies in the Contracting career field be used to track OJT for all contracting workforce members, not just new ones. Further, the subcommittee recommended that the OJT tool be used Department-wide to standardize the tracking of OJT and be integrated into the DAWIA certification process as part of the technical experience requirements. Doing so will maximize the use and effectiveness of the tool and help ensure the quality of the contracting acquisition workforce by directly linking demonstrated proficiency in the various competency areas to appropriate experience levels.

Status

This action recommendation is currently being reviewed by the Panel for adoption DoD-wide.

Capable Contracting Workforce

Chair: Director, Human Capital Initiatives, OUSD(AT&L)/HCI

2009 CARRYOVER Action 1b: Incorporate in Section 5.3.12 of DoDI 5000.66, "CAEs/SPEs of organizations with contracting officers will self-certify compliance with this requirement every 2 years

Discussion

In 2008, the Panel on Contracting Integrity recommended supporting the functional independence of contracting officers by reinforcing the provisions of DoD Instruction 5000.66, Defense Acquisition Workforce Education, Training, and Career Development Program, in the preparation of their performance evaluations. Specifically, the Instruction requires Component Acquisition Executives to ensure that at least the first-level evaluations of warranted contracting officers are performed within their contracting career chain. The Panel further recommended adding a provision in DoDI 5000.66 for Components with contracting officers to self-certify compliance every 2 years.

Status

This self-certification provision was added to an update to DoDI 5000.66, which is currently in final draft, with publication expected in mid-year 2011. In the interim, Components have already begun complying with this requirement.

Adequate Pricing

Chair: Director, Defense Contract Audit Agency

Action 4a: Assess prime contract surveillance and pricing of its subcontracts.

Discussion

Subcontract costs represent a large percentage of contract costs in Government contracts. The Department recognizes that vulnerability in prime contractor surveillance and pricing of subcontracts impacts the Government's ability to determine fair and reasonable contract prices. In 2009, the Subcommittee for Adequate Pricing concluded that adequate coverage exists within Federal Acquisition Regulations (FAR), Defense FAR Supplement (DFARS), and DFARS related Policies, Guidance, and Instructions (PGI). For 2010, the subcommittee advanced its analysis to the execution of existing acquisition policies and procedures for identification of procedural and policy inadequacies not apparent in its analysis but visible in performance of contracting. The subcommittee established a working group representing Defense Procurement and Acquisition Policy (DPAP), the Military Departments, the Defense Contract Management Agency, the DoD Inspector General, and the Defense Contract Audit Agency.

The working group reviewed responses received from their drafted DPAP memorandum, issued December 15, 2009, to Services and Defense agencies soliciting input on specific policies, procedures, and best practices that ensure prime contractors are properly monitoring their subcontractors' pricing. Further, working group representatives conducted interviews with numerous contracting officers for their direct input on issues actually encountered while awarding contracts that include proposed subcontracts.

From the direct interviews, the working group found that contracting officers understand their role and responsibility to ensure subcontractor prices are fair and reasonable, as well as prime contractor's responsibilities. The primary reoccurring issue disclosed during the interviews was prime contractors' analyses of subcontracts. The analyses are rarely provided at time of proposal submittal, and often they are not submitted at all. Contracting Officers said prime contractors generally acknowledge there is a FAR requirement. However, there is generally no consequence when prime contractors fail to fulfill their responsibility, or are not timely in fulfilling the requirement. To mitigate for the lack of prime contractors analyses, contracting officers must engage in additional actions in order to assess fair and reasonable subcontract prices.

From the review results, the working group developed the following recommendations that have been provided to the Panel.

- ◆ FAR 15.404-3(b) requires prime and subcontractors to conduct appropriate cost or price analyses to establish the reasonableness of proposed subcontract prices and include the results of those analyses in the price proposal. The subcommittee found that the required

analyses are often inadequate or are not included with the price proposal at all. Since many subcontracts are awarded after award of the prime contract, some believe the analysis of subcontract prices is not required to be submitted with the prime contract proposal. This appears to be a misinterpretation of FAR 15.404-3(c) which states in part “Any contractor or subcontractor that is required to submit certified cost or pricing data also shall obtain and analyze certified cost or pricing data before awarding any subcontract, purchase order, or modification expected to exceed the certified cost or pricing data threshold...” Accordingly, the subcommittee recommends guidance be issued affirming the language at FAR 15.404-3 requires prime contractor cost or price analyses of its subcontractors be included with the submission of the prime or high-tier contractor’s proposal and establishing a DFARS or PGI case to establish steps to be taken to protect the interest of the Government when the contractor fails to comply with FAR 15.404-3(b).

- ◆ The working group found that it is a common practice of contractors to issue separate purchase orders to the same vendor under the same contract. While individual purchase orders are below the threshold for certified cost or pricing data, the aggregate value of purchase orders to one vendor can exceed the threshold. The working group believes this circumvents the intent of the FAR requirement to submit certified cost or pricing data for subcontract effort. Recommendation that a FAR case be established for same vendor purchase orders on the same pricing action to be considered in aggregate.
- ◆ Prime contractors fail to provide timely support for subcontracts but incur no consequence for this failure. To enhance the prime contractor’s motivation to provide timely subcontract support, the subcommittee recommends adjustment to the DFARS profit guidelines associated with unsupported costs. We note that this concern is being addressed under the Dr. Carter Efficiency Initiative and that the efficiencies team will be providing specific recommendations to Dr. Carter with a DFARS case to be opened shortly thereafter.

Status

This action is complete.

Adequate Pricing

Chair: Director, Defense Contract Audit Agency

Action 4 b. Assess current DoD policy regarding the definition of adequate price competition.

Discussion

Adequate price competition implies a competed contract should receive multiple offers. Based on the data that numerous competed DoD contracts received only a single bid, and recent GAO reports, the Panel identified a potential contracting pricing vulnerability. The intent of this action was to assess the level of compliance with FAR 15.403-1(c)(1), Standards for exceptions from cost or pricing data requirement and the determination of a fair and reasonable price.

The subcommittee established a working group with representatives from DPAP, DoDIG, DCMA, DCAA, and the Services to assess compliance and develop recommendations for revising DoD policy and/or establishing a DFARS case to correct any vulnerability. The working group reviewed the analysis performed by the Navy on its GFY 2008 competitive activity. The working group also considered the analyses and conclusions regarding single bid offers in the Institute of Defense Analyses' report on Competitiveness in the Services Sector. The working group did some sampling of one bid contracts pulled from FPDS, reviewing contract files to gain insights regarding the market research or other assessment that provided an expectation of competition and data utilized to determine price reasonableness on the single bid received.

On June 28, 2010, the Under Secretary for Acquisition, Technology and Logistics released a memorandum entitled, Better Buying Power: Mandate for Restoring Affordability and Productivity in Defense Spending. The memorandum noted with the Department spending approximately \$400 billion annually on products and services, there are opportunities for acquisition professionals to scrutinize contracts for inefficiencies and unneeded overhead. Subcommittee 13 was subsequently established with a charter of "Opportunities for More Effective Competition." To avoid duplicative efforts, Action 4b will be transferred to Subcommittee 13 who will pursue and develop appropriate recommendations in 2011.

Status

This action is complete for SC4 as work is now under the charter of SC13.

Adequate Pricing

Chair: Director, Defense Contract Audit Agency

Action 4 c. Explore expansion of cost estimating and contract cost/pricing training and guidance.

Discussion

Last year, the Panel on Contracting Integrity tasked Subcommittee 4 to explore the need to expand contract cost/price analysis training and guidance. The Contract Pricing Advisory Group (CPAG) was assigned to assess the Defense Acquisition University's contracting curriculum and recommend changes to improve or expand the pricing content, if applicable. This action supports the Department's plan to re-invigorate our contract cost/price analysis capacity and capability.

The CPAG, comprised of representatives from Defense Procurement and Acquisition Policy, the Military Departments and Defense agencies, recommended numerous changes in the contracting curriculum to the Senior Procurement Executives and the Director of Defense Procurement and Acquisition Policy. The proposed curriculum changes are part of a larger effort to infuse more rigor into in-residence training and leverage use of small continuous learning modules to reinforce the classroom experience. Significant recommendations include:

- ◆ Deploy a new Level I pricing course entitled CON 130, "Fundamentals of Contract Pricing." The proposed course will:

- Be required for DAWIA certification in contracting
- Consist of 80 hours of resident training
- Replace CON 120, “Mission Support Planning”
- ◆ Increase the breadth of topics covered in the Level II pricing course. The up-dated course will:
 - Update topics currently covered in CON 217, “Cost Analysis and Negotiation Techniques” and add several new topics
 - The revised course will be re-designated CON 226, “Intermediate Cost and Price Analysis”
 - Comprise eight days of classroom instruction
- ◆ Include advanced pricing topics in the Level III capstone course – CON 353, “Advanced Business Solutions Mission Support”
 - Advanced pricing topics are being incorporated into the “Hot Topics” section of CON 353
- ◆ Directly link pricing courses to the Contract Pricing Reference Guides. The reference guides:
 - Represent the body of knowledge for contract pricing
 - Facilitate continuous learning by provide on-line access to training and reference material, useful tools and templates, best practices, and local policies and procedures
 - Contain links to tools, templates, training and other useful information
- ◆ Require personnel in positions requiring specialized knowledge to take mandatory “position specific” courses
- ◆ Require personnel to take an extra specialized course to achieve Level III contract certification, which include choices of two advance pricing courses (i.e., CON 235 and CON 232).

Status

This action is complete. Recommended changes to the DAU contracting curriculum have been approved by Director of Defense Procurement and Acquisition Policy. DAU is now revising courses and making plans to deploy changes in FY11 or FY12. The CPAG will continue work in 2011.

2009 CARRYOVER Action 4a: Establish a working group to assess the need for establishing thresholds for higher-level approval of commercial item determinations based on “of a type” and develop recommendations. This is an interim measure pending a legislative change proposal.

Discussion

SC4 continues to recommend a legislative proposal be submitted for the FY2012 Defense Authorization Bill to eliminate “of a type” and “offered for sale” from the definition of commercial item to eliminate this contract vulnerability. The Department’s 2012 Legislative Proposal process is on-going at this time.

Status

This action is on-going.

Appropriate Contracting Approaches and Techniques

**Chair: Deputy Assistant Secretary (Contracting),
Assistant Secretary (Acquisition), Secretary of the Air Force**

Action 5a: Study Undefined Contract Actions (UCAs) throughout DoD for possible abuse – implement DoD policy and instill greater oversight.

Discussion

Two objectives were pursued as a part of this action: (1) identify gaps in current DoD policy on the management and oversight of UCAs, and (2) if a gap exists, recommend a course of action to fill the gap.

The subcommittee determined that DoD has taken several actions since August 2008 to instill greater management and oversight of UCAs. First of all, the Defense Federal Regulation Supplement (DFARS) now requires semi-annual reporting of undefinitized actions, including information on the reason for award, obligation, amounts at award, and definitization timelines. Secondly, the DFARS requires components to submit management plans to describe actions taken for improved UCA use. Finally, the DFARS was recently amended to make requirements for management and oversight of unpriced change orders consistent with those that apply to other UCAs.

