MEMORANDUM FOR DISTRIBUTION

SUBJECT: Class Deviation-Prohibition on the Use of Cost-Type Contracts for Production of Major Defense Acquisition Programs

The attached Director, Defense Procurement and Acquisition Policy memorandum of March 11, 2013 is forwarded for your information and action. It informs the DoD contracting community of a class deviation regarding the use of cost-type contracts. For contracts entered into on or after October 1, 2014, section 811 of the fiscal year 2013 National Defense Authorization Act prohibits the use of cost-type contracts for the production of major defense acquisition programs, with one exception: if the Under Secretary of Defense for Acquisition, Technology, and Logistics submits to congressional defense committees:

- A written certification that the particular cost-type contract is needed to provide a required capability in a timely, cost-effective manner; and
- An explanation of the steps taken to ensure the use of cost-type pricing is limited to only those line items or portions of the contract where such pricing is needed to achieve the purposes of the exception.

This class deviation is effective until incorporated into the Defense Federal Acquisition Regulation Supplement or otherwise rescinded. Further details are provided within the memorandum. My point of contact on this matter is Gabrielle Trickett, gabrielle.trickett@navy.mil, 703-614-9641.

Attachment: As stated
Distribution: See next page
SUBJECT: Class Deviation-Prohibition on the Use of Cost-Type Contracts for Production of Major Defense Acquisition Programs

Distribution:
CMC (LB)
MARCORSYSCOM (CT)
MSC (N10)
NAVAIRSYSCOM (2.0)
NAVFACENGCOM (ACQ)
NAVSEASYSCOM (02)
NAVSUPSYSCOM (02)
ONR (02)
SPAWARSYSCOM (2.0)
SSP (SPN)

Copy to:
AGC (RDA)
DON OSBP
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 AND PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Class Deviation—Prohibition on the Use of Cost-Type Contracts for Production of Major Defense Acquisition Programs

For contracts entered into on or after October 1, 2014, as required by section 811 of the National Defense Authorization Act for FY13 (Public Law 112-239), contracting officers shall not use cost-type contracts for the acquisition or production of major defense acquisition programs, unless the following exception applies.

Exception:

Section 811 provides that the above prohibition does not apply to a particular cost-type contract if USD(AT&L) submits to the congressional defense committees—

1. A written certification that the particular cost-type contract is needed to provide a required capability in a timely and cost-effective manner; and

2. An explanation of the steps taken to ensure the use of cost-type pricing is limited to only those line items or portions of the contract where such pricing is needed to achieve the purposes of the exception.

Definitions:

Major defense acquisition program - The term “major defense acquisition program” is defined in section 2430(a) of title 10, United States Code as implemented in Directive-Type

**Production of a major defense acquisition** - The term "production of a major defense acquisition program" means the production and deployment of a major system that is intended to achieve an operational capability that satisfies mission needs, or any activity otherwise defined as Milestone C under Department of Defense Instruction 5000.02 or related authorities.

**Contract for the production of a major defense acquisition program** - The term "contract for the production of a major defense acquisition program"—

1. Means a prime contract for the production of a major defense acquisition program; and

2. Does not include individual line items for segregable efforts or contracts for the incremental improvement of systems that are already in production (other than contracts for major upgrades that are themselves major defense acquisition programs).

This class deviation is effective until it is incorporated in the DFARS, or is otherwise rescinded. My point of contact is Ms. Lesa Scott, at 571-372-6104, or lesa.scott@osd.mil.

[Signature]
Richard Ginman
Director, Defense Procurement and Acquisition Policy