

DoD Implements Streamlining Awards for Innovative Technology Projects

Article By:

Herbert L. Fenster

Raymond B. Biagini

On January 9, 2018, Department of Defense (“DoD”) issued [Class Deviation 2018-O0009](#), designed to reduce barriers to entry for innovative entities through streamlining the awards process for research and development contracts. This Class Deviation allows for the use of simplified acquisition procedures and excuses certain procurement obligations when DoD awards contracts and subcontracts valued at less than \$7.5 million to “nontraditional defense contractors”^[1] or small businesses. The Class Deviation implements Section 873 of the National Defense Authorization Act (“NDAA”) for FY 2016, Pub. L. 114-92, as amended by Section 896 of the NDAA for FY 2017 (Pub. L. 114-328).

The Class Deviation, titled “Pilot Program for Streamlining Awards for Innovative Technology,” expands exceptions to certified cost or pricing data requirements under [FAR 15.403-1\(b\)](#) to include contracts or subcontracts valued at less than \$7.5 million awarded to small businesses or nontraditional defense contractors.^[2] The exceptions apply to awards pursuant to (1) a broad agency announcement for the acquisition of basic or applied research (see [FAR 35.016\(b\)\(2\)](#)); (2) the Small Business Innovation Research (“SBIR”) Program; and (3) the Small Business Technology Transfer (“SBTT”) Program. Nontraditional defense contractors and small businesses awarded contracts or subcontracts valued at less than \$7.5 million pursuant to a broad agency announcement under FAR 35.106 or the SBIR Program are also exempted from requirements for audits and records examination under [FAR 52.215-2](#). The exceptions expire on October 1, 2020.

The Pilot Program, housed within DoD’s [Defense Pricing/Defense Procurement and Acquisition Policy](#) (“DP/DPAP”), will soon be caught up in a restructuring at DoD. DP/DPAP is within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics (“USD(AT&L)”), which faces [imminent reorganization](#) mandated by section 910 of the 2017 National Defense Authorization Act.

The Streamlining Awards for Innovative Technology Pilot Program is another attempt by DoD and Congress to attract private-sector innovation to bring the latest technologies to the warfighter. The Department has also experimented with the [Defense Innovation Unit Experimental](#) (“DIUx”), created under the Obama Administration to reduce barriers to entry by awarding contracts on an accelerated

timeline. The Section 809 Panel is also examining barriers to entry, particularly for nontraditional contractors with new technologies of interest to DoD. The Pilot Program is intended to work alongside the DIUx initiative to provide forward momentum for DoD in opening the door for nontraditional contractors through streamlined procurement procedures. This Class Deviation could be a small step in opening that door but time will tell whether there are enough cutting-edge high tech companies who can and will take advantage.

Sandy Hoe and Michelle Willauer contributed to this post.

[1] A nontraditional defense contractor is an entity that is “not currently performing and has not performed any contract or subcontract for DoD that is subject to full coverage under the cost accounting standards prescribed pursuant to 41 U.S.C. 1502 and the regulations implementing such section, for

at least a one-year period preceding the solicitation of sources by DoD for the procurement.”

[2] Unless an exemption exists, certified cost or pricing data currently is required for contract actions in excess of \$750,000. See [FAR 15.403-4\(a\)\(1\)](#).

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National Law Review, Volume VIII, Number 31

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