A recent GAO Report, GAO-10-299, dated January 2010, noted the improvements in DoD’s management and oversight of UCAs; however, recommended that the DFARS be revised to provide specific guidance for how to develop, consider, and document assessments of cost risk for profit or fee for all UCAs. DoD concurred with the GAO recommendation. The subcommittee recognized this as the gap in existing policy and agreed to provide a recommended DFARS change to OUSD(AT&L)/DPAP Cost, Pricing and Finance to address this issue.

The subcommittee provided a draft revision to the DD Form 1547, Record of Weighted Guidelines Application, with additional DFARS PGI guidance that considers reduced cost risk

for profit or fee for incurred costs to OUSD(AT&L)/DPAP Cost, Pricing and Finance for consideration in a future DFARS Case.

Status

This action is complete.

Appropriate Contracting Approaches and Techniques
Chair: Deputy Assistant Secretary (Contracting),
Assistant Secretary (Acquisition), Secretary of the Air Force

Action 5b: Review trends in use of level of effort contracts.

Discussion

Due to the significant use of the time-and-materials (T&M) contract types in recent years, the Under Secretary of the Defense (Acquisition, Technology and Logistics) (USD(AT&L)) issued a memorandum (Subject: “Proper Use of Time-and-Materials Contract Types”), dated 20 March 2008, that identified T&M and Labor Hour (LH) as the least preferred contract types. In addition, the memorandum required components to establish procedures for analyzing whether other contract types may be more suitable (e.g., firm fixed-price). Subcommittee 5 was tasked to review trends in the use of level of effort (LOE) contracts, including firm-fixed-price (FFP), T&M, LH, and cost-plus contracts to determine the impact this policy has had on the use of these contract types.

The Subcommittee utilized the Federal Procurement Data System-Next Generation (FPDS-NG) report capabilities to evaluate trends in the use of T&M, FFP LOE, and LH contracts from 01 October 2007 through 30 September 2010. FPDS-NG does not differentiate between LOE and completion terms for cost reimbursement (CR) type contracts; therefore, trends on the use of CR LOE contracts were excluded from this evaluation.

The FPDS-NG data provided the following analytical findings:

- ◆ A decrease in the number of T&M and LH awards between FY08 and FY10.
- ◆ A decrease in FFP LOE awards between FY08 and FY10.
- ◆ Of the 511 FFP LOE awards reported, 34.1% are over \$150,000, 11.2% are over \$1 million, 1.4% are over \$10 million, and less than 1% are over \$100 million.

According to the Federal Acquisition Regulation (FAR), FFP LOE contracts are primarily intended for research-type contracts valued at \$150,000 or less (it should be noted, at the time this analysis was conducted the threshold was \$100,000). The subcommittee initiated a review of FFP LOE contracts valued at over \$10 million to determine if components were properly utilizing this contract type in accordance with FAR subpart 16.207. The findings are as follows:

- ◆ The majority of FFP LOE contract actions are awarded in accordance with the intent of the FAR language. Components cited that the work required could not otherwise be clearly defined, the required level of effort was identified and agreed upon in advance, and there was reasonable assurance that the intended result could not be achieved by expending less than the stipulated effort in accordance with FAR 16.207-3.
- ◆ Approvals from the Chiefs of the Contracting Office required for FFP LOE contracts over \$100,000 were obtained in accordance with FAR 16.207-3(d).
- ◆ One instance was found where the component purposely selected the FFP LOE contract type in order to avoid use of a T&M contract type because of the 20 March 2008 memorandum.
- ◆ Another component stated they were influenced in their decision to use a FFP LOE contract due to the on-going transformation of the organization, including structure and mission redefinition, because this contract type better suited their mission needs, in lieu of a FFP contract.
- ◆ Several components had a vague understanding on the appropriate use of FFP LOE.
- ◆ In some cases FFP LOE contracts were administered like T&M/LH contracts.

In addition, the Subcommittee reviewed the Defense Acquisition University (DAU) curriculum to determine what training is available on the use of LOE contract types. DAU's Level I contracting courses provide some basic discussion on the use of T&M and LH; however, the subcommittee could not identify any comprehensive training on the use of FFP LOE contracts.

Based on its analysis, the Subcommittee has concluded the following:

- ◆ The 20 March 2008 OSD (AT&L) DPAP memorandum has positively contributed to a decreased use of T&M and LH contracts.
- ◆ The use of FFP LOE contracts has decreased, which indicates it is not being used as a substitute for T&M and LH contracts.
- ◆ A large percentage of FFP LOE contracts exceeded the threshold dictated in the FAR for when a higher level of approval is required, and an analysis of those that did raises concerns about whether this contract type is adequately understood.

- ◆ There is a lack of in-depth comprehensive training on LOE contracts and the differences between each LOE contract type in current DAU contracting and distance learning courses.

Based on the above findings, this Subcommittee submits the following recommendations:

- ◆ DAU develop training specifically geared towards the proper use and application of all LOE contract types.
- ◆ Even though the threshold for using the FFP LOE contract type was recently increased to \$150,000, a higher threshold should be considered because the dollar value of an appreciable number of FFP LOE contract awards exceed this amount. Conversely, if this threshold is considered to be appropriate, the aforementioned DAU LOE training should emphasize the risks of using this contract type on larger dollar value contracts.
- ◆ Update the FPDS-NG contract action report to ensure CR LOE is captured. This update will allow for a more thorough evaluation of future LOE contracting trends.

Status

This action is complete.

Appropriate Contracting Approaches and Techniques

Chair: Deputy Assistant Secretary (Contracting),

Assistant Secretary (Acquisition), Secretary of the Air Force

Action 5c: Consider developing doctrine for selection of contract type in R&D environment, aimed at better management of risk and cost growth.

Discussion

Section 818 of FY07 NDAA required the Secretary of Defense to modify the Defense Acquisition Regulation Supplement (DFARS) to require the Milestone Decision Authority for a Major Defense Acquisition Program to select the contract type for a development program consistent with the level of program risk. The subcommittee identified that an interim rule was published in the DFARS to implement Section 818 of FY07 NDAA. A final rule was published in the DFARS on April 8, 2010.

Status

This action is complete.

Sufficient Contract Surveillance

Chair: Director, Program Analysis & Business Transformation, Deputy Assistant Secretary of the Navy (Acquisition and Logistics Management)

Action 6a: Develop a DoDI for the COR Standard / Certification.

Discussion

Subcommittee (SC) 6 proposed a standard for the certification of Contracting Officer's Representatives (COR). The standard provides a uniform structure for training and developing CORs within DoD by defining minimum COR competencies, experience, and training based on the nature and complexity of the requirement and contract performance risk. SC 6 authored a proposed memorandum for USD(AT&L) signature and coordinated it at the subcommittee level. The panel senior leaders subsequently approved the proposed memo.

On March 29, 2010, the USD(AT&L) issued the memorandum entitled "DoD Standard for Certification of Contracting Officer's Representatives (COR) for Service Acquisitions" with its accompanying standard matrix and attachment of the Deputy Secretary of Defense memorandum issued in August 22, 2008 entitled "Monitoring Contract Performance in Contracts for Services."

SC 6 developed a draft DoDI implementing the COR standard/certification. The draft DoDI was approved by the panel senior leaders and is currently undergoing formatting to comply with issuance procedures in accordance with DoDI 5025.01, "DoD Directives Program."

In September 2010, Defense Acquisition University released the on-line Continuous Learning Course (CLC) COR 222. Subcommittee members participated in the pilot class. The CLC COR 222 on-line and COR222 resident are equivalent courses.

Status

This action is on-going.

Sufficient Contract Surveillance

Chair: Director, Program Analysis & Business Transformation, Deputy Assistant Secretary of the Navy (Acquisition and Logistics Management)

Action 6b: Develop DoD COR Handbook.

Discussion

The subcommittee compiled a library of available Contracting Officer's Representative (COR) handbooks and reviewed them for the best of the breed. As a result of the subcommittee's review, they determined and subsequently recommended leveraging the DoD Contingency COR Handbook as basis for DoD COR Handbook. The DoD Contingency COR Handbook was formally published in August 2010 and is on DPAP's website at http://www.acq.osd.mil/dpap/ccap/cc/docs/DCCORH_full_6-30-10.pdf). The subcommittee proposes the envisioned DoD-wide COR Handbook contain a few modifications including:

1) a new foreword and introduction; 2) new Chapters 1 and 2; and 3) Chapter 8 now contains a subsection on Trafficking in Persons. The DoD COR Handbook is pending subcommittee and Panel coordination.

Status

This action is on-going.

Contracting Integrity in a Combat/Contingent Environment
Co-chairs: Panel Executive Director and Deputy Director, OUSD(AT&L)
DPAP/CCAP

Action 7a: Provide the CCO with standardized systems, tools, and resources for success

Discussion

Warfighters in an expeditionary environment need easy-to-use tools that simplify the acquisition process and get requirements fulfilled quickly and efficiently. A Theater Business Environment (TBE) Acquisition Concept of Operations (CONOPS), posted in July 2010, outlines a comprehensive approach to insert technology and e-business tools into the expeditionary environment to optimize the acquisition process for operational contracted support. The TBE CONOPS outlines a simple, seamless, pre-award, award, and post-award acquisition toolkit to support the end-to-end expeditionary business process while making accurate, current, and complete information available to procurement and finance officials and senior leaders.

New tools under development as part of this TBE CONOPS include a field ordering officer tool, a requirements generator, and a management tool for contingency Contracting Officer Representatives (COR). Each build on existing systems and technology, use spiral development for enhanced capabilities, and target rapid fielding to the theater of operations.

The following are the significant highlights of this action:

- ◆ The “3in1” tool is the Department’s joint, electronic solution for the challenges inherent in the current process for “cash and carry” purchases in theater. The tool is a small, lightweight device that will capture and record purchase, payment, and receiving information, including the user’s receipt of goods and vendor acknowledgement of payment. In 2010, the Department conducted an operational assessment of this technology-based solution, which will replace the current manual approach. Its automated process allows multiple stakeholders (including the field ordering officer, the paying agent, the regional contracting center, and the financial manager) to interact remotely, increases data accuracy, and provides insights into purchases. Based on the successful operational assessment, the Department plans to field the tool in fiscal year 2011.
- ◆ The contingency Acquisition Support Module, or cASM, is a web-based, simple-to-use application designed to assist the individuals responsible for initiating contracting

requirements in an expeditionary environment. The application will identify the documents required to initiate a contract, provide templates for the documents, prompt the user for the information required to complete the documents, and route the documents to the appropriate reviewers and approvers. The cASM will also alert individuals when it is their responsibility to take action on the requirements package. The cASM's output will be a completed, approved contract requirements package for a forward-deployed contracting office to take action. The Department has completed its initial development of the tool and is currently being tested at select locations in Iraq. Upon successful completion of the test deployment, cASM will be fielded throughout Iraq and Afghanistan in 2011.

- ◆ The DoD COR Tracking Tool (CORT Tool) is a web-accessible application for DoD-wide use to track COR nominations, appointments, terminations, and training certifications. This tool will provide the degree of visibility and accountability necessary for leaders to manage the thousands of CORs assigned throughout the Department. The CORT Tool will provide an automated means to access important information about our CORs, including the contact information for the CO, the COR and the COR's supervisor, the individual's career series, and certification levels. In addition, the tool will identify all training completed by the COR, detailed by complexity of the work. The tool will also automate key parts of the process, enabling electronic nomination, approval, and termination process of CORs and recording key process documents online, such as status reports, trip reports, and correspondence. A pilot deployment is currently underway and further deployment will be accomplished in 2011.

