

LORRAINE



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE, OHIO

3000

BB
Pg. 94

26 JAN 1994

MEMORANDUM FOR SEE DISTRIBUTION

FROM: HQ AFMC/PKO
4375 Chidlaw Road Suite 6
Wright-Patterson AFB OH 45433-5006

SUBJECT: Acquisition of Federal Information Processing (FIP)
Resources Using NATO Basic Ordering Agreements (BOAs)-
ACTION MEMORANDUM

1. The attached memorandum from SAF/AQC is forwarded for your information and action. In accordance with Economy Act procedures as outlined in AFAC 92-19, the contracting office must review and sign a determination and finding (D&F) for an Economy Act purchase. You must ensure that the Economy Act is not being cited on D&Fs for the acquisition of FIP resources through the NATO BOAs. The Economy Act is not a valid authority to place orders through NATO. Other "treaty-level" or international agreements may, if applicable, authorize the use of the NATO BOAs. Please ensure widest dissemination within your directorate.

2. This is a coordinated HQ AFMC/PKO/FMB letter. Any questions or comments should be addressed to our action officers. Our PK point of contact is Joan McNary, DSN 787-3367. Our FM point of contact is David Cobb, DSN 787-6188.

David E. Furry

DAVID E. FURRY
Chief, Operational Contracting Division
Directorate of Contracting

Attachment:
SAF/AQC Ltr, 7 Jan 94 w/2 Atchs

Atch 94-3A (FAR 17) ✓ Post to FAR 17.5 by circling the reference and noting in the margin: "70-41, atch 94-3A". Then file this atch behind the sups to FAR 17.

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31 Jan 94
1 Feb 94

DEPARTMENT OF THE AIR FORCE
WASHINGTON DC



07 JAN 1984

OFFICE OF THE ASSISTANT SECRETARY

MEMORANDUM FOR ALMAJCOM-FOA-DRU (CONTRACTING)
ALMAJCOM FOA/SC
ALMAJCOM-FOA/FM

FROM: SAF/AQC
1060 Air Force Pentagon
Washington, DC 20330-1060

SUBJECT: Acquisition of Federal Information Processing (FIP) Resources Using NATO
Basic Ordering Agreements (BOAs) - ACTION MEMORANDUM

Some Air Force units have purchased FIP resources (computers) through a North Atlantic Treaty Organization (NATO) activity in Brussels by using a NATO basic ordering agreement. The NATO office is the NATO Communications and Information Systems Agency (NACISA). NACISA provides a necessary service to NATO forces. However, only under certain circumstances may USAF organizations, with a direct NATO support mission, utilize their services.

BOAs with five vendors are of particular concern: BDS, EDS, Sun Microsystems, Kodak, and Zenith. These vendors are marketing the NATO BOAs to DoD personnel as convenient acquisition vehicles, available for DoD use. Air Force units in Europe, the CONUS and the Pacific Theatre have ordered FIP through NACISA.

The Economy Act has been cited as legal authority for some of the orders. In the absence of other statutory authority, purchases made through non-DoD Federal agencies are usually made pursuant to the Economy Act (31 U.S.C. 1535). The Economy Act authorizes these transactions between agencies of the United States Government. However, since NATO is an international organization, the Economy Act is not valid authority to place orders through NATO. Other "treaty-level" or international agreements may, if applicable, authorize the use of NACISA to purchase FIP resources for the Air Force. If your servicing legal office concurs that such an agreement does authorize NACISA to purchase FIP or other resources for the Air Force, then it should be properly cited on the MIPR.

A coordinated effort between contracting, legal, financial management, and communications organizations is necessary to ensure we do not misuse the Economy Act. USAF units must comply with this policy and take immediate action to:

- a. Discontinue sending Military Interagency Purchase Requests (MIPRs), that quote the Economy Act as their authority, to NACISA for FIP equipment.

b. Contact NACISA to cancel any orders that are in the process of being placed, that have used the Economy Act as their authority, and return the funds to your unit.

