



# Defense Health Agency

## **ADMINISTRATIVE INSTRUCTION**

**NUMBER 110**  
December 3, 2019

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AD-CS

SUBJECT: Safeguarding Procurement Sensitive Information

References: See Enclosure 1.

1. **PURPOSE**. This Defense Health Agency-Administrative Instruction (DHA-AI), based on the authority of References (a) and (b), and in accordance with References (c) through (p), implements Defense Health Agency's (DHA) procedures and practices for safeguarding procurement sensitive information once it is determined that a DHA need has been established, and the requirement is to be fulfilled by the procurement process.
2. **APPLICABILITY**. This DHA-AI applies to all DHA personnel to include: assigned, attached, or detailed active duty and reserve members, federal civilians, contractors (when required by the terms of the applicable contract), and other personnel assigned temporary or permanent duties to DHA, including regional and field activities (remote locations).
3. **POLICY IMPLEMENTATION**. It is DHA's policy, pursuant to References (c) through (p), that DHA ensure and maintain the confidentiality of procurement sensitive information, prevent disclosure and misuse, deter noncompliance with these requirements, and promote accountability.
4. **RESPONSIBILITIES**. See Enclosure 2.
5. **PROCEDURES**. See Enclosure 3.

6. **RELEASABILITY. Not cleared for public release.** This DHA-AI is available to users with Common Access Card authorization on the DHA SharePoint site at: <https://info.health.mil/cos/admin/pubs/SitePages/Home.aspx>.

7. **EFFECTIVE DATE.** This DHA-AI:

a. Is effective upon signature.

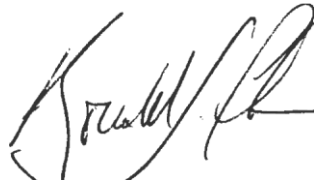
b. Will expire 10 years from the date of signature if it has not been reissued or cancelled before this date in accordance with Reference (c).

8. **FORMS.** The following DHA forms are available at:

[https://info.health.mil/cos/admin/DHA\\_Forms\\_Management/SitePages/Home.aspx](https://info.health.mil/cos/admin/DHA_Forms_Management/SitePages/Home.aspx)

a. DHA Form 821, Source Selection Non-Disclosure Agreement.

b. DHA Form 49, DHA Contractor Non-Disclosure Agreement.



RONALD J. PLACE  
LTG, MC, USA  
Director

Enclosures

1. References
2. Responsibilities
3. Procedures

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5136.01, “Assistant Secretary of Defense for Health Affairs (ASD(HA)),” September 30, 2013, as amended
- (b) DoD Directive 5136.13, “Defense Health Agency (DHA),” September 30, 2013
- (c) DHA-Procedural Instruction 5025.01, “Publication System,” August 24, 2018
- (d) Defense Health Agency Memorandum, “Delegation of Authority as Head of Contracting,” August 18, 2017<sup>1</sup>
- (e) Code of Federal Regulations, Title 48, Volume 1, Chapter 1, “Federal Acquisition Regulation (FAR)”
- (f) Code of Federal Regulations, Title 48, Volume 2, Chapter 1, “Federal Acquisition Regulation (FAR)”
- (g) Code of Federal Regulations, Title 48, Volume 3, Chapter 2, “Defense Federal Acquisition Regulation Supplement (DFARS)”
- (h) Defense Health Agency Procurement Directive 03-03 Rev. 000, “Conflicts of Interest and Related Matters,” August 21, 2014<sup>2</sup>
- (i) Defense Health Agency Procurement Directive 09-01 Rev. 001, “Organizational and Consultant Conflicts of Interest,” April 23, 2014<sup>3</sup>
- (j) Defense Health Agency Procurement Directive 03-01 Rev. 001, “Non-Disclosure Agreement (NDA),” May 24, 2017<sup>4</sup>
- (k) Defense Health Agency Procurement Directive 03-02 Rev. 000, “Safeguarding Release of Contract Documents, Data, and Information to Third Party Entities,” June 11, 2014<sup>5</sup>
- (l) Defense Health Agency Procurement Directive 15-03 Rev. 003, “Source Selection,” July 11, 2018<sup>6</sup>
- (m) United States Code, Title 44, Section 3301, “Definition of Records”
- (n) Code of Federal Regulations, Title 36, Section 1222.10, “How should agencies apply the statutory definition of Federal records”
- (o) DoD Administrative Instruction-15, “OSD Records and Information Management Program”, May 3, 2013, as amended<sup>7</sup>
- (p) DoDM 5200.01, Volume 4, DoD Information Security Program: “Controlled Unclassified Information (CUI),” February 24, 2012, as amended

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<sup>1</sup> This reference can be found at:

<https://info.health.mil/sites/DOP/PAC/SitePages/Delegations%20of%20Authority%20-%20Acquisition%20Appointments.aspx>