- ◆ Outreach to the user community is ongoing. More information on these tools is available online at: http://www.acq.osd.mil/dpap/pacc/cc/contingency_tools.html. Two of these tools, the 3in1 and cASM, were featured at the 2010 Air Force Contracting Conference (April 2010) and at the 2010 DoD Procurement Conference (May 2010).

Status

Initial development capability has been completed. Broader deployment efforts are ongoing and are part of the subcommittee's 2011 actions.

Contracting Integrity in a Combat/Contingent Environment

**Co-chairs: Panel Executive Director and Deputy Director, OUSD(AT&L)
DPAP/CCAP**

Action 7b: Provide the CCO with effective contingency contracting policy to support their mission.

Discussion

So CCOs can successfully support the deployed mission, the Department is committed to providing them with policy that works—policy that is presented in user-friendly, information-rich formats appropriate to the joint environment. While deployed CCOs performing in a joint

environment initially had Service-specific guidance, they previously lacked consolidated, joint guidance. Now, policy tools fill that gap and are consistently updated and expanded based on lessons learned.

The Department is working to establish a formal means of collecting and analyzing lessons learned, continue to use flexible formats for the policy tools in order to permit ready updates and have expanded our policy tools to include contract oversight. Our key contingency contracting policy accomplishments for 2010 include: developing a prototype standardized automated after action report tool, refining the Defense Contingency Contracting Handbook, and creating the Defense Contingency Contracting Officer's Representative (COR) Handbook.

The following are significant highlights of this action:

- ◆ Through After Action Reports (AARs), CCOs can share their knowledge for the benefit of their successors. CCOs had been submitting after action reports on the Defense Acquisition University's Community of Practice website. However, the lack of automation in the process meant it was cumbersome for CCOs to use the tool, and virtually impossible to data mine it. To make the AAR initiative useful, the Department is in the process of automating it on-line, basing it on a standard set of questions, and enabling a report generation feature. The prototype AAR tool was piloted on CCOs returning from deployment in support of Haiti. Based on the pilot feedback, we are completing the operational development and expanding data mining capabilities.
- ◆ The Defense Contingency Contracting Handbook consolidates, in a single source, a set of joint policies and procedures used by contingency contracting personnel to execute their mission in a combat and contingency environment. We continue to refine, as well as add features, for each annual update to the handbook. This year, we published the third edition of the Handbook, which now comprises a website (<http://www.acq.osd.mil/dpap/ccap/cc/jchb/index.html>), hard copy, DVD, games, and critical action checklists. Having multiple platforms to access this information ensures the broadest support to CCOs.

The new Defense Contingency COR Handbook builds on the success of the Defense Contingency Contracting Officer Handbook for CCOs. The model to create the COR policy tool is the same as that used for the CCO policy tool: leverage existing Service-specific guidance, work with stakeholders to make it joint, and create multiple formats to reach the broadest audience. We published the new Defense Contingency COR handbook electronically on the DPAP website and will shortly be distributing hard copies to the field, in pocket-sized format along with a DVD that provides essential information, tools, templates, and training material to meet challenges in any contracting environment.

Status

This action is complete. Tool enhancements are ongoing.

Contracting Integrity in a Combat/Contingent Environment

**Co-chairs: Panel Executive Director and Deputy Director, OUSD(AT&L)
DPAP/CCAP**

Action 7c: Lead a Worldwide Contingency Contracting Conference in May 2010, Orlando, Florida.

Discussion

The subject conference was part of the 2010 DoD Procurement Conference/Training Symposium and took place May 10-14, 2010, in Orlando, Florida. The theme of the conference was “The Contracting Community – Investing in Today and Tomorrow,” and provided a forum for over 1200 military and civilian members of the DoD contracting community, as well as other federal agency and industry procurement professionals, to discuss and learn about a range of topics. Each participant attended 11 general sessions and up to 13 elective break-out sessions. The duration of each elective was either 1 hour or 2 hours. Contingency contracting was one of the topics with a dedicated 2-hour session. The following are significant highlights from the contingency contracting portion of the conference:

- ◆ Contingency contracting session theme: Contingency Contracting Overview and Contracting Officer’s Representative (COR) Update
- ◆ Conference objective: Provide entry, journey, and senior-level members of the contracting community with training on contingency contracting.
- ◆ Take away: Participants in the session have a better understanding of the following aspects of contingency contracting:
 - Professional requirements and resources: contracting certification levels and information forums
 - Contracting support options: structure and military service contracting capabilities
 - Illustration of current contracting support structure: Joint Contracting Command-Iraq/Afghanistan (now called Joint Theater Support Contracting Command)
 - Joint contingency contracting planning and execution
 - Contractors authorized to accompany the force
 - Contingency funding
 - Contingency contract administration, oversight, and surveillance
 - Importance of Contracting Officers’ Representatives (CORs)

- ◆ Conference length: 2 days of break-out sessions, including the contingency contracting break-outs session.
- ◆ Actual attendance: 350 at the 2010 conference contingency contracting session—a 400 percent increase from the 70 people attending the 2009 contingency contracting conference.
- ◆ Contingency Contracting Conference booth: All 1200 people attending the conference had the opportunity to view key tools. This booth, located in the general session lobby, provided information on the contingency handbooks, CCO After Action Report, cASM, and the 3-in-1 Tool previously discussed in 7a and 7b.

Status

This action is complete.

Procurement Fraud Indicators

Chair: Assistant Inspector General, Acquisition and Contract Management, DoD Inspector General

Action 8a: Review the DoD’s “analysis of the Interim Report of the Commission on Wartime Contracting in Iraq and Afghanistan,” dated November 4, 2009, to determine if additional actions need to be taken to address fraud, waste, and abuse.

Discussion

As noted earlier, participation in the Subcommittee would be an impairment to the DIG-Audit independence to perform an audit of DoD actions in response to the Wartime Contracting Commission report if requested by the Wartime Commission. Therefore, the Panel Chairman agreed to standing down this action.

Status

No further action is anticipated.

Contractor Employee Conflicts of Interest

Co-Chairs: Director, Defense Contract Management Agency and General Counsel, Defense Contract Management Agency

Action 9a (1): Review and Report on use of senior mentors/advisors/highly qualified experts and potential conflicts of interest.

Discussion

On April 1, 2010, SECDEF signed a Senior Mentor Policy memo directing a uniform hiring process that all senior mentors will be hired as Highly Qualified Experts (HQEs) and not as

contractors. As government employees, HQEs will comply with all applicable Federal personnel regulations and ethics laws and regulations.

On July 8, 2010, additional guidance was issued by the Deputy SECDEF. This guidance defined senior mentors as highly qualified experts, retired flag, general or other military officer or senior retired civilian officials. These persons provide expert experience-based mentoring, teach, advise, and provide recommendations to senior military officers, staffs and students who participate in warfighting courses operational planning and decision making exercises.

DFARS Case 2010-D025 implements the SECDEF and Deputy SECDEF policy letters. The Office of Information and Regulatory Affairs cleared the final DFARS rule. The DFARS final rule was published in the Federal Register on October 24, 2010, and is effective upon publication. The policy requires “senior mentors” to be “part-time Federal employee(s)” and subject to all applicable Federal personnel and ethics law and regulations. This policy will require all contracts with senior mentors to be converted to “highly qualified expert” status, or part-time Federal employees. Implementing the policy will require a change to DFARS part 237, Service Contracting, and the addition of associated PGI coverage.

Status

This action is complete.

Contractor Employee Conflicts of Interest

Co-Chairs: Director, Defense Contract Management Agency and General Counsel, Defense Contract Management Agency

Action 9a (2): Review and Report on NDAA FY 10 Section 833 - Review of post-employment restrictions applicable to the DoD.

Discussion

Section 833 of the National Defense Authorization Act for Fiscal Year 2010 required the Panel to review policies relating to the post-employment restrictions that apply to former DoD personnel. The purpose of the Panel’s review is to determine whether such policies adequately protect the public interest without unreasonably limiting the future employment options of former Department of Defense personnel.

In performing the review, the Panel is to consider the extent to which current post-employment restrictions –

- (1) Appropriately protect the public interest by preventing personal conflicts of interests and preventing former Department of Defense officials from exercising undue or inappropriate influence on the Department of Defense;
- (2) Appropriately require disclosure of personnel accepting employment with contractors of the Department of Defense involving matters related to their official duties;

- (3) Use appropriate thresholds, in terms of salary or duties, for the establishment of such restrictions;
- (4) Are sufficiently straightforward and have been explained to personnel of the Department of Defense so that such personnel are able to avoid potential violations of post-employment restrictions and conflicts of interest in interactions with former personnel of the Department;
- (5) Appropriately apply to all personnel performing duties in acquisition-related activities, such as personnel involved in—
 - a. the establishment of requirements;
 - b. testing and evaluation; and
 - c. the development of doctrine;
- (6) Ensure that the Department of Defense has access to world-class talent, especially with respect to highly qualified technical, engineering, and acquisition expertise; and
- (7) Ensure that service in the Department of Defense remains an attractive career option.

In order to conduct the analysis, the study team collected and reviewed extensive data, such as case law, GAO reports, and scholarly articles in the area of post employment restrictions. The Panel hosted two informal surveys with key leaders in the DOD acquisition community. In addition, other information was gathered from both within the government and from the public sector via focus groups and individual interviews.

Status:

The report to Congress required by section 833 is in coordination.

This action will continue in 2011.

Congress directed that the Secretary of Defense enter into an arrangement with the National Academy of Public Administration to assess the findings and recommendations of the review.

Contractor Employee Conflicts of Interest

Co-Chairs: Director, Defense Contract Management Agency and General Counsel, Defense Contract Management Agency

Action 9b: Develop guidance for use of personal services contracts in the PGI

Discussion

GAO Report, GAO-08-360, Defense Contracting: Army Case Study Delineates Concerns with Use of Contractors as Contract Specialists, dated March 26, 2008, found use of individual contractor employees as contract specialists frequently results in defacto personal services contracts. FAR generally prohibits personal services. The report recommended government mitigate risks posed by contractor employees, and SECDEF issue guidance regarding personal service contracts.

Section 831 of the National Defense Authorization Act for FY 2009: Requires SECDEF develop/issue guidance related to personal services contracts.

The Panel determined a DFARS clause should be developed that combines the above tasks, which:

- (1) requires contractors to have a written code of business ethics addressing personal conflicts of interest for their employees working on certain DoD advisory and assistance type services,
- (2) requires contractors to have internal controls to identify and prevent personal conflicts of interest for their employees working on certain DoD service contracts,
- (3) requires contractors to report to the applicable contracting officer, as soon as identified, any violation by their employees of the requirement that advice must be given free of personal conflicts of interest, and
- (4) gives remedies to the Government for contractor's knowing or negligent violation.

This action was on hold pending the outcome of FAR Case 2008-25, *Preventing Personal Conflicts of Interest by Contractor Employees Performing Acquisition Functions*. Per Case synopsis, case Implements section 841(a) of the FY09 NDAA (Pub. L. 110-417).

Status

Based on Panel's recommendation, DFARS Case 2009-D028, Guidance on Personal Services Contracts, was opened. DARS published interim DFARS rule in Federal Register (75 FR 54524). Provisions are effective upon publication. Public comments were reviewed, draft final DFARS rule approved by DARC and is waiting publication. This action is complete.

