



DEPARTMENT OF THE ARMY
US ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
504 SCOTT STREET
FORT DETRICK, MD 21702-5012

MCMR-AAP-A

7 September 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Procurement Advisory Notice 05-05
Proper Use of Non-Department of Defense (Non-DoD) Contracts

1. **Introduction.** This document provides guidance regarding the implementation of the July 12, 2005 Army Policy entitled "Proper Use of Non-Department of Defense (Non-DoD) Contracts." That policy established procedures for reviewing and approving the use of non-DoD contracts when procuring supplies or services for amounts greater than the simplified acquisition threshold \$100,000. The procedures of the aforementioned Army policy implement Section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) and the associated requirements of the October 29, 2004 Office of the Secretary of Defense policy memorandum, subject: Proper Use of Non-DoD Contracts.

2. **Background.** Each year, billions of DoD dollars are spent using non-DoD contracts to procure supplies and services. However, non-DoD contracts, including orders placed against the General Services Administration's Federal Supply Schedules, cannot be used to circumvent conditions and limitations imposed on the use of funds, nor are they a substitute for poor acquisition planning. Therefore, the Army policy, Proper Use of Non-DoD Contracts, was created to provide the considerations that must be reviewed in deciding to use non-DoD contracts and the approval process that must be undertaken.

3. **Definitions.** For the purposes of this memorandum, the following definitions apply:

a. Direct Acquisition - A task or delivery order placed by a DoD official, contracting officer, or ordering officer under a contract awarded by a non-DoD agency.

b. Assisted Acquisition - A contract awarded or a task or delivery order placed on the behalf of DoD by a non-DOD agency.

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c. Designated Contracting Office - The DoD contracting office that is responsible for providing primary contracting support to a particular requiring activity.

d. Requiring Activity - The DoD organization that has a requirement for supplies or services and requests the initiation of, and provides funding for, an assisted or direct acquisition to fulfill that requirement.

e. Fund Authorizing Official - The person who executes the funds authorization portion of any official form used to provide funding, certifying that funds for the procurement are properly chargeable to the allotment(s) furnished and that the available balances are sufficient to cover the estimated price of the order.

f. Fund Certifying Official - The person who executes the fund certification portion of the commitment document, certifying that the funds have been committed for the supplies or services being requested.

g. Assisted Acquisition Report - The annual report, per fiscal year, that is submitted by the requiring activity to report the use of assisted acquisitions.

4. **Exceptions.** The Proper Use of Non-DoD Contracts policy does not apply to the procurement of printing, binding or blank-book work.

5. **Procedures For A Direct Acquisition.** Prior to the placement of a direct acquisition order, the head of the requiring activity must execute a written certification with the assistance of and signed by the contracting officer in the designated contracting office and the fund certifying official. The certification attests the order is in the best interest of the Army considering the following factors:

- a. availability of a suitable DoD contract vehicle;
- b. ability to satisfy customer requirements;

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- c. delivery schedule;
- d. cost effectiveness and price (including any discounts and fees);
- e. contract administration (including the ability to provide contract oversight);
- f. socio-economic opportunities; (e.g. woman owned small business (WOSB), 8(a), service disabled veteran-owned small business (SDVOSB), etc.);
- g. the comparative costs of using a DoD contract as opposed to a non-DoD contract - to include administrative fees charged by the non-DoD activity; and
- h. the supplies or services to be provided are within the scope of the non-DoD contract (for services, unless the contracting office has access to the service organization's contract, including the scope of work, the requiring activity shall obtain written concurrence from the non-DoD contracting officer at the servicing organization that the services to be provided are within the scope of the servicing organization's contract);
- i. the proposed funding is appropriate for the procurement and is being used in a manner consistent with any appropriation limitations;
- j. all unique terms, conditions, and requirements will be incorporated into the order, as appropriate, to comply with all applicable DoD-unique statutes, regulations, directives; and
- k. compliance with the following review and approval procedures:
 - (1) services -

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- compliance with procedures detailed in US Army Medical Research and Materiel Command (USAMRMC) Regulation 715-6, Management and Oversight of the Acquisition of Services - Internal Review and Approval Process for Services Acquisitions, as well as review and approval procedures set forth at DFARS Subpart 237.170-3(b), Army Federal Acquisition Regulation Supplement (AFARS) 5137.170-3(b) and AFARS 5137.5-3.

- approval by the appropriate official within the USAMRMC when a DOD Contracting Office other than USAMRAA executes an award under a non DOD contract on behalf of the USAMRMC.

(2) supplies -

- require the following approvals: awards greater than \$500,000,000 by the Deputy Assistant Secretary of the Army (Policy and Procurement); greater than \$100,000,000 and less than \$500,000,000 by the head of the requiring activity; and awards less than \$100,000,000 follow procedures established by the USAMRMC Principal Assistant Responsible for Contracting.

- direct acquisition of supplies must also be approved by the appropriate official within the USAMRMC, in accordance with the requirements of USAMRMC Regulation 715-4 (Acquisition of Services, Supplies and Equipment Outside the US Army Medical Research and Materiel Command) which relates to how USAMRMC Activities will implement the Economy Act (statute) provisions.

The contracting officer in the designated contracting office shall obtain the written concurrence from supporting legal counsel prior to the placement of the order. That contracting officer shall maintain a copy of the certification and all accompanying reviews and approvals in the contract file.

