



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND
1333 ISAAC HULL AVE SE
WASHINGTON NAVY YARD DC 20376-0001

IN REPLY TO

4200
Ser 02/106
9 Sep 03

MEMORANDUM

From: Commander, Naval Sea Systems Command
To: Deputy Commander for Contracts (SEA 02)

Subj: DELEGATION OF AUTHORITY TO DETERMINE THAT SUPPLIES OR SERVICES ARE TO BE USED TO FACILITATE DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL OR RADIOLOGICAL ATTACK

Ref: (a) Federal Acquisition Circular (FAC) Number 2001-09 of 30 Aug 02
(b) FAC Number 2001-12 of 27 Jan 03
(c) DASN(ACQ) memo of 7 Apr 03
(d) DPAP(DAR) memo, DAR Tracking Number: 2003-00002 of 18 Apr 03, subj: Class Deviation-Federal Acquisition Regulation (FAR) Concerning Implementation of the Homeland Security Act Provisions Relating to Procurements for Defense Against or Recovery from Terrorism or Nuclear, Biological, Chemical or Radiological Attack

1. Reference (a) revised the Federal Acquisition Regulation (FAR) to implement Section 836 of the FY 2002 National Defense Authorization Act (Public Law 107-107) where those procurements are to facilitate the defense against terrorism or biological or chemical attack against the United States. Reference (b) revised the FAR to implement Sections 852 through 856 and Section 858 of the Homeland Security Act (Public Law 107-296). Those sections increase the amount of the micro-purchase threshold and the simplified acquisition threshold for procurements and provide streamlined procedures for acquisition of supplies or services for the defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack including the treatment of such procurements as if the acquisitions were for commercial items. The authority expires on 30 Sep 2003 for Public Law 107-107 and on 24 Nov 2003 for Public Law 107-296.

2. As authorized by references (c) and (d), you are hereby delegated the authority to determine that supplies or services

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are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical or radiological attack under Sections 852 through 856 and Section 858 of the Homeland Security Act (Public Law 107-296) and Section 836 of the FY 2002 National Defense Authorization Act (Public Law 107-107). This authority may be redelegated to any SES in NAVSEA 02 and to a level no lower than the Chief of the Contracting Office at subordinate field procurement offices.



P. M. BALISLE

Originator: Sharon L. Ellis
Code: SEA 0212
Extension: 12852
Date: 12 August 03

BRIEF SHEET

1. PURPOSE OF CORRESPONDENCE:

To delegate to the Deputy Commander for Contracts, with power of redelegation, the authority to determine that supplies or services are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical or radiological attack under Sections 852 through 856 and Section 858 of the Homeland Security Act (Public Law 107-296) and Section 836 of the FY 2002 National Defense Authorization Act (Public Law 107-107).

2. PERTINENT ISSUES IN THE PROPOSED CORRESPONDENCE:

Section 836 of the Fiscal Year 2002 National Defense Authorization Act (Public Law 107-107) increases the amount of the micro-purchase threshold and the simplified acquisition threshold and provides for streamlined acquisition procedures, including the treatment of such procurements as if the acquisitions were for commercial items, for procurements of supplies or services by or for DoD through FY 2003, where those procurements are to facilitate the defense against terrorism or biological or chemical attack against the United States. Section 836 is summarized as follows:

- For acquisitions made by or for DoD, the micropurchase threshold is \$15,000 if award is made and funds are obligated on or before 30 Sep 2003. (Congress is considering extension of this authority.)
- For acquisitions made by or for DoD in support of a contingency operation, the simplified acquisition threshold is (a) \$250,000 for actions inside the United States and (b) \$500,000 for actions outside the United States if award is made and funds are obligated on or before 30 Sep 2003. (Congress is considering extension of this authority.)
- Contracting officers acquiring biotechnology supplies or biotechnology services, for use to facilitate the defense against terrorism or biological or chemical attack against the

United States, may treat the supplies or services as commercial items.

Sections 852 through 856 and section 858 of the Homeland Security Act of 2002 (Public Law 107-296) increase certain statutory thresholds and authorize the expanded use of certain statutory authorities in connection with the proposed delegation. These sections are summarized as follows:

- Section 852 provides that the authorities in its subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism, nuclear, biological, chemical, or radiological attack but only for contracts entered into during the 1-year period beginning on the date of enactment of the Act.
- Section 853 increases the simplified acquisition threshold to \$200,000 (\$300,000 for contracts awarded and performed outside the United States) for Section 852 acquisitions if initiated by a solicitation issued from 24 Jan 2003 to 24 Nov 2003.
- Section 854 increases the micro-purchase threshold to \$15,000 for DoD Section 852 acquisitions, except for construction subject to the Davis Bacon Act.
- Section 855 allows agencies to treat Section 852 acquisitions as commercial items and removes the \$5 million limitation for the test program for certain commercial items.
- Section 856 provides for the use of streamlined acquisition authorities and procedures and waives the dollar limitations on sole-source 8(a) acquisitions and HUBZone sole-source awards.
- Section 858 requires market research on an ongoing basis to identify the capabilities available, including small businesses and new entrants into Federal contracting, as applicable to Section 852 acquisitions.

NAVSEA and its field activities provide engineering, technical, and acquisition support for systems, products, and services that are employed by the Navy, and other agencies, in the Global War on Terrorism and for Homeland Defense. NAVSEA 02

and its field procuring offices process procurements that fall into this class of items. The supplies and services within this class include, but are not limited to, ordnance and ordnance delivery systems, night vision devices, facility security equipment and services, and chemical warfare agent detectors.

3. EXPECTED ACTIONS FROM RECIPIENTS:

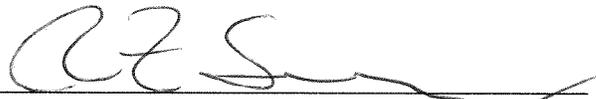
The Deputy Commander for Contracts will redelegate authority to any SES in NAVSEA 02 and to a level no lower than the Chief of the Contracting Office (CCO) at subordinate field procurement offices, as appropriate, without power of further delegation.

4. ANY NONCONCURRENCE OR UNRESOLVED ISSUES:

None.

5. REASON FOR SEA 00 DECISION AND SIGNATURE:

References (c) and (d) of the proposed delegation allow re delegation by the head of the contracting activity (HCA). By regulation, delegation authority is placed with SEA 00 as HCA and may be redelegated except where prohibited. Delegation of authority to the Deputy Commander for Contracts is recommended.


DEPUTY COMMANDER FOR CONTRACTS

9/9/03
DATE