Contractor Employee Conflicts of Interest

Co-Chairs: Director, Defense Contract Management Agency and General Counsel, Defense Contract Management Agency

2009 CARRYOVER Action 9c(1): Recommended DoD Implementation of Actions in Response to GAO Report 08-485 (Post-Government Employment)

Discussion

The GAO found that ex-DOD officials often work on defense contracts related to their prior agencies or their prior direct responsibilities. There is a risk of conflicts of interest and the appearance of conflicts of interest. There is a need to maintain public trust in the integrity of defense contracting.

GAO's Recommendation: USD(AT&L) determines if changes in procurement policy are needed to impose additional reporting requirements or other requirements to guard against violations of the government's post-employment rules. Determine feasibility of offerors disclosing names of their current employees/consultants working on a matter and having the contractor and/or employees/consultants certify to compliance with post-employment restrictions.

The subcommittee proposed a new clause requiring certification by a contractor when submitting proposals, stating that all people working on the contract meet post-retirement ethics rules.

DFARS Case 2010-D020, Representation Regarding Compensation of Former DoD Officials, opened May 2010. DAR editor reviewing proposed rule for publication.

Status

This action is complete.

Recommendations for Change

Chair: Deputy General Counsel Department of the Air Force

Action 10a: Establish a Department of Defense-Wide Value Based Ethics Program.

Discussion

The requirement for a values-based ethics program was identified to complement the robust and active rule-based compliance program currently in effect within the Department. The Standards of Conduct office has been very effective in demanding compliance for set rules, but the current DoD program may provide the false impression that promoting an ethical culture is principally the concern of the Office of the General Counsel. Simply put, integrity is a leadership issue and everyone's concern. This is reflected, in part, in a past Defense Science Board recommendation that the Department institutionalize an orientation program for incoming senior leaders that addresses values, the importance of leadership to sustain an ethical culture, and related

performance expectations. An effective values-based ethics program – as evidenced by the many robust programs employed by DoD contractors – cannot stop with educating DoD leadership. An effective values-based ethics program must be aimed at promoting an ethical culture among *all* DoD employees.

To this end, on May 14, 2009, a competitive, fixed-price contract was awarded to Human Resources Research Organization to design a web-based survey, administer the survey by sampling the entire DoD workforce (military and civilian), provide analysis of the results, conduct focus groups, and report the results. The contractor completed the survey and submitted its final report to the Department on August 17, 2010. The final report identified strengths and weaknesses associated with the Department’s ethics climate, leaving considerable room for improvement.

Status

This action is ongoing. In FY11, the Department is considering moving to Phase II of the project and possibly awarding a contract for services to develop and recommend a Department-wide values-based ethics program using the results of the completed survey.

Recommendations for Change

Chair: Deputy General Counsel Department of the Air Force

Action 10b: Draft a legislative proposal to amend the Program Fraud Civil Remedies Act of 1986.

Discussion

The Program Fraud Civil Remedies Act authorizes federal agencies to impose civil penalties up to \$5,000 for any claim or statement made to an agency that a person knows or has reason to know is false, fictitious, or fraudulent, as well as assess against persons engaging in such conduct amounts equivalent to damages sustained by the government up to the statutory dollar threshold. The intent of the Act, and of this proposal, is to provide a streamlined remedy for those cases which the Department of Justice typically views as too small for its consideration. The current Act, however, does not provide an effective tool for DoD. As currently structured, the statute is too complex and cumbersome, requiring inordinate numbers of reviews by very senior agency officials. The act also requires hearings to be conducted by administrative law judges, which the Department does not employ. To the subcommittee’s knowledge, the Department has rarely invoked this act because it is so laborious.

The legislative proposal would create a pilot program for the Department that would (1) authorize Department suspension and debarment officials to review referrals, make determinations on, and assess penalties and costs for violations of the act, and (2) increase the dollar limitations from \$150,000 to \$500,000.

Status

This action is on-going. A proposal is being drafted for submission as a non-budget legislative proposal for FY13 proposal cycle.

Evaluation of Contractor Business Systems

**Chair: Deputy Director, Cost, Price, and Finance, OUSD(AT&L)
DPAP/CPF**

Action 11a: Review current DoD policy covering contractor business systems (such as purchasing, estimating, etc) to include reviews, approvals, and surveillance.

Discussion

Following a series of hearings by the Commission on Wartime Contracting in 2009, the Panel on Contracting Integrity chartered a subcommittee to Review current DoD policy covering contractor business systems (such as purchasing, estimating, etc) to include reviews, approvals, and surveillance. Subcommittee 11 was created to establish Departmental policy and procedures regarding the audit and administration of contractor business systems. The goal of the Subcommittee was to establish policies and procedures that:

- ◆ Ensure ACO's have adequate remedies for correcting business system deficiencies
- ◆ Have established standards for what comprises an adequate business system
- ◆ Define what contractor systems are considered business systems

Subcommittee 11 established a working group to draft a proposed DFARS rule to implement changes approved by the Director, Defense Procurement and Acquisition Policy. A proposed DFARS rule was published in the Federal Register in January 2010. The proposed rule:

- ◆ Defines contractor business systems
- ◆ Implements compliance enforcement mechanisms in the form of a business systems clause which includes a payment withholding mechanism
- ◆ Permits a portion of interim payments, progress payments and performance-based payments to be withheld

After reviewing public comments on the proposed rule, a decision was made to make several changes to the rule and publish a revised proposed rule for additional comments. The revised proposed rule was published on December 3, 2011.

Status

This action is ongoing. Public comments on the revised proposed rule are due January 10, 2011. A final DFARS rule is anticipated in FY 2011.

Evaluation of Contractor Business Systems

**Chair: Deputy Director, Cost, Price, and Finance, OUSD(AT&L)
DPAP/CPF**

Action 11b: Publish a DPAP memorandum on a policy to resolve differences between contract audit recommendations and contracting officer determinations

Discussion

A DPAP memorandum was distributed to all DoD Components on December 4, 2009, outlining the requirements for communication between the contracting officer and the contract auditor concerning issues raised in audits of contractor proposals. The issues are to be discussed prior to approval of a pre-negotiation objective and the discussion is to be documented in the contract file and provided to the auditor. The memorandum also provides guidance for higher level discussions and adjudication of any remaining issues. It also required Components to implement procedures to comply with the provisions of the policy memorandum.

Status

This action is complete. All Components with a history of contract negotiations that met the thresholds in the guidance memorandum have developed policies for implementing the guidance and have supplied copies to DPAP. The content of the December 2009 memorandum is now being added to the DFARS-PGI for permanent reference.

Evaluation of Contractor Business Systems

**Chair: Deputy Director, Cost, Price, and Finance, OUSD(AT&L)
DPAP/CPF**

Action 11c: Evaluate requirements placed on DCAA for reports and reviews to determine if all are necessary or if some can be performed by others

Discussion

The DCAA, DCMA, and DPAP have held continuing discussions of roles and responsibilities. We have identified possible overlaps or efficiencies to be gained in pricing of smaller contract proposals, financial capability reviews, cost monitoring, contractor purchasing system reviews, forward pricing rate reviews, and determination of adequate contractor systems.

Status

This action is complete. We have implemented a change in DFARS-PGI to change the audit thresholds for pricing proposal and to have DCMA provide cost or price analysis for proposals below the new threshold. DCMA and DCAA have agreed to their roles and responsibilities on financial capability reviews, cost monitoring, and contractor purchasing system reviews. A DFARS-PGI case has been opened to include cost monitor as an ACO responsibility and to elaborate on the DCMA and DCAA process for forward pricing rates.

Peer Reviews

Chair: Deputy Assistant Secretary of the Navy (Acquisition and Logistics Management)

Action 12: Assess Peer Review Process, including implementation plans

Discussion

Subcommittee 12 conducted a review of Peer Review policies/procedures at both OSD and Component level to:

- ◆ Assess appropriateness of Peer Review phasing
- ◆ Develop strategies to ensure Senior Contracting Leadership participation on Peer Reviews
- ◆ Develop effective communication plan to disseminate lessons learned during Peer Reviews

The subcommittee focus group included both reviewers and those who had programs reviewed. The focus group consensus was Peer Reviews are meeting intended objectives to improve acquisition process; however the group noted that scheduling problems persist.

Status

This action is on-going.

SECTION C. APPENDICES

APPENDIX 1: COMPLETED ACTIONS

During 2010, the Panel developed policy directives, memorandums, articles, case studies, and training guides. This section contains the actions that can be reproduced. The actions appear in the following order:

- **Action 1B** – PDUSD(AT&L) Memorandum entitled “Improving Department of Defense Acquisition Requirements Development,” dated November 19, 2010 **TAB A**
 - **Action 2A** – DEPSECDEF Memorandum entitled “Ethics, Integrity and Accountability,” dated December 21, 2010 **TAB B**
 - **Action 3A** – DAU Memorandum entitled “Analysis and Recommendations: Action 3a: Analyze Feasibility of Standardized Department of Defense (DoD) Warranting Program,” dated November 5, 2010 **TAB C**
 - **Action 3B** – DAU Memorandum entitled “Analysis and Recommendations: Action 3b: Develop “back-to basics” On-the-Job Training (OJT) for New, Inexperienced Contracting Workforce,” dated November 5, 2010 **TAB D**
 - **Action 4A** – DCAA Memorandum entitled, “Analysis and Recommendations: Action 4a: Assess Prime Contract Surveillance and Pricing of its Subcontracts,” dated January 31, 2011
 - **Action 6A** – USD(AT&L) Memorandum entitled, “DoD Standard for Certification of Contracting Officer's Representatives (COR) for Service Acquisitions,” dated March 29, 2010 **TAB F**
 - **Action 9A** – PDUSD(AT&L) Memorandum entitled “Department of Defense (DoD) Survey on Values-based Ethics, dated March 9, 2010 **TAB G**
 - **Action 9A** – PDUSD(AT&L) Memorandum entitled “DoD Survey on Values-based Ethics – Part 2,” dated May 27, 2010 **TAB H**
-
-

TAB A



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE

3015 DEFENSE PENTAGON
WASHINGTON, DC 20301-3015

NOV 19 2010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
(ATTN: ACQUISITION EXECUTIVES)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Improving Department of Defense Acquisition Requirements Development

Section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 directed the Secretary of Defense to establish a "Panel on Contracting Integrity" to conduct reviews of the progress made by the Department of Defense (DoD) to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur.

As part of these reviews, the Panel determined the need to address requirements development, which has been identified as a weakness in the Department and has led to cost and schedule overruns on many programs. Requirements development is paramount to successful acquisition outcomes. Properly developed requirements enhance competition, ensure sound business strategies, provide the basis for realistic Government estimates, mitigate requirements creep, and help enable the Department meet critical acquisition timelines.

The Panel on Contracting Integrity has reviewed available requirements development training and related courses, which are compiled in the attached matrix of training offered by the Defense Acquisition University (DAU). Of special note is the Service Acquisition Workshop that is tailored to address performance-based requirements for services. Additionally, the matrix provides Agency-unique training and guides. Since DAU is continually updating its course offerings, I strongly recommend regularly reviewing their website for additions to the requirements curriculum and associated courses.

I ask that all acquisition professionals take advantage of these training opportunities and am confident this additional training will help our programs to ensure more successful acquisition outcomes in the future.

