



## Policy & Legislation



**THE UNDER SECRETARY OF DEFENSE**  
**3010 DEFENSE PENTAGON**  
**WASHINGTON, D.C. 20301-3010**



SEP 23 2004

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Defense Acquisition System Safety

On July 3, 2003, the Secretary of Defense established the Defense Oversight Council (DSOC) and tasked them with the goal of reducing DoD mishap and accident rates by 50% in two years. Subsequently, the Strategic Planning Guidance (SPG) was modified to institutionalize this goal. We can contribute substantially to meeting SPG guidance by following an informed and structured risk assessment and acceptance process, which manages and minimizes system safety risks throughout the acquisition process. Our intent is to design safety into our weapons systems, not add it afterwards as an operational consideration.

Therefore, in order to increase the emphasis on system safety within our acquisition process, I direct addressees to ensure that:

- a. Program Managers (PMs), regardless of the Acquisition Category of their programs, integrate system safety risk management into their overall systems engineering and risk management processes.
- b. PMs use the government and industry Standard Practice for System Safety, MIL-STD-882D, in all developmental and sustaining engineering activities.
- c. PMs ensure the DoDI 5000.2 requirement to integrate the Environmental, Safety, and Occupational Health (ESOH) risk management strategy into the systems engineering process is incorporated in the Systems Engineering Plan.
- d. PMs identify ESOH hazards, assess the risks, mitigate the risks to acceptable levels, and then report on the status of residual risk acceptance decisions at technical reviews and at the appropriate management levels in the Program Review process in accordance with MIL-STD-882D.

I need your help to implement these actions to integrate system safety risk management more effectively into our acquisition process. Active collaboration between system safety and acquisition communities as we execute our programs will help achieve the goals the Secretary of Defense has established. It will also save lives, preserve assets, and enhance our overall warfighting capability by increasing readiness through system safety improvements.

Michael W. Wynne  
Acting



**Editor's note:** View the distribution to this memorandum at <http://akss.dau.mil/servlet/ActionController?screen=Policies&Organization=21&Career=10>.



# Policy & Legislation



**OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-3000**

NOV 24 2004



DPAP/P

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY  
(ACQUISITION, LOGISTICS AND TECHNOLOGY)  
ASSISTANT SECRETARY OF THE NAVY  
(RESEARCH, DEVELOPMENT AND ACQUISITION)  
ASSISTANT SECRETARY OF THE AIR FORCE  
(ACQUISITION)  
DIRECTORS OF DEFENSE AGENCIES

**SUBJECT: Immediate Increase in the Dollar Threshold for Simplified Acquisition Procedures and in the Dollar Threshold for Senior Procurement Executive Approval of Justifications and Approvals**

Section 822 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (the Act) sets out increases in both the micro-purchase threshold and the simplified acquisition threshold for certain procurements and purchases. Effective immediately, the micro-purchase threshold outside the United States is \$25,000 and the simplified acquisition threshold outside the United States is \$1,000,000. These thresholds are applicable only for contracts to be awarded and performed, or purchases to be made, outside the United States in support of a contingency operation or to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack.

The Act also increases the dollar threshold for certain Justification and Approval (J&A) authority. Effective immediately, Senior Procurement Executive approval is required only for a J&A for a proposed contract in excess of \$75M.

These changes are being incorporated in the Defense Federal Acquisition Regulation Supplement. If you have any questions regarding this memorandum, please contact Angelena Moy at 703-602-1302.

Deidre A. Lee  
Director, Defense Procurement  
and Acquisition Policy





# Policy & Legislation

## OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301 - 3000



NOV 29 2004

DPAP/EB

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY  
(ACQUISITION, LOGISTICS AND TECHNOLOGY)  
ASSISTANT SECRETARY OF THE NAVY  
(RESEARCH, DEVELOPMENT AND ACQUISITION)  
ASSISTANT SECRETARY OF THE AIR FORCE  
(ACQUISITION)  
DIRECTORS, DEFENSE AGENCIES

SUBJECT: Transition Planning Guidance and Metrics

As part of the ongoing effort to achieve the Acquisition Domain's interim state for procurement systems and to comply with the Fiscal Year 2005 National Defense Authorization Act, section 332, the Domain is continuing its transition planning activities. To date, we have received initial documentation from the Components on their high-level plans to transition to the interim procurement state.

