



DEPARTMENT OF DEFENSE
EDUCATION ACTIVITY
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AUG 1 2012

MEMORANDUM FOR DoDEA AREA DIRECTORS
DoDEA HEADQUARTERS DIVISION CHIEFS

SUBJECT: Designation of Ombudsman for Procurement Integrity

- References: (a) Section 813 of the Public Law 109-364 "Establishment of Panel on Contracting Integrity"
(b) 41 U.S.C. §423 "Restrictions on Disclosing and Obtaining Contractor Bid or Proposal Information or Source Selection Information"

In accordance with the Office of the Under Secretary of Defense (Acquisition, Technology and Logistics) memorandum dated October 1, 2009, entitled "Ombudsman for Procurement Integrity" Section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364) directed the Secretary to establish a "Panel on Contracting Integrity." One of the Panel recommendations required the designation of an Ombudsman for Procurement Integrity in each DoD Component with Component Acquisition Executives/Senior Procurement Executives (CAEs/SPEs). Effective immediately, Mr. Jay M. Burcham is hereby designated as the Ombudsman for Procurement Integrity for the Department of Defense Education Activity. This designation remains in effect until superseded or cancelled.

While the Contracting Officer is recognized as having the primary responsibility for procurement integrity, the Ombudsman provides a neutral, informal, confidential, and independent alternative for employees, managers, and customers to seek assistance in resolving procurement integrity issues (see 41 U.S.C. § 423). The primary functions of the Ombudsman are to support acquisition personnel by acting as an independent sounding board to hear concerns about specific procurement integrity issues; foster communications between concerned individuals regarding procurement integrity issues, and assist in the resolution of the concerns.

The attached Ombudsman tenets are to be used as guidelines in implementing this advisory role or expounding on an existing Ombudsman Program.

A handwritten signature in cursive script, appearing to read "Marilee Fitzgerald", is positioned above the printed name.

Marilee Fitzgerald
Director

Attachment(s):
As stated

Tenet Guidelines for the Ombudsman for Procurement Integrity

Ombudsman Purpose

Recognizing that the contracting officer (CO) has the primary responsibility for Procurement Integrity, the Ombudsman for Procurement Integrity (Ombudsman) provides a neutral, informal, confidential, and independent alternative for employees, managers, and customers to seek assistance in resolving procurement integrity issues (See 41 U.S.C. Sec 423). The primary function of the Ombudsman is to assist acquisition personnel by acting as an independent sounding board to hear concerns about specific procurement integrity issues and to aid in the resolution of the concerns.

Ombudsman Responsibilities

The Ombudsman shall:

- a. Act upon complaints and questions about alleged acts, omissions, improprieties, and systemic problems regarding procurement integrity issues within the Ombudsman's purview;
- b. Act on the Ombudsman's own initiative to address issues within his/her purview;
- c. Function by such means as:
 - o conducting inquiries;
 - o developing, evaluating, and discussing options available to affected individuals;
 - o facilitating, negotiating, and mediating;
- d. Call upon other resources of his/her organization as needed to assist in resolving procurement integrity issues or concerns (e.g. DoD ethics specialists, administrative support, independent review teams such as the Inspector General, General Counsel/JAG);
- e. Refer allegations of potential criminal misconduct discovered during the course of an Ombudsman inquiry to the appropriate investigative organization, and take no further action with regard to the potential misconduct;
- f. Assist acquisition personnel in the resolution of procurement integrity issues;
- g. Act in a manner that does not jeopardize the reporting individual(s) and, if requested, maintain their anonymity to the extent allowed by applicable laws and regulations;

- h. Ensure all affected offices and appropriate officials are consulted as part of any resolution process;
- i. Inform senior management personnel responsible for oversight, to include the Senior Procurement Executive, as appropriate, of issues raised, actions taken, and proposed or implemented resolutions.
- j. Document the review, key findings and recommendations;
- k. Recuse him/herself from the matter, when appropriate, in the event of a conflict of interest or the appearance of a conflict of interest (using the standards in 5 C.F.R. Part 2635, Subparts D and E).

The Ombudsman shall not:

- a. Interfere with or usurp normal procurement and related authorities [e.g., CO/source selection authority, program manager (PM), Suspension and Debarment Official, or Designated Agency Ethics Official (DAEO)];
- b. Render a decision that purports to bind the Organization, Agency, or agency personnel.
- c. Take any action or make a recommendation inconsistent with a law, policy, or applicable administrative decision;
- d. Directly compel or attempt to compel an entity or any person to implement the Ombudsman's recommendations; or
- e. Participate in the evaluation of proposals, the source selection process, or the adjudication of protests or formal contract disputes.

DoD Components with CAEs/SPEs Responsibilities

Organizations shall:

- a. Designate an Ombudsman for Procurement Integrity. The Ombudsman will be an experienced senior official, independent of the CO and PM functions, who will foster communication between concerned individuals regarding procurement integrity issues;
- b. As deemed warranted and appropriate for mission enhancement (e.g. multiple Contracting Activities), designate additional Ombudsmen, aligned to organizational structure;
- c. Identify and publicize the Ombudsman on their public and internal websites;

d. Provide the Ombudsman with access to the appropriate offices to collect all facts and data relevant to the resolution of the issue(s), consistent with security requirements. This may include information subject to protection under FAR 3.104;

e. Ensure the Ombudsman does not replace or interfere with agency level protests, Inspector General reviews/audits, Government Accountability Office (GAO) bid protests, contract dispute procedures (to include Alternative Disputes Resolution), requests for debriefing, employee-employer actions, contests of OMB Circular A-76 competition performance decision, post-Government employment ethics advice or any other administrative or investigative processes. It is, however, appropriate for the contracting activity to consult with the Ombudsman in the course of these actions. Consulting an Ombudsman does not alter or postpone the timelines for any of these processes, nor provide a forum to review a GAO decision. Upon transfer of issue/concern to formal resolution process, the Ombudsman shall cease further review of the issue.