6. Procedures for an assisted acquisition.

- a. Prior to the transmittal of an assisted acquisition request to a non-DoD organization, the requiring activity shall consult with the designated contracting office which will advise

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regarding the various DoD contractual options available to obtain the supplies or services. The designated contracting office will also provide any unique terms, conditions, and requirements that must be incorporated into the resultant non-DoD order or contract to comply with all applicable DoD-unique statutes, regulations, directives, and other requirements.

b. Prior to the transmittal of an assisted acquisition request to a non-DoD organization, the head of the requiring activity must execute the same certification with the same content, review, and approval procedures as depicted in paragraph 5 of this memorandum pertaining to a direct acquisition.

c. The fund authorizing official shall annotate the Military Interdepartmental Purchase Request or other equivalent form used to transmit funding to the servicing organization with the following statement: "This requirement has been processed in accordance with Section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) and the Army Policy memorandum on Proper Use of Non-Department of Defense Contracts, dated July 12, 2005. The order is properly funded (correct appropriation and year) and it is in compliance with Army procedures for placement of orders on the Army's behalf by a non-DoD organization". The head of the requiring activity also shall obtain written coordination from supporting legal counsel prior to transmittal of the order to the servicing agency.

d. The requiring activity and fund authorizing official shall maintain a copy of the certification and all accompanying reviews and coordination records in a file established for the non-DoD transaction. The requiring activity shall provide the certification to the non-DoD contracting officer at the servicing organization.

e. The requiring activity shall request the servicing organization contracting officer to provide it with a copy of the Federal Procurement Data System report submitted in connection with the procurement action.

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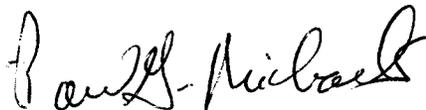
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f. Assisted acquisition of supplies and services must also be approved by the appropriate official within the USAMRMC, in accordance with the requirements of USAMRMC Regulation 715-4 (Acquisition of Services, Supplies and Equipment Outside the US Army Medical Research and Materiel Command) which relates to how USAMRMC Activities will implement the Economy Act (statute) provisions.

7. Data Collection and Reporting Requirements for Assisted Acquisitions. The Commander, USAMRMC, shall ensure that requiring activities within the Command collect data on their use of assisted acquisitions for purposes of analysis. No later than November 1st of each year, the Commander, USAMRMC shall submit the Army Assisted Acquisition Summary Report (Enclosure 1). To facilitate the collection of the data for the report, the Assisted Acquisition Individual Report (Enclosure 2) will be completed by each Command requiring activity for each funding document. The Army Acquisition Summary Report is available in a downloadable Excel spreadsheet format found at the ASA(ALT) website at: <https://webportal.saalt.army.mil/saal-zp/armyreportforassistedacquisition.xls>. This completed report shall be electronically submitted to PSStaff@hqda.army.mil or PSStaff@salt.army.mil to the Office of Procurement Policy and Support (SAAL-PP). Negative reports are required in the event no reportable assisted acquisitions were conducted.

8. Incorporation. This procurement Advisory Notice will be incorporated in the next iteration of the USAMRMC Regulation 715-1.

9. Point of Contact. The point of contact for this memorandum is Mr. Raegon B. Clutz, Policy and Quality Assurance Branch, USAMRAA, raegon.clutz@amedd.army.mil, (301) 619-2395.



PAUL G. MICHAELS
Principal Assistant
Responsible for Contracting

Encl

DISTRIBUTION:
DIST A

**Annual Report of Services Charges
for Purchases on Non-DoD Contracts
FY 2005**

Name of Reporting Department or Agency

Number of Actions	MIPR Number	MIPR Date (Note 1)	Assisting Agency Contract Award Date (Note 1)	Program/ Funding Office Code	Assisting		Year of Funding	Product or Service Code	Actual Fee Paid (Note 2)
					Agency Contracting Office Code	Dollars Obligated (Note 2)			
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
Total Dollars									
\$ -									

Notes:

1. Date format yyyyymmdd.
2. Round dollars to nearest whole dollar.

Encl 1

ARMY REPORT FOR PROPER USE ON NON-DOD CONTRACTS
Program Office / Requiring Activity
Assisted Acquisition Individual Report Format

Program Office/Requiring Activity

- *Organization Department of Defense Activity Address Code (DODAAC) (name, address, e- mail address, phone number)
- Maintain a copy of all documentation sent to the Non-DoD Contracting Office (Assisting Agency)

Requirement (Supply/Service)

- Description of supply or service
- * Funding (amount, type of funds (OMA,OPA, etc), fiscal year)
- * Federal Supply Group, Federal Supply Class, or Federal Service Code -- (If more than one applies, then enter the one that best represents the intent of the requirement. (Get this information from the Assisting Agency.)
- North American Industry Classification System (NAICS) Code (Get this information from the Assisting Agency.)

Requirement Identification

- * Operating Agency Code from the Standard Army Accounting Classification
- * Document control number (funding authorization document)
- Document date
- * Dollars obligated (include fee/service charge paid)
- * Fee or service charge paid to assisting agency (either directly by requiring activity or through contract vehicle by the contractor)
- Type of action (new requirement; change; funding document, etc.)
- Factors for use of non-DoD contract vehicle (all that apply) (satisfying customer requirements, cost effectiveness and price (including fees to be paid), delivery schedule, non-availability of a suitable contract within DoD, contract administration (surveillance plan for monitoring activities of the non-DoD Agency), socio-economic opportunities and any other applicable factors
- Decision Authority (name, title, contact information)
- Decision date

Assisting Agency

- * Assisting Agency Code
- Contracting Office (Agency name, address)
- Contracting Officer (name, contact information)
- Contract number(s) / delivery or task order number(s)
- Copy of the Federal Procurement Data System Report prepared and submitted by the Assisting Agency

***Include in the Army Assisted Acquisition Summary Report**