



Department of Defense INSTRUCTION

NUMBER 5000.63

July 31, 2002

USD(AT&L)

SUBJECT: Defense Acquisition Regulations (DAR) System

- References:
- (a) DoD Instruction 5000.63, Defense Acquisition Regulations (DAR) System, May 16, 1997 (hereby canceled)
 - (b) [DoD Directive 5000.35](#), "Defense Acquisition Regulations Management," May 27, 1997
 - (c) Federal Acquisition Regulation (FAR)
 - (d) Defense Federal Acquisition Regulation Supplement (DFARS), current edition
 - (e) through (h), see enclosure 1

1. PURPOSE

This Instruction reissues reference (a) to update responsibilities for the DAR System, implements the policies of reference (b), assigns responsibilities, and prescribes procedures for the management and operation of the DAR System. The DAR System, consisting of the DAR Directorate, the DAR Council, and the DAR Council Committees, supports the Director of Defense Procurement in fulfilling the Director's responsibilities for procurement and contracting regulations.

2. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as "the DoD Components").

3. DEFINITIONS

3.1. Case. A recommended revision to references (c) or (d) that has been formally accepted by the DAR Council Director for consideration by the Council.

3.2. Clause. A contract or contract solicitation term, condition, or provision, of the type found in Part 52 of reference (c) or Part 252 of reference (d).

3.3. Regulation. Reference (c), reference (d), and any Agency supplements to references (c) or (d), including any contracting policy letters, clause books, automated systems, written instructions, or similar instruments.

4. POLICY

It is DoD policy under reference (b) to maintain an organized system for the development and control of procurement and contracting policies and procedures. The Director of Defense Procurement shall exercise responsibility for the DoD-wide system and for developing, coordinating, issuing, and maintaining procurement and contracting policies, regulations, procedures, and forms.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense (Acquisition, Technology and Logistics) shall ensure that the Director of Defense Procurement according to DoD Directive 5000.35, Federal Acquisition Regulation (FAR), Defense Federal Acquisition Regulation Supplement (DFARS), 41 U.S.C. Chapter 7, 44 U.S.C. Chapter 35, DoD Directive 5134.1, and the Under Secretary of Defense (Acquisition) Memorandum, April 10, 1991 (references (b) through (h)) and this Instruction, shall:

5.1.1. Approve or disapprove, pursuant to Section 421(d) of 41 U.S.C. (reference (e)), regulations relating to procurement and contracting that are proposed by the DoD Components.

5.1.2. Ensure compliance with publication requirements of Section 418b of reference (e) for DoD procurement and contracting rules, or waive these requirements in urgent and compelling circumstances.

5.1.3. Fulfill the responsibilities in 44 U.S.C. (reference (f)), for each information collection request imposed by a DoD procurement and contracting regulation.

5.1.4. Eliminate or reduce any redundant or unnecessary levels of review and approval in the DoD procurement and contracting system.

5.1.5. Act for the Secretary of Defense and the Under Secretary of Defense (Acquisition, Technology and Logistics) in the administration of reference (c) and any supplementing DoD Regulations; serve as the Department of Defense's representative on the Federal Acquisition Regulatory Council; and issue and maintain reference (c) according to Subsection 421(f) of reference (e) and in conjunction with the General Services Administration and the National Aeronautics and Space Administration (NASA).

5.1.6. Ensure that DoD procurement and contracting regulations are consistent with reference (c), and any that are redundant with reference (c), or are otherwise unnecessary are eliminated.

5.1.7. Serve as the approval authority in the Department of Defense for any reference (c) or reference (d) class deviations, and for all DoD individual reference (c) or (d) deviations in the categories in Part 201 of reference (d).

6. PROCEDURES

6.1. The Director of Defense Procurement shall exercise the responsibilities in subparagraphs 5.1.1. through 5.1.7., above, by reviewing and approving the following, before they become effective:

6.1.1. All revisions to references (c) and (d), taking into account the views of the Military Departments and Defense Agencies, and consulting with NASA, the Office of Federal Procurement Policy, other civilian agencies, and industry, where appropriate.

6.1.2. All DoD procurement and contracting policies, procedures, clauses, and forms that have a significant effect beyond the internal operating procedures of the Department of Defense or a significant cost or administrative impact on contractors or offerors.

6.1.3. Military Department and Defense Agency plans for the control of clauses, other than those prescribed by references (c) or (d).

6.2. The DAR Council Director, subject to the supervision, direction, and control of the Director of Defense Procurement, shall direct the activities of the DAR Council, DAR Directorate, and DAR Council committees, and shall:

6.2.1. Establish operating procedures for the DAR System to facilitate development and processing of procurement and contracting policy, procedures, clauses, and forms, for approval by the Director of Defense Procurement.