A listing, provided by NATO, of USAF installations that have used the BOAs is at Attachment 1. We've requested a detailed listing from NACISA of USAF MIPRs for 1993. Once received, we will forward the list to the appropriate Commands for their review and action. A point paper containing background, problem areas, and necessary action is at Attachment 2.

Questions should be referred to your supporting judge advocate office and your servicing contracting office. This is a SAF/AQC, SAF/GCQ, SAF/GCI, AF/SCX, and SAF/FMB coordinated memorandum. POC for contracting is Major Robert D. Winiecki, SAF/AQCO, DSN 227-1136, commercial (703) 697-1136. POC for financial management is Mr Joe Farrell, SAF/FMBM, DSN 227-8250, commercial (703) 697-8250. Point of contact for communications/computers is Mr Paul Armel, AF/SCXX, DSN 227-3640, commercial (703) 697-3640.



ROBERT D. WINIECKI, Brig Gen, USAF
 Assistant Secretary
 (703) 697-1136
 Assistant Secretary (Acquisition)

Attachments:

1. Installation Listing
2. Point Paper

Atch 94-3A (FAR 17)

U.S. Authorites Using NACISA Procurement

1. Hill AFB, UT
2. Kelly AFB, TX
3. Maxwell AFB, AL
4. Randolph AFB, TX
5. Wright-Patterson AFB, OH
6. AFIA, Bolling AFB, DC
7. CINCPAC, Hickam AFB, HI
8. HQ EUCOM, Germany
9. HQ USAFE, Germany
10. Langley AFB, VA
11. Robbins AFB, GA *PLA*
12. Scott AFB, IL
13. SMC, Los Angeles AFB, CA
14. SSC, Maxwell AFB-Gunter Annex, AL
15. STRATCOM, Offut AFB, NE
16. Tinker AFB, OK

POINT PAPER

ON

NATO BASIC ORDERING AGREEMENTS (BOAs) FOR FIP

- NATO Communications and Information Systems Agency (NACISA), was chartered in Jan 1986, with authority to conclude contracts and/or agreements for communication and information technology equipment for member nations. This point paper explains the current issues with Air Force activities placing orders for Federal Information Processing (FIP) equipment through NACISA.

BACKGROUND

- NACISA awarded 14 BOAs for support of NATO Forces
 - Five BOAs can be used by member nations "non-NATO" government agencies
- NATO forces transfer funds to NACISA; NACISA places centralized order; equipment is delivered by vendor directly to customer
- Guidelines for NACISA Services
 - Communications and information technology equipment
 - Charges 2% "fee for service," minimum \$1,000 fee
 - NACISA assumes requesting office has full authority and received all approvals to purchase the items
 - Funds are MIPR'd to NACISA, in advance, on direct cite MIPR
 - NACISA not liable for: loss of funding authority; specifications; suitability and fitness for purpose; product or service warranties; delivery dates and locations; or third party claims.
- USAF and other DoD agencies, within CONUS, ordered computers and related equipment through NACISA
 - NACISA identified USAF bases that have used the BOAs
 - Extent of use will be determined through query of NACISA
 - Detailed NACISA data will be provided to appropriate MAJCOMs

--Maj Winiecki/AQCO/7-1136/RdW/22Dec93

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PROBLEM

- USAF has used the Economy Act to place some of the orders with NACISA
 - Economy Act is not proper legal authority to purchase equipment through NACISA
- "Treaty-level" or other international agreements are needed to authorize the use of NACISA to purchase FIP for USAF
- These "contract offloads" under the Economy Act are improper and could be in violation of CICA, Brooks Act, and the Anti-Deficiency Act

SOLUTION

- Action to be taken:
 - Direct USAF to stop sending MIPRs to NACISA that cite the Economy Act as their legal authority
 - Request NACISA cease accepting MIPRs from USAF that cite the Economy Act as legal authority
 - Request NACISA return funds on orders not yet placed, and cancel orders not yet filled by contractors
 - Request NACISA provide statistics on USAF use during CY93
 - Share NACISA statistics with field Commands for appropriate action