

COMSCINST 4310.2C	COG CODE N10	DATE 24 SEP 1991
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DEPARTMENT OF THE NAVY
COMMANDER MILITARY SEALIFT COMMAND
WASHINGTON NAVY YARD BLDG 210
901 M STREET SE
WASHINGTON DC 20398-5540

COMSCINST 4310.2C
N10
24 September 1991

COMSC INSTRUCTION 4310.2C

Subj: BUSINESS CLEARANCE REQUIREMENTS

Ref: (a) Navy Acquisition Procedures Supplement (NAPS) Section 1.690, Requirements to be met before entering into contracts

Encl: (1) Summary Chart of Business Clearance Approval Thresholds
(2) Business Clearance, NAVSO 4310/1 (3/86)

1. Purpose. To promulgate procedures for the review and approval of pre-negotiation and post-negotiation business clearances of contract actions within the Military Sealift Command. This is a complete revision and should be read in its entirety.
2. Cancellation. COMSC Instruction 4310.2B.
3. Background. The purpose of a business clearance is to demonstrate that the proposed acquisition conforms to good business practices and acquisition policies; and to justify by written evidence that the price established is fair and reasonable. Reference (a) establishes the requirement for business clearances and specifies the required format and type of information which should be included in each clearance. Business clearance approval authority has been delegated by ASN(RD&A) to Heads of Contracting Activities (HCAs), except for business clearance approval of advance agreements on the treatment of special or unusual costs which is retained by the Navy Secretariat.
4. Action
 - a. Required Approval of Business Clearances
 - (1) Pre- and post-negotiation business clearances are required for all contract actions of the types identified in NAPS 1.690-5, except that use of a memorandum for the record is authorized for modifications and changes under \$100,000 issued pursuant to contract clauses such as the "Changes" clause or "Government Property" clause.
 - (2) Business clearance approval authority delegated to COMSC (as HCA) is redelegated to the Director, Contracts and Business Management. This approval authority does not include

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advance agreements on particular cost items set forth in subsection 31.109 of reference (a). Approval authority is further delegated as indicated in enclosure (1).

(3) MSC Area Commanders and the Commanding Officer, Military Sealift Command Central Technical Activity (MSCCENTACT) shall establish requirements and procedures for preparation and approval of business clearances for contract actions within the approval threshold as set forth in enclosure (1).

(4) NAPS 33.9001(d) does not permit review and approval of proposed claim settlements below the level of COMSC (N10). A pre-negotiation business clearance shall be submitted to COMSC (N10) for review and approval prior to entering into negotiations on a contractor's proposed claim settlement in excess of \$250,000. A combined pre- and post-negotiation business clearance may be submitted for a proposed claim settlement not in excess of \$250,000. Additional procedures related to the handling of claims are contained in NAPS Part 33 and COMSCINST 4365.7, Contract Claims.

b. Administrative Procedures

(1) Enclosure (2) shall be completed and submitted when requesting pre-negotiation and post-negotiation business clearances. Business clearances submitted to MSC Headquarters will be assigned a number upon receipt by COMSC (N102) who will maintain a business clearance log book. Area Commanders and MSCCENTACT shall maintain a log and assign numbers for business clearances within their authority.

(2) The format and content of the business clearance shall be as set forth in the NAPS Table 1-90 under paragraph 1.690-9(d).

(3) Business clearances requiring Headquarters approval shall be reviewed and signed by the Area Command Director of Contracts or MSCCENTACT Contracting Division Director prior to forwarding to COMSC (N0021). The original and one copy of the business clearance and one set of the attachments should be submitted. The original will be returned upon approval; the copy and attachments will be retained in COMSC (N102) files.

(4) In cases requiring ASN(RD&A) approval, COMSC (N102) is the focal point for all business clearance matters.

(5) Business clearances requiring MSC Headquarters approval shall be submitted in time to allow a minimum of 5 working days for review. Facsimile copies may be submitted, however, 5 days shall be allowed from the date of receipt of all necessary supporting documents. Requests for business clearance review and approval in less than 5 days shall be made by a memorandum citing the specific need for expedited action.

(6) A copy of each business clearance approved at the MSCCENTACT or Area Command level which exceeds \$1,000,000 shall be forwarded to COMSC (N102).

c. All those involved in the preparation, review, or handling of business clearances shall exercise the care necessary to ensure that business or procurement sensitive information is protected from unauthorized disclosure.

Distribution:

COMSC Staff (N10 only) (10)

MSCCENTACT Staff (N10 only) (25)

SNDL 41B (MSC Area Commanders) (LANT and PAC) (25)

41B (MSC Area Commanders) (EUR and FE) (10)

41C (MSC Subarea Commanders) (5)

41D3 (MSC Offices)

