OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION
AND SUSTAINMENT

In reply refer to
DARS Tracking Number: 2020-O0001

MEMORANDUM FOR COMMANDER, UNITED STATED CYBER COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION COMMAND (ATTN: ACQUISITION EXECUTIVE)
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION & PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING)
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DEFENSE FIELD ACTIVITIES

SUBJECT: Prohibition on Providing Funds to the Enemy and Authorization of Additional Access to Records

Effective immediately, this class deviation supersedes Class Deviations 2015-O0016 and 2018-O0008. Contracting officers shall include the clauses provided in Attachments 1 and 2 in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, with an estimated value in excess of $50,000 that will be performed outside the United States and its outlying areas in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

This class deviation implements sections 841 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 (Pub. L. 113-291), as amended by section 872 of the NDAA for FY 2019 (Pub. L. 115-232), and section 842 of the NDAA for FY 2015. Section 841 grants the authority to terminate or void contracts and to restrict future awards directly or indirectly to any person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities. Section 842 grants the authority for additional access to contractor and subcontractor records to the extent necessary to ensure that funds available under covered contracts are not provided directly or indirectly to any person or entity.

Heads of contracting activities shall follow the procedures in Attachment 3 when exercising the authorities provided by this class deviation, which may be exercised only upon

written notification from a combatant commander identifying persons or entities within the combatant commander's area of responsibility that are believed to have—

- Provided funds, including goods and services, received under a covered contract, grant, or cooperative agreement of an executive agency directly or indirectly to any person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities; or

- Failed to exercise due diligence to ensure that none of the funds, including goods and services, received under a covered contract, grant, or cooperative agreement of an executive agency are provided directly or indirectly to any person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

This class deviation remains in effect until December 31, 2021, or otherwise rescinded. My point of contact is Barbara J. Trujillo, who may be reached at 571-372-6102, or at barbara.j.trujillo2.civ@mail.mil.

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Kim Herrington
Acting Principal Director,
Defense Pricing and Contracting

Attachments:
As stated