To effectively manage transition planning activities, the Acquisition Domain developed guidance and metrics to provide visibility into the status of transition and migration activities. The attached draft "Acquisition Domain Transition Planning Guidance & Metrics" is posted on the Acquisition Domain portal at <https://portal.acq.osd.mil> within the "Acquisition Domain Transition Planning" project documents section. The Acquisition Domain will determine the completeness of the Component plans using the guidance as the objective standard. Once the Component transition and system migration plans have been approved by the acquisition governance structure, we will track progress relative to plan.

Please provide comments on the planning guidance and the proposed metrics on the Acquisition Domain portal through the project discussions named "Comments on Draft Transition Planning Guidance" and "Comments on Transition Planning Metrics" by December 10, 2004. Upon issuance of the final transition planning guidance, you will be expected to update transition plans and submit migration plans in accordance with the guidance and the due dates provided by the Acquisition Domain.

My action officer for this effort is Diane M. Morrison. She may be reached by e-mail at [Diane.Morrison@osd.mil](mailto:Diane.Morrison@osd.mil) or by telephone at 703-614-3883.

Deidre A. Lee  
Director, Defense Procurement  
and Acquisition Policy

**Editor's note:** View the attachments to this memorandum at [http://www.acq.osd.mil/dpap/policy/policyvault/eb\\_1.htm](http://www.acq.osd.mil/dpap/policy/policyvault/eb_1.htm).

Attachment:  
As stated



### DEFENSE FAR SUPPLEMENT (DFARS) CHANGE NOTICE 20041101

**D**oD published the following changes to the DFARS on Nov. 1, 2004. In addition, DoD launched its new DFARS companion resource, *Procedures, Guidance, and Information (PGI)*, available at <http://www.acq.osd.mil/dpap/dars/pgi>.

#### Interim Rule

##### Transition of Weapons-Related Prototype Projects to Follow-On Contracts (DFARS Case 2003-D106)

Establishes a pilot program that permits contracting officers to use FAR Part 12 (Acquisition of Commercial Items) procedures to award follow-on contracts for the production of items begun as prototype projects under other transaction agreements. The follow-on contract must be awarded to a nontraditional defense contractor; must not exceed \$50,000,000; and must be either firm-fixed-price or fixed-price with economic price adjustment. This change implements Section 847 of the National Defense Authorization Act for Fiscal Year 2004 and is intended to ease the transition of nontraditional defense contractors from prototype transactions to standard contracts. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003d106f.txt>.

#### Final Rules—DFARS Transformation

The following changes are a result of DFARS Transformation, which is a major DoD initiative to dramatically change the purpose and content of the DFARS. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect on the public. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>.

##### Procedures, Guidance, and Information (DFARS Case 2003-D090)

Defines a new DFARS companion resource, *Procedures, Guidance, and Information (PGI)*, which contains mandatory and non-mandatory internal DoD procedures, non-mandatory guidance, and supplemental information. Use of PGI will enable DoD to more rapidly convey internal administrative and procedural information to the acquisition workforce. PGI will not contain policy or procedures that significantly affect the public and, therefore, will not be published in the *Federal Register* or the

Code of Federal Regulations. PGI is available at <http://www.acq.osd.mil/dpap/dars/pgi>. The HTML version of the DFARS, available at <http://www.acq.osd.mil/dpap/dfars>, contains links to PGI. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003d090f.txt>.

##### Publicizing Contract Actions (DFARS Case 2003-D016)

Deletes unnecessary text on cooperative agreement holders, paid advertisements, and synopsis requirements; and relocates a synopsis format to PGI. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003d016f.txt>.