BUSINESS CLEARANCE APPROVAL THRESHOLDS

ACTION	DOLLAR VALUE	REQUIRED APPROVAL
<p><u>CATEGORY I</u> Other than full and open competition Award to other than low offeror Negotiation with single offeror All cost type contracts (excludes advance agreements)</p>	<p>\$1,500,000 and below</p>	<p>As established by Area Commander; MSCCENTACT (N10) Division Director</p>
<p><u>CATEGORY II</u> Full and open competition award to low offeror competitive, fixed-price (excludes advance agreements)</p> <p>ANY CONTRACT ACTION (excludes advance agreements)</p> <p>ADVANCE AGREEMENTS ON COST ITEMS (i.e., compensation for personnel services, deferred maintenance costs, etc.)</p> <p>PROPOSED CLAIM SETTLEMENT Pre-negotiation Business Clearance</p> <p>Pre-negotiation Business Clearance</p> <p>Post-negotiation Business Clearance</p>	<p>\$2,000,000 and below</p> <p>\$3,000,000 and below</p> <p>Over above limits but not over \$20,000,000</p> <p>Over \$20,000,000</p> <p>Any \$ amount</p> <p>\$250,000 and less</p> <p>Over \$250,000</p> <p>Any \$ amount</p>	<p>As established by Area Commander</p> <p>MSCCENTACT (N10) Division Director</p> <p>MSC Headquarters, Code N102</p> <p>MSC Headquarters, Code N10</p> <p>ASN (Research, Development & Acquisition)</p> <p>As established by Area Commander; MSCCENTACT (N10) Division Director</p> <p>MSC Headquarters, Code N10</p> <p>MSC Headquarters, Code N10</p>

BUSINESS CLEARANCE MEMORANDUM <i>(Original to be returned to initiating contracting office)</i>		Clearance No.: PR No.:																														
Activity: _____ Date: _____																																
Type of Procurement (Check one): <input type="checkbox"/> Sealed Bidding <input type="checkbox"/> Negotiated under 10 U.S.C. 2304(b) () () <input type="checkbox"/> Full and Open Competition <input type="checkbox"/> Negotiated under 10 U.S.C. 2304(c) () 1,2 A-C <input type="checkbox"/> Negotiated Pursuant to Changes Clause																																
Type of Contract (s)		Clearance Total: \$ _____																														
Clearance A <input type="checkbox"/> Pre-negotiation B <input type="checkbox"/> Authority to Contract C <input type="checkbox"/> Competitive <input type="checkbox"/> Post-negotiation <input type="checkbox"/> Authority to Establish Final Price <input type="checkbox"/> Noncompetitive <input type="checkbox"/> Letter Contract <input type="checkbox"/> 8(a) <input type="checkbox"/> FMS																																
Contractor(s): Name	Address (City, State)	Contract No.(s)																														
Program		Description of Supplies/Services																														
Pricing Structure (If CPAF indicate base and award fee) <table style="width:100%; border: none;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 30%; text-align: center;">Pre-Negotiation</th> <th style="width: 30%; text-align: center;">Post-Negotiation</th> </tr> </thead> <tbody> <tr> <td>Cost (Excl. COM).....</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Cost of Money</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Total Cost</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Fee/Profit (%).....</td> <td>_____</td> <td>_____</td> </tr> <tr> <td> Base Fee (%).....</td> <td>_____</td> <td>_____</td> </tr> <tr> <td> Award Fee (%).....</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Total</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Ceiling Price (%).....</td> <td>_____</td> <td>_____</td> </tr> <tr> <td colspan="3">Sharing Arrangement:</td> </tr> </tbody> </table>				Pre-Negotiation	Post-Negotiation	Cost (Excl. COM).....	_____	_____	Cost of Money	_____	_____	Total Cost	_____	_____	Fee/Profit (%).....	_____	_____	Base Fee (%).....	_____	_____	Award Fee (%).....	_____	_____	Total	_____	_____	Ceiling Price (%).....	_____	_____	Sharing Arrangement:		
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Award Fee (%).....	_____	_____																														
Total	_____	_____																														
Ceiling Price (%).....	_____	_____																														
Sharing Arrangement:																																
Delivery or Period of Performance To Commence _____ To Finish _____																																
Contact Points for this Document <table style="width:100%; border: none;"> <tr> <td style="width: 60%;">Contract Specialist/Negotiator _____</td> <td>Phone (Com) _____</td> </tr> <tr> <td>Technical _____</td> <td> A/V _____</td> </tr> <tr> <td></td> <td>Phone (Com) _____</td> </tr> <tr> <td></td> <td> A/V _____</td> </tr> </table>			Contract Specialist/Negotiator _____	Phone (Com) _____	Technical _____	A/V _____		Phone (Com) _____		A/V _____																						
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BUSINESS CLEARANCE MEMORANDUM <i>(Signature page - additional pages attached set forth facts)</i>	Clearance No.:												
Clearance Recommendation:													
<table><tr><td>Clearance:</td><td></td><td></td><td></td></tr><tr><td>Contracting Officer</td><td>_____</td><td>Date _____</td><td>A/V _____ Com _____</td></tr><tr><td>Chief of Deputy Contract Shop</td><td>_____</td><td>Date _____</td><td>A/V _____ Com _____</td></tr></table>		Clearance:				Contracting Officer	_____	Date _____	A/V _____ Com _____	Chief of Deputy Contract Shop	_____	Date _____	A/V _____ Com _____
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Chief of Deputy Contract Shop	_____	Date _____	A/V _____ Com _____										
<p>(Reserved for Approving Official i.a.w. NARSUP 1.690-2(b)(1))</p> <p>() Unconditional Approval () Conditional Approval () Not Approved</p> <p>(sig) _____ Date _____</p> <p>Conditions (if applicable):</p>													