A handwritten signature in black ink, appearing to read "Frank Kendall", with a long horizontal flourish extending to the right.

Frank Kendall

Attachment:
As stated

DoD Requirements Training Asset Matrix

<u>Agency</u>	<u>Course Title</u>	<u>Course #</u>	<u>Course Description</u>	<u>Format: Classroom or On-line</u>	<u>Duration of Course</u>	<u>Target Audience</u>	<u>Pre-Requisites</u>
DAU	Mission Focused Services	ACQ 265	This multifunctional intermediate course provides acquisition team members with the tools needed to analyze and apply performance-based principles when developing performance requirements documents.	Classroom	4 Days	Requirements developers, Contracting, etc.	CLM 13, CLC 13
DAU	Contracting Officer Representative Overview	CLC 012	Provides students with a general knowledge of each member's roles and responsibilities involved in the contracting process. This course is broken down into three major parts: (1) Acquisition Basics, (2) Performance Based Service Contracting, and (3) The Contracting Process.	On Line	4 hours	COR	None
DAU	Performance-Based Services Acquisition	CLC 013	Various organizations need performance based services acquisition. Currently, increasing use of performance based services acquisitions is one of the Administration's top management initiatives, which have been reinforced at several levels throughout the Federal Government.	On Line	6 hours	Anyone	None
DAU	Competition Requirements for DoD Acquisition	CLC 055	Addresses responsibilities, policies, and procedures critical for ensuring that DoD funds are properly spent to obtain the right equipment, supplies, and services at the right price and on time. Maximizing competition is vital for delivering value to the warfighter and the American taxpayer.	On Line	2 hours	Appropriate to all personnel involved in the requirements and acquisition process.	None
DAU	Contracting Officer Representative With a Mission Focus	CLC 106	Basic skill set needed to be a Contracting Officer's Representative (COR). It will provide an overview of the acquisition process, teaming, ethics and integrity, authorities, contract classification, contract types, proper file documentation, performance assessment methods, remedies for poor performance, invoice requirements, contract modifications, and contract management.	On Line	8 hours	COR	None
DAU	Contracting Officer's Representatives in a Contingency Environment	CLC 206	Contracting Officer's Representatives (CORs) course designed specifically for CORs who are deployed in a contingency environment. It covers the basics of contracting, along with the ethical situations and cultural differences a COR may experience while deployed in a contingency operation.	On Line	3 hours	COR	None

DAU	Contracting Officer's Representative Course	CLC 222	This course is specifically designed for Contracting Officer's Representatives (CORs) who are responsible for assuring that contractors are performing the technical portion of their job. Provides CORs the breadth of knowledge required to perform their role, including knowledge related to COR roles and responsibilities, as well as fundamentals of contracting regulations, types, phases, and other elements; awareness of ethical, legal, and cultural factors that impact COR responsibilities.	On Line	32 hours	COR	None
DAU	Contracting for the Rest of Us	CLC011	Provides those who do not work in the Contracting field, with a basic knowledge of some of the essential processes and considerations that DoD Contracting professionals encounter to satisfy mission requirements. It is not meant to be all-inclusive treatment of the subject.	On Line	2 hours	Anyone	None
DAU	Contracting Overview	CLM 024	An overview of the market research process, the process for developing criteria or factors that teams will use to evaluate contractors during source selection, and the use of the uniform contract format.	On Line	8 hours	Anyone	None
DAU	Developing Requirements	CLR 252	Explains how to develop Key Performance Parameters (KPPs) and Key System Attributes (KSAs). CLR 252 examines the relationship of KPPs and KSAs to technical requirements.	On Line	5 hours	Anyone	None
DAU	Contracting Officer's Representatives in a Contingency Environment	COR 206	Contracting Officer's Representatives (CORs) course designed specifically for CORs who are deployed in a contingency environment. It covers the basics of contracting, along with the ethical situations and cultural differences a COR may experience while deployed in a contingency operation.	Classroom	3 hours	COR	None
DAU	Contracting Officer's Representative Course	COR 222	This course is specifically designed for Contracting Officer's Representatives (CORs) who are responsible for assuring that contractors are performing the technical portion of their job. Provides CORs the breadth of knowledge required to perform their role, including knowledge related to COR roles and responsibilities, as well as fundamentals of contracting regulations, types, phases, and other elements; awareness of ethical, legal, and cultural factors that impact COR responsibilities; and information necessary to effectively evaluate situations, apply knowledge gained, and make correct decisions to carry out COR responsibilities.	Classroom	32 hours	COR	None

DAU	Core Concepts For Requirements Management	RQM 110	Allows professionals to study the role of both the requirements manager and requirements management within the "Big A" acquisition construct.	On Line	60 days	ACAT requirements developers	CLM 041
DAU	Requirements Management Executive Overview	RQM 403	This course provides general officers, flag officers, and members of the Senior Executive Service with an executive-level understanding of the role of the requirements manager and of requirements management within the "Big A" acquisition construct.	Resident	1 day	Senior Leadership for ACAT programs and requirements development	None
DAU	Service Acquisition Workshop	SAW	Assists in developing the a performance-based requirements document for Services	Workshop	4 Days	Service requirements developers	None
SPAWAR Policy (POC: Space and Naval Warfare Command 4301 Pacific Highway Attn: Contracts 2.0 San Diego, CA 92110-3127 619-524-7014)	Contract Management Process Guide (CMPG)	N/A	Provides guidance on all aspects of Acquisition Planning, Solicitation, Evaluation, Award, Post Award. Guide is written in a style suitable for other than acquisition personnel and speaks to requirement development. This guide is used for JIT training to orientate new personnel, interns and contract specialists.	On Line	Unknown	For PMs to use in developing their contracting documents.	None
NAVSUP2, Code 216 (POC: NAVAL Supply Systems Command Contracting Management Directorate 5450 Carlisle Pike P.O. Box 2050 Mechanicsburg, PA 17055-0791 717-605-7293)	In-House Course in Performance-Based Acquisition	Combination of AGU Course 551, 553, and 534	In-house course was prepared by the American Graduate University for FISC DET, Singapore, U.S. Navy. Course (modular design) can be tailored usually at no additional charge. NOTE: This vendor provided training is an example of the numerous sources available.	Classroom	5 days	Anyone involved in performance-based acquisitions.	None

<p>DPAP/AF</p>	<p>Contingency Acquisition Support Model</p>	<p>N/A</p>	<p>cASM is a web based, simple to use, application designed to assist those individuals responsible for initiating contracting requirements in an expeditionary environment. The application will identify the documents required to initiate a contract, provide templates for the documents, prompt the user for the information required to complete the documents, and will route the documents to the appropriate reviewers and approvers. cASM will also alert individuals when it is their responsibility to take action on the requirements package. cASM's output will be a completed, approved contract requirements package for a forward deployed contracting office to take action</p>	<p>On Line</p>	<p>N/A</p>	<p>Contingency Requirement Generators</p>	<p>None</p>
<p>JKDDC</p>	<p>Operational Contract Support (OCS) Flag Officer/General Officer (FOGO) Essentials Course</p>	<p>J4ST-US429</p>	<p>The purpose of this course is to provide commanders and their staffs with an overview of the principles and concepts of OCS. This course presents a high-level overview on OCS planning, OCS oversight, and fraud, waste, and abuse.</p>	<p>On Line</p>	<p>1 hour</p>	<p>Contingency Commanders</p>	<p>None</p>

TAB B



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

DEC 21 2010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
COMMANDERS OF THE COMBATANT COMMANDS
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Ethics, Integrity and Accountability

As DoD personnel, we occupy special positions of trust with the American people. Ethical conduct and moral responsibility must be a high priority for each of us as we carry out our official duties. Even the slightest lapses in our ethical decision-making can erode the confidence placed in us by the public. This memorandum reiterates my expectation that all DoD personnel will adhere to the highest ethical standards at all times.

To sustain an ethical culture that inspires public confidence, we must strive to faithfully fulfill our financial, civic, and ethical duties. Fundamental values like integrity, impartiality, fairness, and respect must drive our actions, and these values must be reinforced by holding ourselves and each other accountable for mistakes or wrongdoing. Each of us must also adhere to the ethics laws, regulations, and principles that govern participation in official matters where those matters intersect with our personal and financial interests.

Accordingly, all DoD personnel must be familiar with, and observe, all applicable ethics laws and regulations, including, the Federal conflict of interest statutes, the regulatory Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. part 2635), and the DoD supplemental rules in the Joint Ethics Regulation (DoD 5500.7-R). In addition to strict compliance with laws, rules, and regulations, we must also vigilantly avoid any action that gives rise to public concern about the integrity of DoD business processes and decisions. Honorable intentions or personal ethos cannot justify conduct that creates public doubt about the propriety and fairness of our programs and operations.

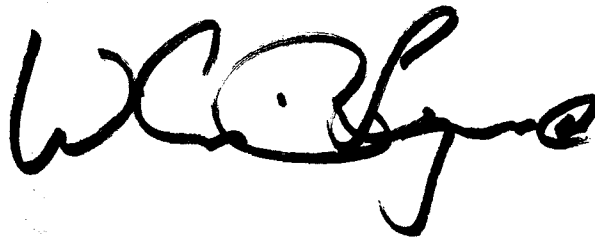


OSD 14098-10



Ethical decision-making, however, is not solely a function of determining whether a law or regulation permits you to do something. You should also consider the appearance of your actions -whether they set the right example for peers and subordinates, and how they portray the Department in the eyes of the public. This is especially true for supervisors and managers, whom I expect to lead by example and whom I charge with creating an ethical culture in the workplace. We simply cannot tolerate ethical deviations or shortcuts.

Please be mindful of your ethical obligations. If you have questions, do not hesitate to ask your supervisor, commanding officer, ethics counselor, or others in positions of authority.

A handwritten signature in black ink, appearing to read "W. C. Lyne". The signature is written in a cursive style with a large, prominent "W" and "L".

TAB C



DEPARTMENT OF DEFENSE

DEFENSE ACQUISITION UNIVERSITY
OFFICE OF THE PRESIDENT
9820 BELVOIR ROAD
FORT BELVOIR, VA 22060-5565

NOV 5 2010

MEMORANDUM FOR PANEL ON CONTRACTING INTEGRITY

SUBJECT: Analysis and Recommendations, Action 3a: Analyze Feasibility of Standardized Department of Defense (DoD) Warranting Program

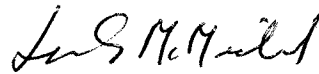
Last year, the Panel on Contracting Integrity established a subcommittee to analyze the feasibility of a standardized DoD warranting program, modeled after the Air Force Mandatory Procedures for Standardizing Contracting Officer Warranting program. Consideration, in particular, was to be given to qualification requirements, online testing, and the warrant board/interview process.

The Subcommittee 3 working group, which comprised representatives from the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics, the Military Departments, and Defense agencies, has completed its charter and determined that a standardized program is feasible. The working group recommends that a strong, flexible DoD Contracting Warranting program be established. Additionally, the group recommends allowing each Military Service and Defense agency to ultimately make the determination for granting contracting officer warrants. Such a process should include:

- A standardized DoD application form to document the file
- A DoD-wide test on the Federal Acquisition Regulation, Defense Federal Acquisition Regulation Supplement (DFARS), and DFARS Procedures, Guidance, and Information that an individual would be required to pass before being granted contracting officer authority above the simplified acquisition threshold. Military Departments and Defense agencies are able to supplement the test with agency-unique questions.
- Contracting officer review boards/interviews that would include scenario-based questions to be supplemented by Service/agency-unique contract requirements
- Service- and agency-specific requirements, above the minimum DoD requirements, which may include:
 - Defense Acquisition Workforce Improvement Act certification
 - Experience requirements
 - Organization-specific testing or requirements
- Qualification maintenance requirements, which would address proficiency review and retesting requirements

- Termination of authority procedures
- Record keeping in compliance with any existing direction

My point of contact is Mr. John Pritchard at 703-805-3800 and john.pritchard@dau.mil.