##### Cost Principles and Procedures (DFARS Case 2003-D036)

Deletes obsolete and duplicative text on contract cost principles; and relocates procedural text on government responsibilities relating to contractor restructuring costs to PGI. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003d036f.txt>.

##### Laws Inapplicable to Commercial Subcontracts (DFARS Case 2003-D018)

Clarifies a potential source of confusion in the DFARS over the application of the Buy American Act and the Trade Agreements Act to subcontracts. The FAR clauses that implement the acts are only required for prime contracts and apply the restrictions on the end item delivered to the government. Prime contractors are not required to further apply the acts' restrictions to individual components purchased under subcontracts. However, prior to this DFARS change, the Trade Agreements Act and the Buy American Act were listed as laws inapplicable to subcontracts for commercial items. While the DFARS was technically correct, it was unnecessary to state this exception because the laws only apply at the prime contract level for end items, not to individual components. By stating that the laws are inapplicable to subcontracts for commercial items, the DFARS may be misinterpreted to mean that commercial components do not count in the calculation of whether domestic components exceed 50 percent of the value of the components of an end item. Additionally, the DFARS could further be misinterpreted to mean the prime contractor need not comply with the acts for a subcontracted item delivered to the government as the end item. The prime contractor is responsible for providing an end product that meets the requirements of the acts.



## Policy & Legislation

To correct this potential source of confusion, this DFARS change removes the Buy American Act and the Trade Agreements Act from the list of laws inapplicable to subcontracts for commercial items. This change will not impact the proper implementation of the Buy American Act and the Trade Agreements Act. However, contracting officers and prime contractors should be aware of the potential for confusion in this area. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003d018f.txt>.

### Final Rule

#### Purchases from Federal Prison Industries (DFARS Case 2004-D005)

Deletes DFARS text on purchase of products from Federal Prison Industries. The DFARS text is no longer necessary as a result of FAR policy on this subject that was published in Federal Acquisition Circular 2001-21 on March 26, 2004. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2004d005f.txt>.

#### Technical Amendments

Updates Internet addresses for DoD activity address codes and order code assignments and adds a link to PGI for information on use of Federal Supply Schedules. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/techame nd20041101.txt>.

### DEFENSE FAR SUPPLEMENT (DFARS) CHANGE NOTICE 20041110

**D**oD published the following changes and proposed changes to the DFARS on Nov. 10, 2004.

#### Final Rules—DFARS Transformation

The following changes are a result of DFARS Transformation, which is a major DoD initiative to dramatically change the purpose and content of the DFARS. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>. Three of the following changes relocate text to the new DFARS companion resource, *Procedures, Guidance, and Information (PGI)*, available at <http://www.acq.osd.mil/dpap/dars/pgi>.

#### Contractor Qualifications Relating to Contract Placement (DFARS Case 2003-D011)

Deletes obsolete text pertaining to Intermediate Range Nuclear Forces Treaty inspections; deletes unnecessary

first article testing and approval requirements; and relocates procedures for requesting pre-award surveys and obtaining approval for product qualification requirements to PGI. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D011f.txt>.

#### Insurance (DFARS Case 2003-D037)

Relocates procedural text on risk-pooling insurance arrangements and requests for waiver of overseas workers' compensation requirements to PGI. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D037f.txt>.

#### Research and Development Contracting (DFARS Case 2003-D067)

Deletes unnecessary text on solicitation and contract content; updates statutory references; updates a clause pertaining to contractor submission of scientific and technical reports; and relocates procedures for maintenance of scientific and technical reports to PGI. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D067f.txt>.

#### Acquisition of Commercial Items (DFARS Case 2003-D074)

Deletes unnecessary text pertaining to structuring of contracts; and updates a FAR reference. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D074f.txt>.

#### Sealed Bidding (DFARS Case 2003-D076)

Deletes unnecessary text on structuring of contracts, providing copies of documents, and preparation of solicitations; and updates the list of officials authorized to permit correction of mistakes in bid. The *Federal Register* notice for this rule is at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D076f.txt>.

