From: Sineath CIV John
To: M_HQMC_MCFCS_Directors/Deputies;
cc: M_HQMC_LB; Romano CIV Mark; Oliver CIV R. Kaye; Daise CIV Stanley C;
Subject: APM 10-18 Class Deviation 2010-O0014 Additional Contractor Requirements and Responsibilities
Date: Thursday, September 09, 2010 8:08:30
Attachments: Class Deviation 2010-O0014.pdf

All,

BACKGROUND:

a. The attached DPAP memorandum of 31 August 2010 replaces and supersedes class deviation 2009-O0014 for contracts performed in Iraq and Afghanistan. This deviation provides a revised prescription and a new DFARS clause, 252.225-7997, Additional Requirements and Responsibilities relating to Alleged Crimes by or against Contractor Personnel in Iraq and Afghanistan (Deviation)(AUG 2010).

b. This deviation continues implementation of section 854 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417). The new clause provides information to contractor personnel who perform work on a contract in Iraq or Afghanistan, before beginning such work about:

1. How and where to report an alleged crime
2. Where to seek the assistance required.

POLICY:

a. In accordance with DPAP memorandum, dated 31 August 2010, the attached DFARS deviation clause 252.225-7997, Additional Requirements and Responsibilities relating to Alleged Crimes by or against Contractor Personnel in Iraq and Afghanistan (Deviation)(AUG 2010), shall be included in all solicitations and resultant contracts performed in Iraq or Afghanistan, as well as modifying existing solicitations and contracts to the extent practicable, in accordance with FAR 1.108(d).

b. This class deviation is effective immediately and remains in effect until incorporated in the DFARS or until rescinded.

PROCEDURES:

a. Ensure the attached DFARS deviation clause 252.225-7997, Additional Requirements and Responsibilities relating to Alleged Crimes by or against Contractor Personnel in Iraq and Afghanistan (Deviation)(AUG 2010) is included in all solicitations and resulting contracts performed in Iraq and Afghanistan.

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

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

AUG 31 2010

In reply refer to
DARS Tracking Number: 2010-O0014

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

SUBJECT: Class Deviation, Additional Contractor Requirements and Responsibilities Relating to Alleged Crimes by or Against Contractor Personnel in Iraq and Afghanistan

Effective immediately, class deviation 2010-O0014 replaces and supersedes class deviation 2009-O0014 for contracts performed in Iraq and Afghanistan. This deviation provides a revised prescription and the attached new clause, 252.225-7997, Additional Requirements and Responsibilities relating to Alleged Crimes by or against Contractor Personnel in Iraq and Afghanistan (DEVIATION) (AUG 2010). The new clause provides information to contractor personnel who perform work on a contract in Iraq or Afghanistan, before beginning such work, about (1) how and where to report an alleged crime; and (2) where to seek assistance.

This deviation continues implementation of section 854 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417). This class deviation remains in effect until incorporated in the DFARS or until rescinded. My point of contact, Julian Thrash, may be reached at 703-602-0310, or julian.thrash@osd.mil.

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated

Attachment – Deviation 2010-O0014

{Changes from Class Deviation 2009-O0014 are underlined}

252.225-7997 Additional Requirements and Responsibilities relating to Alleged Crimes by or against Contractor Personnel in Iraq and Afghanistan (DEVIATION).

Use the following clause in all new solicitations and resultant contracts performed in Iraq or Afghanistan, as well as modifying existing solicitations and contracts to the extent practicable, in accordance with FAR 1.108(d). "Contract in Iraq or Afghanistan" means a contract with the Department of Defense, a subcontract at any tier issued under such a contract, or a task order or delivery order at any tier issued under such a contract (including a contract, subcontract, or task order or delivery order issued by another Government agency for the Department of Defense, if the contract, subcontract, or task order or delivery order involves work performed in Iraq or Afghanistan for a period longer than 14 days.

ADDITIONAL REQUIREMENTS AND RESPONSIBILITIES RELATING TO ALLEGED CRIMES BY OR AGAINST CONTRACTOR PERSONNEL IN IRAQ AND AFGHANISTAN (DEVIATION 2010-O0014) (AUGUST 2010)

(a) The Contractor shall report to the appropriate investigative authorities, identified in paragraph (c) below, any alleged offenses under--

(1) The Uniform Code of Military Justice (chapter 47 of title 10, United States Code) (applicable to contractors serving with or accompanying an armed force in the field during a declared war or a contingency operation); or

(2) The Military Extraterritorial Jurisdiction Act (chapter 212 of title 18, United States Code).

(b) The Contractor shall provide to all contractor personnel who will perform work on a contract in Iraq or Afghanistan, before beginning such work, information on the following:

(1) How and where to report an alleged crime described in paragraph (a) of this clause.

(2) Where to seek victim and witness protection and assistance available to contractor personnel in connection with an alleged offense described in paragraph (a) of this clause.

c) The appropriate investigative authorities to which suspected crimes shall be reported include the following officials–

(i) US Army Criminal Investigations Division at http://www.cid.army.mil/reportacrime.html;

(ii) Air Force Office of Special Investigations at http://www.osi.andrews.af.mil/library/factsheets/factsheet.asp?id=14522;

(iii) Navy Criminal Investigative Service at http://www.ncis.navy.mil/Pages/publicdefault.aspx; or

(iv) To the command of any supported military element or the command of any base.

(d) Personnel seeking whistleblower protection from reprisals for reporting criminal acts shall seek guidance through the DoD Inspector General hotline at (800) 424-9098 or www.dodig.mil/HOTLINE/index.html. Personnel seeking other forms of victim or witness protections should contact the nearest military law enforcement office.

(End of clause.)

b. "Contract in Iraq or Afghanistan" means a contract with the Department of Defense, a subcontract at any tier issued under such a contract, or a task order or delivery order at any tier issued under such a contract (including a contract, subcontract, or task order or delivery order issued by another Government agency for the Department of Defense), if the contract, subcontract, or task order or delivery order involves work performed in Iraq or Afghanistan for a period longer than 14 days.

Request this APM be distributed to activity contracting personnel.

R/cc
John (Jack) Sineath
HQMC Contracts Division
2 Navy Annex, Rm 2135
Washington, DC 20380-1775
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