James S. McMichael
Acting President

TAB D



DEPARTMENT OF DEFENSE

DEFENSE ACQUISITION UNIVERSITY
OFFICE OF THE PRESIDENT
9820 BELVOIR ROAD
FORT BELVOIR, VA 22060-5565

NOV 5 2010

MEMORANDUM FOR PANEL ON CONTRACTING INTEGRITY

SUBJECT: Analysis and Recommendations, Action 3b: Develop "Back to Basics" On-the-Job Training (OJT) for New, Inexperienced Contracting Workforce

Last year, the Panel on Contracting Integrity identified that the contracting career field lacks a standardized process to track On-the-Job Training (OJT). Subsequently, the panel requested a working group be formed to develop a contracting "back to basics" OJT tool for new members of the contracting workforce, with the goal being to develop a process to track OJT to ensure individuals have demonstrated a sufficient level of ability and expertise in the contracting competencies.

The Subcommittee 3 working group, which comprised representatives from the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics, the Military Departments, and Defense agencies, has completed its charter and recommends a simple Microsoft Excel spreadsheet OJT tool that identifies sample tasks for each of the 28 technical competencies in the contracting career field be used to track OJT for all contracting workforce members, not just new ones. The draft tool can be found at <https://acc.dau.mil/CommunityBrowser.aspx?id=398979>. Each competency has its own worksheet, which can be reviewed and completed together by the supervisor and employee. The supervisor can indicate which tasks are applicable and required to be performed and can also edit the tool to include additional tasks as appropriate. The OJT tool allows the employee to fill in the completion date and provide a brief explanation on how he or she accomplished the task. It also accounts for the fact that every organization has different missions and processes by incorporating the ability for them to tailor contracting functions at the appropriate certification level that best matches each employee's job description.

The working group and Subcommittee 3 recommend that the OJT tool be used Department of Defense-wide to standardize the tracking of OJT and be integrated into the Defense Acquisition Workforce Improvement Act certification process as part of the technical experience requirements. This would maximize the use and effectiveness of the tool and help ensure the quality of the contracting acquisition workforce by directly linking demonstrated proficiency in the various competency areas to appropriate experience levels. Communication and coordination with the Contracting Functional Integrated Product Team and Component data managers will be essential in implementing this tool.

My point of contact is Mr. Lenny Manning at 703-805-2248 and leonardo.manning@dau.mil.

A handwritten signature in black ink, reading "James S. McMichael".

James S. McMichael
Acting President

TAB E



DEFENSE CONTRACT AUDIT AGENCY
DEPARTMENT OF DEFENSE
8725 JOHN J. KINGMAN ROAD, SUITE 2135
FORT BELVOIR, VA 22060-6219

OFFICE OF THE DIRECTOR

MEMORANDUM FOR PANEL ON CONTRACTING INTEGRITY

January 31, 2011

SUBJECT: Analysis and Recommendations: Action 4a: Assess Prime Contract Surveillance and Pricing of its Subcontracts

Subcontract costs represent a large percentage of contract costs in Government contracts. The Department recognizes that vulnerability in prime contractor surveillance and pricing of subcontracts impacts the Government's ability to determine fair and reasonable contract prices. In 2009, the Subcommittee for Adequate Pricing concluded that adequate coverage exists within Federal Acquisition Regulations (FAR), Defense FAR Supplement (DFARS), and DFARS related Policies, Guidance, and Instructions (PGI). For 2010, the subcommittee advanced its analysis to the execution of existing acquisition policies and procedures for identification of procedural and policy inadequacies not apparent in its 2009 analysis. The subcommittee established a working group representing Defense Procurement and Acquisition Policy (DPAP), the Military Departments, the Defense Contract Management Agency, the DoD Inspector General, and the Defense Contract Audit Agency.

The working group drafted a DPAP memorandum, issued December 15, 2009, Subject: Department of Defense Panel on Contracting Integrity – Prime Contract/Subcontract Surveillance Information Request, to Defense components soliciting input on specific policies, procedures, and best practices that ensure prime contractors are properly monitoring their subcontractors' pricing. Further, working group representatives conducted interviews with numerous contracting officers for their direct input on issues actually encountered while awarding contracts that include significant subcontracts. These interviews disclosed that contracting officers could use additional tools to support them in their determination of price reasonableness when subcontracts are included in the potential contract pricing.

The Subcommittee recommendations are designed to provide better tools for contracting officers to use in developing/determining fair and reasonable contract prices, including significant subcontract costs:

- FAR 15.404-3(b) requires prime and subcontractors to conduct appropriate cost or price analyses to establish the reasonableness of proposed subcontract prices and include the results of those analyses in the price proposal. The subcommittee found that the required analyses are often inadequate or are not included with the price proposal at all. Since many subcontracts are awarded after award of the prime contract, some believe the analysis of subcontract prices is not required to be submitted with the prime contract proposal. This appears to be a misinterpretation of FAR 15.404-3(c) which states in part "Any contractor or subcontractor that is required to submit certified cost or pricing data also shall obtain and analyze certified cost or pricing data before awarding any subcontract, purchase order, or modification expected to exceed the certified cost or

pricing data threshold...” Accordingly, the subcommittee recommends guidance be issued affirming the language at FAR 15.404-3 requiring prime contractor cost or price analyses of its subcontractors be included with the submission of the prime or high-tier contractor’s proposal and establishing a DFARS or PGI case to establish steps to be taken to protect the interest of the Government when the contractor fails to comply with FAR 15.404-3(b).

- It is a common practice of contractors to issue separate purchase orders to the same vendor under the same contract. While individual purchase orders are below the threshold for certified cost or pricing data, the aggregate value of purchase orders to one vendor can exceed the threshold. The Subcommittee believes this circumvents the intent of the FAR requirement to submit certified cost or pricing data for subcontract effort. The subcommittee recommends a FAR case be established to clarify the regulatory language that purchase orders for the same vendor on the same pricing action be considered in the aggregate.
- Prime contractors fail to provide timely support for subcontracts but incur no consequence for this failure. To enhance the prime contractor’s motivation to provide timely subcontract support, the subcommittee recommends adjustment to the DFARS profit guidelines associated with unsupported costs. We note that this concern is being addressed under the Dr. Carter Efficiency Initiative and that the efficiencies team will be providing specific recommendations to Dr. Carter with a DFARS case to be opened shortly thereafter.

The Subcommittee will provide suggested wording on these recommendations to the appropriate Action Officer at DPAP informally. DPAP Policy Office will establish the cases.

My point of contact is Mrs. Mary Ann Bunning, 703-767-3229,
maryann.bunning@dcaa.mil.


Patrick J. Fitzgerald
Director

TAB F



THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

MAR 29 2010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
COMMANDERS OF THE COMBATANT COMMANDS
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
DIRECTOR OF COST ASSESSMENT AND PROGRAM
EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: DoD Standard for Certification of Contracting Officer's Representatives
(COR) for Service Acquisitions

Section 813 of the National Defense Authorization Act for FY 2007 required the Department to establish a Panel on Contracting Integrity (Panel) to identify contracting vulnerabilities that may lead to fraud, waste, and abuse in the defense contracting system. The Panel identified surveillance of services acquisitions as an area of vulnerability.

The Panel's Sufficient Contract Surveillance subcommittee developed a DoD COR certification standard, which defines minimum COR competencies, experience, and training according to the nature and complexity of the requirement and contract performance risk. The standard identifies competencies, experience and minimum training needed for successful performance as a COR for:

- Type A: fixed-price, low performance risk requirements;
- Type B: other than fixed-price, low performance risk requirements, and
- Type C: unique requirements that necessitate a professional license, higher education, or specialized training (matrix at Attachment A).

The standard introduces structure and rigor to COR responsibilities and performance and will be the basis for a DoD Instruction setting forth a comprehensive

COR certification program that addresses roles and responsibilities for the COR, COR management, and the Contracting Officer consistent with the former Deputy Secretary of Defense memorandum (Attachment B).

The Defense Acquisition University (DAU), working with Panel representatives, developed baseline training from competencies identified in the standard. Component-sponsored and commercial training must be equivalent to the DAU baseline training for Type B and C work/requirements to meet the standard training requirements. Equivalency requirements are addressed at <http://icatalog.dau.mil/learning/equivalency.aspx>. Online training for Type B and C requirements is anticipated to be available in the 4th quarter of FY 2010 through the university. I encourage your current and prospective CORs to complete training as it becomes available.

Please disseminate this information as appropriate to prepare for Departmental implementation of the DoD Standard for Certification of Contracting Officer's Representatives for Services Acquisitions.

A handwritten signature in black ink, appearing to read "Ashton B. Carter". The signature is fluid and cursive, with the first name "Ashton" being the most prominent.

Ashton B. Carter

Attachments:
As stated

ATTACHMENT

A

**DoD STANDARD FOR CERTIFICATION OF CONTRACTING OFFICER'S
REPRESENTATIVES FOR SERVICES ACQUISITIONS**

NATURE OF TYPE A WORK/REQUIREMENT	REQUIRED COMPETENCY TOPICS	REQUIRED COMPETENCIES	EXPERIENCE/TRAINING REQUIREMENTS
<p>Fixed-price requirements without incentives, low performance risk. Attributes of such requirements might include: lack of technical or administrative complexity, no identifiable risk factors; limited requirement for technical expertise; low likelihood of modification; effort is a follow-on to an existing contract.</p> <p>COR duties/responsibilities are generally limited to minimal technical and/or administrative monitoring of the contract.</p>	<p>General:</p> <ul style="list-style-type: none"> ➤ Attention to Detail ➤ Decision Making ➤ Flexibility ➤ Oral and Written Communication ➤ Problem Solving/Reasoning ➤ Self-management/Initiative ➤ Teamwork <p>Technical:</p> <ul style="list-style-type: none"> ➤ Business Ethics ➤ Effective Communication of Contract Requirements ➤ Effective Contract Performance Management ➤ Effective COR Performance 	<p>Upon completion of mandatory training, COR should be able to perform at least the following competencies in a manner consistent with the nature of Type A work/requirements:</p> <ol style="list-style-type: none"> 1. Assist in acquisition planning. 2. Assist in contract award process. 3. Establish/maintain COR file with all required documentation. 4. Identify/prevent unethical conduct and instances of fraud/waste/abuse. 5. Perform technical/administrative monitoring and reporting duties in accordance with letter of delegation and surveillance plan. 6. Recommend/monitor proposed changes. 7. Monitor contract expenditures/payments 8. Monitor contract schedule compliance. 9. Perform liaison duties between the Contracting Officer, the Requiring Activity, and the contractor for management of the contract. 10. Inspect, accept or reject deliverables during contract performance and at close-out in conformance with contract terms and conditions. 11. Monitor the control/disposition of Government furnished assets. 12. Perform surveillance in a contingency environment, when applicable. 	<p>Experience:</p> <ul style="list-style-type: none"> ➤ Agency experience: minimum of 6 months (may be waived) ➤ Relevant technical experience: As determined by the nominating supervisor for the Contracting Officer's consideration and appointment ➤ General competencies: As determined by the nominating supervisor for the Contracting Officer's consideration and appointment. <p>Training:</p> <ul style="list-style-type: none"> ➤ DAU CLC 106, Contracting Officer's Representative (Basic) ➤ DAU COR XXX (to be determined), COR in the Contingency Environment, when applicable (competency 12) ➤ Minimum of 1 hour acquisition ethics training (e.g., CLM 003 or agency provided training) annually. ➤ Additional training mandated by the contracting activity (e.g., WAFW). <p>Refresher Training:</p> <ul style="list-style-type: none"> ➤ Minimum of 8 hours COR specific training: ➤ Every 3 years, OR ➤ Prior to assuming COR responsibilities if the individual has not served as a COR within the previous 24 months. ➤ Minimum of 1 hour acquisition ethics training (e.g., CLM 003 or agency provided training) annually. ➤ Any additional training mandated by the Activity.