#### Proposed Rule

#### Geographic Use of the Term "United States" (DFARS Case 2001-D003)

Proposes to update references to the "United States" and other geographic terms throughout the DFARS. The proposed changes clarify the meaning of these terms and provide consistency with definitions found in FAR 2.101. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2001-D003p.txt>.



### DEFENSE FAR SUPPLEMENT (DFARS) CHANGE NOTICE 20041122

**D**oD published the following changes and proposed changes to the DFARS on Nov. 22, 2004.

#### Final Rules—DFARS Transformation

The following changes are a result of DFARS Transformation, which is a major DoD initiative to dramatically change the purpose and content of the DFARS. Additional information on the DFARS Transformation initiative is available at <<http://www.acq.osd.mil/dpap/dfars/transf.htm>>.

#### Protection of Privacy and Freedom of Information (DFARS Case 2003-D038)

Deletes text pertaining to the applicability of the Privacy Act to certain contractor records. This subject is adequately addressed in DoD Regulation 5400.11-R, *Department of Defense Privacy Program*, which is referenced in the DFARS. The *Federal Register* notice for this rule is available at <<http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D038.txt>>.

#### Contractor Use of Government Supply Sources (DFARS Case 2003-D045)

Clarifies contractor requirements for payment of invoices from government supply sources; and relocates procedures for authorizing contractor use of government supply sources to the new DFARS companion resource, *Procedures, Guidance, and Information (PGI)*, available at <<http://www.acq.osd.mil/dpap/dars/pgi>>. The *Federal Register* notice for this rule is available at <<http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D045.txt>>.

#### Removal of Obsolete Research and Development Contracting Procedures (DFARS Case 2003-D058)

Deletes a standard format previously used for research and development solicitations and contracts. The format has become obsolete due to further advances in technology since its creation. The *Federal Register* notice for this rule is available at <<http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D058.txt>>.

#### Small Disadvantaged Businesses and Leader Company Contracting (DFARS Case 2003-D092)

Lowers the approval level for subcontracting plans that contain a small disadvantaged business goal of less than five percent, from two levels above the contracting officer to one level above the contracting officer. Also deletes text addressing the participation of small disadvantaged business concerns in leader company contracting. DoD rarely uses leader company contracting and, instead,

provides incentives for major DoD contractors to assist small disadvantaged business concerns through the DoD Pilot Mentor-Protégé Program. The *Federal Register* notice for this rule is available at <<http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D092.txt>>.

#### Final Rules—Legislative

##### Written Assurance of Technical Data Conformity (DFARS Case 2003-D104)

Finalizes, without change, an interim rule published on June 8, 2004 (DFARS Change Notice 20040608), to implement Section 844 of the National Defense Authorization Act for Fiscal Year 2004. Section 844 eliminated the requirement for a contractor to furnish written assurance that delivered technical data are complete and accurate and comply with contract requirements. The rule reduces paperwork for contractors but does not diminish the contractor's obligation to provide technical data that are complete, accurate, and in compliance with contract requirements. The *Federal Register* notice for this rule is available at <<http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D104.txt>>.

##### Contracting for Architect-Engineer Services (DFARS Case 2003-D105)

Finalizes, without change, an interim rule published on June 8, 2004 (DFARS Change Notice 20040608), to implement Section 1427 of the National Defense Authorization Act for Fiscal Year 2004. Section 1427 increased, from \$85,000 to \$300,000, the threshold below which acquisitions for architect-engineer services for military construction or family housing projects are set aside for small business concerns. The rule increases opportunities for small business concerns to provide architect-engineer services to DoD. The *Federal Register* notice for this rule is available at <<http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003d105i.txt>>.

##### Technical Amendments

Updates the Internet address for DoD specifications and standards. The *Federal Register* notice for this rule is available at <<http://www.acq.osd.mil/dpap/dars/dars/fedregs/techamend20041122.txt>>.