6.2.2. Determine, subject to review by the Director of Defense Procurement at the request of the Contracting Principals from the Military Departments and Defense Agencies, what matters are appropriate for consideration, and act as the Department of Defense's point of contact for all proposed reference (c) and (d) cases submitted from:

6.2.2.1. Designated senior officials responsible for acquisition matters in the Military Departments, Defense Agencies, and the Chairman of the Joint Chiefs of Staff.

6.2.2.2. Staff principals on OSD staffs.

6.2.2.3. Senior Agency officials in other Federal Agencies designated to represent their Agency on reference (c) matters.

6.2.2.4. Authorized representatives of private sector entities.

6.2.3. Accept for consideration, as a reference (c) case, any proposed reference (c) revisions originated by the Civilian Agency Acquisition Council or NASA.

6.2.4. Determine whether to seek industry comments before a case is considered by a committee, working group, or the DAR Council. Determine appropriate scope of industry input to the development of regulations (i.e., use of such techniques as public notices of proposed rulemaking, public meetings, and the public comment process).

6.2.5. Establish ad hoc working groups, when appropriate, to work unusual, special interest or high priority cases. The Council Director may request participation of representatives from OSD staff elements, Military Departments, and Defense Agencies. When such cases require expedited processing, the DAR Council Director shall ensure priority handling by the committee or working group, the DAR Council, and other interested parties.

6.2.6. Establish schedules for the completion of each case (based on the perceived urgency of each individual case). The Council and its committees shall be allotted a maximum of 120 days to complete all actions on a case, exclusive of the public comment period or time required by Agencies outside the Department of Defense. The DAR Council Director may, however, authorize an extended schedule in unusual circumstances.

6.2.7. Refer to the Director of Defense Procurement for resolution any matters or issues where a consensus of DAR Council policy members is not achieved after a reasonable period of debate or where the DAR Council consensus appears contrary to established DoD policy. The decision of the Director of Defense Procurement shall be implemented without further coordination.

6.2.8. Maintain permanent records of DAR Council activities.

6.3. DAR Directorate. The DAR Directorate shall:

6.3.1. Maintain official case files and perform all case management functions.

6.3.2. Refer matters for appropriate coordination within OSD and present the views of OSD on all matters discussed at the Council.

6.3.3. Publish the DFARS (reference (d)) and its change notices.

6.3.4. Serve as liaison with the FAR Secretariat, Federal Register, and Office of Information and Regulatory Affairs. The DAR Directorate is a staff element within the organization of the Director of Defense Procurement, under the leadership of the Deputy Director of Defense Procurement for DAR, who also serves as the DAR Council Director.

6.4. DAR Council. The DAR Council is responsible for developing fully coordinated recommendations for revisions to references (c) and (d) that are responsive to the overall needs of the Department of Defense. The DAR Council consists of:

6.4.1. The DAR Council Director who serves under the direction of the Director of Defense Procurement.

6.4.2. The Deputy Director who serves under the direction of the DAR Council Director.

6.4.3. A policy and a legal representative from each Military Department, the Defense Contract Management Agency (DCMA), and the Defense Logistics Agency (DLA). These representatives are nominated by the contracting principal or appropriate legal principal for their DoD Component, and approved by the Director of Defense Procurement. These representatives shall have at least a secret clearance and shall serve in a full-time capacity on the DAR Council for not less than 2 years. On behalf of their respective DoD Components, they shall be empowered to develop and present fully coordinated positions on all matters brought before the DAR Council.

6.4.4. A NASA policy and a legal representative, appointed by the NASA Associate Administrator for Procurement at the invitation of the Director of Defense Procurement.

6.5. DAR Council Committees. The DAR Council Director may establish permanent committees to consider proposed cases within specific functional areas. Each Military Department, DCMA, and DLA shall provide members to serve on these committees. With the concurrence of the DAR Council Director, members from other Federal Agencies may serve on permanent committees.

7. EFFECTIVE DATE

This Instruction is effective immediately.



E. C. Aldridge, Jr.
Under Secretary of Defense
(Acquisition, Technology and Logistics)

Enclosures - 1

E1. References, continued

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Chapter 7 of title 41, United States Code, "Office of Federal Procurement Policy"
- (f) Chapter 35 of title 44, United States Code, "Coordination of Federal Information Policy"
- (g) [DoD Directive 5134.1](#), "Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L))," April 21, 2000
- (h) Under Secretary of Defense for Acquisition (USD(A)) Memorandum, "Delegations of Authority," April 10, 1991