DoD STANDARD FOR CERTIFICATION OF CONTRACTING OFFICER'S REPRESENTATIVES FOR SERVICES ACQUISITIONS

NATURE OF TYPE B WORK/REQUIREMENT	REQUIRED COMPETENCY TOPICS	REQUIRED COMPETENCIES	EXPERIENCE/TRAINING REQUIREMENTS
<p>Fixed-price requirements without incentives, other than low performance risk. Attributes of such requirements might include: the nature of the work is more complex; effort will be performed in multiple regions/remote geographic locations, contract contains incentive arrangements or cost sharing provisions, contract is cost-type of T&M/LH type, or FP LOE. COR duties/responsibilities are of increased complexity.</p>	<p>General:</p> <ul style="list-style-type: none"> ➤ Attention to Detail ➤ Decision Making ➤ Flexibility ➤ Influencing/Persuasive interpersonal skills ➤ Oral and Written Communication ➤ Planning and Evaluating ➤ Problem Solving ➤ Reasoning ➤ Self-management/Initiative ➤ Teamwork <p>Technical:</p> <ul style="list-style-type: none"> ➤ Business Ethics ➤ Defining Government requirements ➤ Understanding and knowledge of contract type ➤ Effective analytic skills ➤ Effective Communication of Contract Requirements ➤ Effective Contract Performance Management ➤ Effective COR Performance ➤ Project Management ➤ Strategic Planning ➤ Understanding the Marketplace 	<p>Upon completion of mandatory training, COR should be able to perform at least the following competencies in a manner consistent with the nature of Type B work/requirements:</p> <ol style="list-style-type: none"> 1. Assist in acquisition planning. 2. Assist in contract award process. 3. Establish/maintain COR file with all required documentation. 4. Identify/prevent unethical conduct and instances of fraud/waste/abuse. 5. Review technical submittals/ensure compliance with Statement of Work/Statement of Objectives (e.g., perform technical monitoring and reporting in accordance with a Quality Surveillance Plan) 6. Perform administrative monitoring and reporting duties (e.g., handle security issues, attend meetings, etc.) 7. Recommend/monitor proposed changes. 8. Monitor contract expenditures/payments. 9. Monitor contract schedule compliance. 10. Perform liaison duties between the Contracting Officer and the contractor for management of the contract. 11. Inspect, accept or reject deliverables during contract performance and at close-out in conformance with contract terms and conditions. 12. Review and validate that contractor payment requests are commensurate with performance. 13. Monitor control/disposition of Government furnished assets. 14. Perform surveillance in a contingency environment, when applicable 	<p>Experience:</p> <ul style="list-style-type: none"> ➤ Agency experience: minimum of 12 months (may be waived by the requiring activity. Waiver to be addressed in nomination package) ➤ Relevant technical experience: As determined by the nominating supervisor and the Contracting Officer's consideration and appointment ➤ General competencies: As determined by the nominating supervisor for the Contracting Officer's consideration and appointment. <p>Training:</p> <ul style="list-style-type: none"> ➤ DAU COR 222 or ALMC-CL or equivalent course ➤ DAU COR XXX (to be determined), COR in a Contingency Environment, when applicable (competency 14) ➤ Minimum of 1 hour acquisition ethics training (e.g., DAU CLM 003 or agency provided training) annually. ➤ Additional training mandated by the Contracting activity (e.g., WAWF). <p>Refresher Training:</p> <ul style="list-style-type: none"> ➤ Minimum of 16 hours COR specific training: <ul style="list-style-type: none"> • Every 3 years, OR • Prior to assuming COR responsibilities if the individual has not served as a COR within the previous 24 months ➤ Minimum of 1 hour acquisition ethics training (e.g., DAU CLM 003 or agency provided training) annually ➤ Any additional training mandated by the Activity

DoD STANDARD FOR CERTIFICATION OF CONTRACTING OFFICER'S REPRESENTATIVES FOR SERVICES ACQUISITIONS

NATURE OF TYPE C WORK/REQUIREMENT	REQUIRED COMPETENCY TOPICS	REQUIRED COMPETENCIES	EXPERIENCE/TRAINING REQUIREMENTS
<p>Unique contract requirements that necessitate a professional license, higher education or specialized training beyond the Type B requirements.</p> <p>Such requirements might include, for example, environmental remediation; major weapons systems; medical/dental/ veterinarian services, etc.</p> <p>COR duties/responsibilities are of increased complexity.</p>	<p>General:</p> <ul style="list-style-type: none"> ➤ Attention to Detail ➤ Decision Making ➤ Flexibility ➤ Influencing/Persuasive interpersonal skills ➤ Oral and Written Communication ➤ Planning and Evaluating ➤ Problem Solving ➤ Reasoning ➤ Self-management/Initiative ➤ Teamwork <p>Technical:</p> <ul style="list-style-type: none"> ➤ Business Ethics ➤ Defining Government requirements ➤ Understanding and knowledge of contract type ➤ Effective analytic skills ➤ Effective Communication of Contract Requirements ➤ Effective Contract Performance Management ➤ Effective COR Performance ➤ Project Management ➤ Strategic Planning ➤ Understanding the Marketplace 	<p>Upon completion of mandatory training, COR should be able to perform at least the following competencies in a manner consistent with the nature of Type C work/requirements:</p> <ol style="list-style-type: none"> 1. Assist in acquisition planning. 2. Assist in contract award process. 3. Establish/maintain COR file with all required documentation. 4. Identify/prevent unethical conduct and instances of fraud/waste/abuse. 5. Review technical submittals/ensure compliance with Statement of Work/Statement of Objectives (e.g., perform technical monitoring and reporting in accordance with a Quality Surveillance Plan) 6. Perform administrative monitoring and reporting duties (e.g., handle security issues, attend meetings, etc.) 7. Recommend/monitor proposed changes. 8. Monitor contract expenditures. 9. Monitor contract schedule compliance. 10. Perform liaison duties between the Contracting Officer and the contractor for management of the contract. 11. Inspect, accept or reject deliverables during contract performance and at close-out in conformance with contract terms and conditions. 12. Review and validate that contractor payment requests are commensurate with performance. 13. Monitor control/disposition of Government furnished assets. 14. Perform surveillance in a contingency environment, when applicable. 15. Other specific functions consistent with the objectives of the Activity's mandatory specialized/technical training. 	<p>Experience:</p> <ul style="list-style-type: none"> ➤ Agency experience: minimum of 12 months (may be waived by the requiring activity. Waiver to be addressed in nomination package) ➤ Relevant technical experience: As determined by the nominating supervisor for the Contracting Officer's consideration and appointment ➤ General competencies: As determined by the nominating supervisor for the Contracting Officer's consideration and appointment. <p>Training:</p> <ul style="list-style-type: none"> ➤ DAU COR 222 or ALMC-CL or equivalent course ➤ DAU COR XXX (to be determined), COR in the Contingency Environment, when applicable (competency 14) ➤ Minimum of 1 hour acquisition ethics training (e.g., DAU CLM 003 or agency provided training) annually. ➤ Additional training mandated by the contracting activity (e.g., WAWF). <p>Refresher Training:</p> <ul style="list-style-type: none"> ➤ Minimum of 16 hours COR specific training: <ul style="list-style-type: none"> • Every 3 years, OR • Prior to assuming COR responsibilities if the individual has not served as a COR within the previous 24 months. ➤ Minimum of 1 hour acquisition ethics training (e.g., DAU CLM 003 or agency provided training) annually ➤ Any additional training mandated by the Activity. ➤ Any necessary for maintenance of license/certification/etc.

ATTACHMENT

B



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

AUG 22 2008

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Monitoring Contract Performance in Contracts for Services

Section 813 of the John Warner National Defense Authorization Act for FY 2007 (Pub. L. 109-364), directed the Secretary to establish a "Panel on Contracting Integrity." The DoD Panel on Contracting Integrity identified inadequate surveillance of contracts for services as an area of vulnerability that may lead to fraud, waste, and abuse. The panel recommended several measures to ensure sufficient contract surveillance.

The acquisition of services is a useful method to assist the Department in meeting its mission with agility, but contracts for services require effective surveillance. Trained and ready Contracting Officer's Representatives (CORs) are critical. They ensure that contractors comply with all contract requirements and that overall performance is commensurate with the level of payments made throughout the life of the contract. COR activities should be tailored to the dollar value and complexity of the specific service contract.

Requiring activities shall comply with the attached guidance to ensure that properly trained and ready CORs are assigned prior to contract award. Raters will evaluate the performance of COR duties as part of their performance assessments throughout the period of the contract. The provisions of this memorandum will be incorporated in a forthcoming Department of Defense Federal Acquisition Regulation Supplement regulation in FY 2009.

Attachment:
As stated

OSD 10852-08



DISTRIBUTION LIST:

SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDER, U.S. SPECIAL OPERATIONS COMMAND
COMMANDER, U.S. TRANSPORTATION COMMAND
DEPUTY UNDER SECRETARY OF DEFENSE (LOGISTICS
AND MATERIAL READINESS)
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF
DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTOR, DEFENSE PROCUREMENT, ACQUISITION POLICY, AND
STRATEGIC SOURCING
DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS
DIRECTOR, PORTFOLIO MANAGEMENT
DIRECTOR, SMALL BUSINESS PROGRAMS
DIRECTORS OF THE DOD FIELD ACTIVITIES

ATTACHMENT

REQUIRING ACTIVITY RESPONSIBILITIES FOR CONTRACT SURVEILLANCE OF SERVICE CONTRACTS

The activity responsible for technical requirements (the “requiring activity”) is responsible for prescribing contract quality requirements. The Contracting Officer’s Representative (COR) is a representative of the requiring activity, nominated by the requiring activity, and designated by the contracting officer, to assist in the technical monitoring or administration of a contract. The COR should be identified early in the acquisition cycle and included in pre-award activities when appropriate.

When a COR is required, the contracting officer will provide to the requiring activity a list of proposed responsibilities for the COR. The requiring activity must submit nominations for CORs to the contracting activity. Where practicable, the requiring activity shall provide the COR nomination to the contracting office as part of the purchase request. The COR nomination package shall:

- Address the qualifications of the prospective COR.
- Affirm that the COR will be afforded necessary resources (time, supplies, equipments, opportunity) to perform the designated functions.
- Affirm that the prospective COR and the prospective COR supervisors understand the importance of performance of the designated functions.
- Affirm that performance of the designated functions will be addressed as part of the COR’s performance assessments. COR supervisors are encouraged to solicit input on performance of COR duties from the contracting officer.
- Comply with these provisions in the assignment of successor CORs.