#### Proposed Rules—DFARS Transformation

##### Basic Agreements for Telecommunications Services (DFARS Case 2003-D056)

Proposed change relocates procedures for use of basic agreements for telecommunications services to the new DFARS companion resource, *Procedures, Guidance, and Information (PGI)*. Basic agreements are used in conjunction with communication service authorizations.



## Policy & Legislation

The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D056.txt>.

### Update of Clauses for Telecommunications Services (DFARS Case 2003-D053)

Proposed change deletes an obsolete clause and revises the applicability of certain clauses used in telecommunications services contracts. The clauses being revised are presently applicable only to common carriers (those subject to Federal Communications Commission or other governmental regulation). The proposed change will make the clauses applicable to both common and non-common carriers, since the differences between common and noncommon carriers have become less distinct. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D053.txt>.

### Information Technology Equipment—Screening of Government Inventory (DFARS Case 2003-D054)

Proposed change deletes obsolete procedures for screening of government inventory before authorizing a contractor to purchase information technology equipment. DoD now manages information technology equipment in the same manner as other government property, in accordance with FAR Part 45 and DFARS Part 245. The *Federal Register* notice for this rule is available at <http://www.acq.osd.mil/dpap/dars/dars/fedregs/2003-D054p.txt>.

## GAO REPORTS

The following Government Accountability Office (GAO) reports may be downloaded from the GAO Web site at <http://www.gao.gov>:

Best Practices: Using Spend Analysis to Help Agencies Take a More Strategic Approach to Procurement, GAO-04-870, Sept. 16, 2004

Defense Acquisitions: Better Information Could Improve Visibility over Adjustments to DoD's Research and Development Funds, GAO-04-944, Sept. 17, 2004

Defense Acquisitions: Challenges Facing the DD(X) Destroyer Program, GAO-04-973, Sept. 3, 2004

Defense Inventory: Improvements Needed in DoD's Implementation of Its Long-Term Strategy for Total Asset Visibility of Its Inventory GAO-05-15, Dec. 6, 2004

Defense Management: Tools for Measuring and Managing Defense Agency Performance Could Be Strengthened, GAO-04-919, Sept. 13, 2004

Department of Defense: Further Actions Are Needed to Effectively Address Business Management Problems and Overcome Key Business Transformation Challenges, GAO-05-140T, Nov. 18, 2004

Depot Maintenance: DoD Needs Plan to Ensure Compliance with Public- and Private-Sector Funding Allocation, GAO-04-871, Sept. 29, 2004

Electronic Government: Smart Card Usage is Advancing Among Federal Agencies, Including the Department of Veterans Affairs, GAO-05-84T, Oct. 6, 2004

Foreign Military Sales: DoD Needs to Take Additional Actions to Prevent Unauthorized Shipments of Spare Parts, GAO-05-17, Nov. 9, 2004

Information on Options for Naval Surface Fire Support, GAO-05-39R, Nov. 19, 2004

Polar-Orbiting Environmental Satellites: Information on Program Cost and Schedule Changes, GAO-04-1054, Sept. 30, 2004

Telecommunications: Intelsat Privatization and the Implementation of the ORBIT Act, GAO-04-891, Sept. 13, 2004

Unmanned Aerial Vehicles: Changes in Global Hawk's Acquisition Strategy Are Needed to Reduce Program Risks, GAO-05-6, Nov. 5, 2004

## UTILITIES PRIVATIZATION—CONTRACT PRICING

In an Oct. 9, 2002 memorandum, the deputy secretary of defense stated that utilities privatization is the preferred method for improving utility systems and services. Defense Procurement and Acquisition Policy (DPAP) Director Deidre Lee published on Oct. 20, 2004, a memorandum providing instructions for contracting officers to apply in pricing contracts for privatization of utilities. The memorandum further references the provisions of 10 U.S.C. §2688, "Utility Systems, Conveyance Authority." To read Lee's memorandum with Enclosures 1 and 2, go to the DPAP Web site (Policy Vault) at [http://www.acq.osd.mil/dpap/policy/policyvault/policy\\_1.htm](http://www.acq.osd.mil/dpap/policy/policyvault/policy_1.htm).