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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

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MEMORANDUM FOR SENIOR PROCUREMENT EXECUTIVES
DIRECTORS OF DEFENSE AGENCIES

SUBJECT: Approval Levels for Sole Source Orders Under Federal Supply Schedules (FSSs) and Multiple Award Contracts (MACs)

On July 19, 2004, we changed Federal Acquisition Regulation (FAR) procedures for approving sole source orders under Federal Supply Schedules (FSS), establishing new approval levels and documentation requirements. The new approval levels were published in Federal Acquisition Circular 2001-24 and are consistent with the justification and approval (J&A) levels at FAR 6.304. These changes will better support our efforts to maximize competition when using FSS for supplies and services.

The new FAR approval levels are higher than DFARS requirements, which currently authorize the contracting officer, without further approval, to waive competition requirements when ordering services greater than $100,000 under FSS (see DFARS 208.404-70). To be consistent with the FAR, such orders under the FSS must be approved by individuals at the levels cited in FAR 6.304.

These procedures apply whether an order is placed against the FSS by DoD or by a non-DoD agency on behalf of DoD. When a non-DoD agency is the ordering activity, the DoD requiring agency will provide the supporting rationale for a waiver to the contracting officer at the ordering activity, who must comply with the requirements in FAR 8.405-6.

I am also extending these same approval levels to determinations to waive competition for orders for supplies or services under Multiple Award Contracts (MACs).

Any determination waiving competition must solidly support the action taken. A recent GAO report entitled, "CONTRACT MANAGEMENT: Guidance Needed to Promote Competition for Defense Task Orders," cited some examples of DoD's lack of adequate support particularly when using the "logical follow-on" basis for waiving competition under MACs at FAR 16.505(b)(2)(iii). Contracting

officers must ensure requirements offices provide adequate information to support determinations to waive competition, to include the results of market research and data to support why further competition is not in the Government's best interest. The J&A content requirements at FAR 6.303-2 outline what contracting officers and requirements activities must consider. The ordering activity contracting officer is responsible for adequately documenting the decision in the contract files.

These changes are necessary to ensure the Department places appropriate emphasis on promoting competition on orders against MACs and FSSs and to ensure that DoD can continue to use these flexible vehicles to meet future requirements. The effective date of these changes is October 1, 2004.

This memorandum will remain in effect until DFARS and corresponding DFARS Procedures, Guidance and Information (PGI) coverage have been revised.

Please contact Steven Cohen at steven.cohen@osd.mil or 703-602-0293 should you have questions.

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