CORs must be designated and trained prior to contract award.

TAB G



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

MAR 9 2011

MEMORANDUM FOR SURVEY PARTICIPANTS

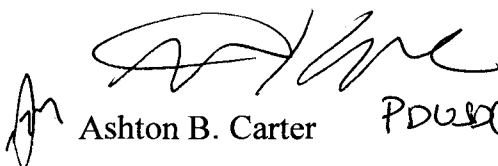
SUBJECT: Department of Defense (DoD) Survey on Values-based Ethics

The Department has contracted with the Human Resources Research Organization and the Council of Ethical Organizations to conduct the subject survey. These non-profit organizations are independent and have a history of conducting survey research for private and public sector organizations. The survey will illuminate our strengths and weaknesses and, ultimately, help make DoD an organization of the highest integrity.

You have been randomly selected from the entire DoD population of the military and civilian workforce to participate. This online survey contains 37 questions and takes an average of 11 minutes to complete. Your willingness to complete it promptly is important. Please note the following points:

1. Your responses are completely anonymous.
2. To further ensure anonymity, the unique password you use to access the survey will be deleted from all records, and you will be issued a new, randomly generated password that only you will know. This can be used to return to the survey should you need more than one sitting to complete it.
3. Data reported back to DoD from the consultants will be aggregated along broad demographic breakout categories, which are compiled directly from the survey questions. The broad categories will not identify specific Military Departments or other Components.
4. Any written comments you provide also will be reported anonymously. We urge you not to include information in written responses that could lead to the identification of yourself or any other individuals.
5. The survey is being housed on a server that is compliant with all Federal Government and DoD security requirements.

Thank you in advance for taking the time to complete this survey. Your response will be of great value as we strive to ensure all DoD employees – both military and civilian – are aware of, and live up to, the highest ethical standards.


Ashton B. Carter PDW(ATL)

TAB H



THE UNDER SECRETARY OF DEFENSE

**3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010**

MAY 27 2010

**ACQUISITION,
TECHNOLOGY
AND LOGISTICS**

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: DoD Survey on Values-based Ethics – Part 2

Subcommittee 10 of the Panel on Contracting Integrity has a requirement to establish a DoD-wide Values-based Ethics program. We have a contract with the Human Resources Research Organization and the Council of Ethical Organizations to conduct the subject survey. Notification of the survey was provided in the attached memorandum.

The online portion of the survey is complete. Phase II of the survey is to conduct focus group sessions with a cross-section of DoD military and civilian personnel. We have selected Rosslyn, Virginia, as the site for conducting these focus group sessions. Rosslyn was chosen because of its easy access via Metro or other methods of transportation. A total of eight sessions are planned with limits of 10 to 12 persons per session.

The Department needs volunteers to participate in these focus groups. Please give this memorandum the widest dissemination within your organization and encourage those persons in the DC metropolitan area to volunteer to participate in these groups. There are no travel funds available to support this effort.

Focus group sessions will be held June 22 and 23 at 1777 North Kent Street in Arlington. Available times are 8 a.m., 10 a.m., 1 p.m., and 3 p.m. Interested personnel should contact Grace Burch at gburch@corporateethics.com or 703-683-7916. The contractor will notify them if they are selected to participate with a specific date and time.

Please be assured volunteer participation will be anonymous. Information shared during the focus group sessions, along with the online survey responses received, will provide additional insight that will be useful in understanding the Department's ethical values. Thank you in advance for your support.

Frank Kendall

Attachment:
As stated

DISTRIBUTION:

**SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDER, U.S. SPECIAL OPERATIONS COMMAND
COMMANDER, U.S. TRANSPORTATION COMMAND
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES
DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS
DIRECTOR, DEFENSE PROCUREMENT AND ACQUISITION POLICY
DIRECTOR, PORTFOLIO SYSTEMS ACQUISITION
DIRECTOR, SMALL BUSINESS PROGRAMS**



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

MAR 9 2011

MEMORANDUM FOR SURVEY PARTICIPANTS

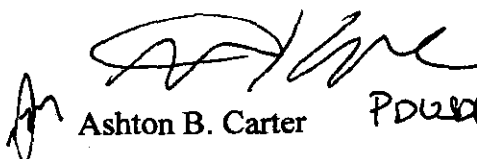
SUBJECT: Department of Defense (DoD) Survey on Values-based Ethics

The Department has contracted with the Human Resources Research Organization and the Council of Ethical Organizations to conduct the subject survey. These non-profit organizations are independent and have a history of conducting survey research for private and public sector organizations. The survey will illuminate our strengths and weaknesses and, ultimately, help make DoD an organization of the highest integrity.

You have been randomly selected from the entire DoD population of the military and civilian workforce to participate. This online survey contains 37 questions and takes an average of 11 minutes to complete. Your willingness to complete it promptly is important. Please note the following points:

1. Your responses are completely anonymous.
2. To further ensure anonymity, the unique password you use to access the survey will be deleted from all records, and you will be issued a new, randomly generated password that only you will know. This can be used to return to the survey should you need more than one sitting to complete it.
3. Data reported back to DoD from the consultants will be aggregated along broad demographic breakout categories, which are compiled directly from the survey questions. The broad categories will not identify specific Military Departments or other Components.
4. Any written comments you provide also will be reported anonymously. We urge you not to include information in written responses that could lead to the identification of yourself or any other individuals.
5. The survey is being housed on a server that is compliant with all Federal Government and DoD security requirements.

Thank you in advance for taking the time to complete this survey. Your response will be of great value as we strive to ensure all DoD employees – both military and civilian – are aware of, and live up to, the highest ethical standards.


Ashton B. Carter PDW(ATL)

APPENDIX 2: NEW SUBCOMMITTEE INFORMATION

- Director, DPAP Charter for New Subcommittee 13 “Opportunities For More Effective Competition,” July 27, 2010

CHARTER FOR SUBCOMMITTEE 13 OPPORTUNITIES FOR MORE EFFECTIVE COMPETITION

Establishment of new subcommittee to the Panel on Contracting Integrity

Section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 directed the Department of Defense (DoD) to convene a panel of senior leaders representing a cross section of the Department to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur. On June 28, 2010, the Under Secretary for Acquisition, Technology and Logistics released a memorandum entitled, Better Buying Power: Mandate for Restoring Affordability and Productivity in Defense Spending. The memorandum noted with the Department spending approximately \$400 billion annually on products and services, there are opportunities for acquisition professionals to scrutinize contracts for inefficiencies and unneeded overhead. One area for providing incentives for greater efficiency in industry is leveraging real competition. Practices such as avoiding direct buys and using tech data packages and open systems architecture support a continuous competitive environment. There are other innovative improvements to competition and reduce single source buys that deserve exploration and promulgation through the Department. This subcommittee will determine which initiatives and associated actions warranted the panel's consideration.

PLANNED ACTIONS FOR SUBCOMMITTEE 13 (referred to as SC 13).

- Look at improvements for competitive opportunities and ways to be more effective at reducing single source buys.
- Develop initiatives/actions for SC 13 to undertake and obtain panel chair approval.
- Review Department's Fiscal Year 2008 to 2010 competition goal results and potential for improvements.
- Review recent audit reports including GAO-10-833, "Federal Contracting: Opportunities Exist to Increase Competition and Assess Reasons When Only One Offer is Received," dated June 25, 2010 (GAO Code 120850).
- Review Industrial Policy's study on Competitiveness in DoD Services Sector – Single Offer and Sole Source Contracts.
- Determine if additional training or special emphasis is needed.
- Developed recommendations for DoD-wide implementation; leveraging best practices and innovative approaches.
- Provide input to the 2010 Report to Congress, report progress at Quarterly Panel for Contracting Integrity meetings; and the panel chair as appropriate.



Shay D. Assad
Chair,
Panel on Contracting Integrity

JUL 27 2010

APPENDIX 3: LIST OF ABBREVIATIONS

This report contains the following abbreviations:

AFLMA	Air Force Logistics Management Agency
ALMC	Army Logistics Management College
ARA	Acquisition and Resource Analysis
AT&L	Acquisition, Technology, and Logistics
CAE	Component Acquisition Executive
CCO	Contingency Contracting Officer
COR	Contracting Officer's Representative
CPF	Cost, Pricing, and Finance
CSIS	Center for Strategic and International Studies
D&F	Determination and Findings
DARPA	Defense Advanced Research Projects Agency
DAU CLC	Defense Acquisition University Continuous Learning Center
DAU	Defense Acquisition University
DAWF	Defense Acquisition Workforce Fund
DCAA	Defense Contract Audit Agency
DCMA	Defense Contract Management Agency
DEPSECDEF	Deputy Secretary of Defense
DFARS	Defense Federal Acquisition Regulation Supplement
DHHS	Department of Health and Human Services
DHS	Department of Homeland Security
DISA	Defense Information Systems Agency
DLA	Defense Logistics Agency
DMDC	Defense Manpower Data Center
DoC	Department of Commerce
DoD	Department of Defense
DoDD	Department of Defense Directive
DoDEA	Department of Defense Education Activity
DoDI	Department of Defense Instruction
DoDIG	DoD Inspector General

DoS	Department of State
DPAP	Director, Defense Procurement and Acquisition Policy
DSB	Defense Science Board
DUSD(A&T)	Deputy Under Secretary of Defense (Acquisition and Technology)
DUSD(IP)	Deputy Under Secretary of Defense (Industrial Policy)
FAR	Federal Acquisition Regulation
FEMA	Federal Emergency Management Agency
FFRDC	Federally Funded Research and Development Center
GAO	Government Accountability Office
GSA	General Services Administration
HCSP	Human Capital Strategic Plan
IAW	In Accordance With
IG	Inspector General
JAT	Joint Assessment Team
JCS	Joint Chiefs of Staff
LH	Labor Hours
MDA	Missile Defense Agency
NDAA	National Defense Authorization Act
NGA	National Geospatial-Intelligence Agency
NGB	National Guard Bureau
NSA	National Security Agency
OCI	Organizational Conflicts of Interest
ODA	Other Defense Agency
OMB	Office of Management and Budget
OSD	Office of the Secretary of Defense
PB	President's Budget
PBR	President's Budget Request
PEO	Program Executive Officer
PFWG	Procurement Fraud Working Group
PGI	Procedures, Guidance, and Information
PM	Program Manager
PWS	Performance Work Statement

R&D	Research and Development
SECDEF	Secretary of Defense
SPE	Senior Procurement Executive
T&M	Time and Materials
TMA	TRICARE Management Agency
UCA	Undefinitized Contract Action
USA	US Army
USACE	US Army Corps of Engineers
USAF	US Air Force
USAID	U.S. Agency for International Development
USD(AT&L)	Under Secretary of Defense (Acquisition, Technology and Logistics)
USMC	US Marine Corps
USN	US Navy
USNORTHCOM	US Northern Command
USSOCOM	US Special Operations Command
USTRANSCOM	US Transportation Command
WHS	Washington Headquarters Services
WSARA	Weapon Systems Acquisition Reform Act of 2009