

MEMORANDUM FOR SEE DISTRIBUTION

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

SUBJECT: Surge Contracting in Support of Operational Contingencies

1. Increased support to NATO's Operation Allied Force/Joint Task Force Shining Hope and the Aerospace Expeditionary Forces highlight our need to review procedures for surge production and/or accelerated deliveries of mission-essential goods and services. The purpose of this letter is to provide buying offices with advice to consider when reviewing existing contracts and preparing new contracts that support the Air Force mission.
2. Attachment 1 lists items that contracting and requirements personnel should consider when issuing new or modifying existing contracts to meet surge demands for accelerated delivery of parts, subsystems, systems, and depot support. This list is by no means all-inclusive. We welcome your ideas and lessons learned that may be shared with other offices.
3. When writing contracts that may require deployment of contractors to war zone locations, you should consider a recent Eagle Look report by the Air Force Inspection Agency (AFIA) entitled Contractor Support and Essential Services (CSES) During Wartime and Operational Contingencies. The report (summarized in Attachment 2) revealed a number of issues and concerns with how our contractors are dealt with when deployed during wartime.
4. My staff and I are available to assist you as necessary. My action officers for this effort are Mr. Bob Hill, HQ AFMC/PKL, DSN 986-0314, E-mail Bob.Hill@wpafb.af.mil, and Mr. Rick Chance, HQ AFMC/PKPA, DSN 986-0365, E-mail Richard.Chance@wpafb.af.mil.

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DARRYL A. SCOTT
Colonel, USAF
Director of Contracting

Attachments:

1. Surge Production/Performance Acceleration Considerations
2. AFIA Eagle Look Summary

99-6-O

Surge Production/Performance Acceleration Considerations

- For new contracts, use Urgent and Compelling J&A, which allows the CO to issue the contract without complying with synopsis requirements, and prior to approval of the J&A. Consider developing a blanket J&A and Acquisition Plan that would cover wartime contingencies (see the AFMC J&A Preparation guide at <http://www.afmc.wpafb.af.mil/HQ-AFMC/PK/pkop1.htm#list1>).
- Use Letter Contracts (or consider using New Work Supplemental Agreement on existing contracts), preferably with contractor Not to Exceed (NTE) amount.
- If within scope of an existing contract, use unilateral change order, preferably with contractor NTE amount. When accelerating deliveries, ensure there is a meeting of the minds with the contractor on contract baseline so that an equitable adjustment, if required, can be negotiated.
- Use DX rating pursuant to Defense Priorities and Allocation System to prioritize order of preference, but consider the impact of acceleration requests on other concurrent production/spares/repair contracts. Consider adding language to acceleration direction requiring the contractor to notify the contracting officer of the impacts to ongoing DoD contracts. This information should be provided to the SSM or SPM so that a priority list can be developed.
- For increased level of repair or PDM schedule compression, AFMCFARS 5352.291-9002, Maintenance Acceleration/Compression (Jul 1997) can be used.
- For supply contracts that have a high probability of being accelerated, consider adding DFARS 252.217-7001 – Surge Option (Aug 1992) to the contract.
- Ensure your DCMC team is involved in surge planning so that their support is available when required for industrial preparedness and capacity decisions, priorities and allocations decisions, accelerated inspection and acceptance of contract deliverables, pricing support, etc.

Air Force Inspection Agency Eagle Look: Contractor Support and Essential Services (CSES) During Wartime and Operational Contingencies reviewed policy and procedures on use of U.S. contractors to augment the support of Air Force operations, particularly when deployed during wartime and operational contingencies.

Contractual Implications:

Ensure the contracting officer is aware of deployment requirements so that appropriate clauses (such as FAR 52.228-4 War Hazards or DFARS 252.228-7003 Capture and Detention) and extent of Air Force support to the contractor is clear in the event the contractor is deployed during a wartime or contingency situation.

- *Ensure appropriate clauses, requirement statements, and contract line items are included in the contract covering the contractor's deployment requirement.*

- *Include coverage on contract payment and allowances for issues such as hazardous duty and hostile fire.*

Ensure it is clear how contractors will be treated at the deployment site, e.g., medical and dental treatment, casualty assistance, ID cards, Geneva Convention cards, equipment, and training. This could be covered in the contract in the base support agreement.

Ensure contractors are aware of (and trained on if necessary) the Laws of Armed Conflict (LOAC), status of forces agreements (SOFAs), host nation support agreements (HSAs), Geneva Conventions, local laws and customs, and quality of life at the deployed location.

- HQ AFMC/PK letter dated 27 Jan 99 provided information on the impact of changes to NATO Status of Forces Agreement (SOFA) between the United States and the Federal Republic of Germany. This change may impact contractor employees tax exemption status and availability of exchange and commissary privileges.

Ensure policy on use of IMPAC by contractors is understood and used appropriately (see information on the IMPAC program on the AFMC/PKO web page at <http://www.afmc.wpafb.af.mil/HQ-AFMC/PK/pko/impac.htm>).

Review policy/procedures on contractor oversight at deployed sites. How will contract administration functions be performed?

Improve processes used to acquire and handle commercial and nondescript items at deployed sites. Without a process in place parts, material and equipment required for performance can be delayed through customs, or in the case of nondescript items (used for classified programs), even in the military supply system.

Attachment 2