<sup>2</sup> This reference can be found at:

<https://info.health.mil/sites/DOP/PAC/SitePages/DHA%20Acquisition%20Policy%20and%20Appointments.aspx>

<sup>3</sup> This reference can be found at:

<https://info.health.mil/sites/DOP/PAC/SitePages/DHA%20Acquisition%20Policy%20and%20Appointments.aspx>

<sup>4</sup> This reference can be found at:

<https://info.health.mil/sites/DOP/PAC/SitePages/DHA%20Acquisition%20Policy%20and%20Appointments.aspx>

<sup>5</sup> This reference can be found at:

<https://info.health.mil/sites/DOP/PAC/SitePages/DHA%20Acquisition%20Policy%20and%20Appointments.aspx>

<sup>6</sup> This reference can be found at:

<https://info.health.mil/sites/DOP/PAC/SitePages/DHA%20Acquisition%20Policy%20and%20Appointments.aspx>

<sup>7</sup> This reference can be found at:

<https://info.health.mil/cos/admin/pmss/Records%20Management%20Library/AI-15%20Vol.%20I%20and%20II.pdf>

ENCLOSURE 2  
RESPONSIBILITIES

1. DIRECTOR, DHA. The Director, DHA, will ensure the Deputy Assistant Director (DAD), Acquisition (A) has the necessary resources and Director-level support to ensure compliance with this DHA-AI.
  
2. COMPONENT ACQUISITION EXECUTIVE. The Component Acquisition Executive has oversight and approval of all acquisition matters for this Agency, including both those acquisition matters performed under the purview of the Agency's Program Executive Officers, as well as those acquisition matters undertaken within the Agency's directorates and offices, except for acquisition matters explicitly reserved for oversight and approval by the Under Secretary of Defense (Acquisition and Sustainment).
  
3. DAD-A/HEAD OF THE CONTRACTING ACTIVITY (HCA). The DAD-A/HCA will manage the Agency's contracting functions as set forth in the acquisition regulatory guidance and in accordance with References (a) through (p). The HCA provides guidance and performs oversight of all procurement related policy, practice, procedures, and issues within DHA. Reference (d), details the HCA responsibilities as set forth in the acquisition regulatory guidance.
  
4. SUPERVISORS, DIVISION CHIEFS, AND DIRECTORS. The Supervisors, Division Chiefs, and Directors will ensure their employees comply with this DHA-AI and take positive action to ensure protection of procurement sensitive information.
  
5. DHA CONTRACTING OFFICER (CO). The DHA CO, in conjunction with the Program Manager (PM), establishes the acquisition team for a particular procurement, ensures Non-Disclosure Statements are signed by all individuals who will have access to procurement sensitive information, and provides training to all members of the team and to other individuals requiring access to procurement sensitive information.
  
6. PM/FUNCTIONAL SERVICE MANAGER/REQUIRING ACTIVITY. The PM/Functional Service Manager/Requiring Activity will ensure acquisition team members comply with this issuance and take positive action to ensure protection of procurement sensitive information.
  
7. DHA PERSONNEL. The DHA Personnel will comply with this DHA-AI and take positive action to ensure protection of procurement sensitive information.

ENCLOSURE 3

PROCEDURES

1. PROCUREMENT SENSITIVE INFORMATION. Must not be released or disclosed to anyone outside of those persons having an official need to know and having prior approval of the CO. The disclosure of this information may jeopardize the integrity or successful completion of a procurement(s). Inappropriately released information may prejudice or bias the solicitation and award, or otherwise adversely impact a procurement.

a. Procurement Integrity. Individuals involved in any phase of the acquisition are subject to the requirements of Reference (e). This Act, and other similar statutes and regulations, impose stringent requirements related to safeguarding source selection information and compliance with other procurement integrity issues.

b. Disclosure, Protection, and Marking of Contractor Bid or Proposal Information and Source Selection Information. In accordance with References (e), (g), and (p), individuals shall not knowingly disclose contractor bid or proposal information, or source selection information.

c. Protection from Unauthorized Disclosure. References (d) through (l) discuss various types of information or situations and methods of protection from unauthorized disclosure.

2. NEW DHA PERSONNEL TRAINING. All new DHA personnel, as part of their on boarding orientation, will be instructed on this DHA AI, within 3 months of their hiring date. Supervisors will provide an overview of this DHA-AI, and a DHA CO may be available for specific guidance and instructions. Supervisors shall issue a certificate of completion to the individual and maintain a copy as evidence that this training has been accomplished.

3. ACCESS TO PROCUREMENT SENSITIVE INFORMATION. All individuals, having access to procurement sensitive information or any information which is protected or governed by law or regulation, and associated with DHA acquisitions; shall not knowingly disclose such information to anyone, without ensuring an individual(s) have a need to know, ensure appropriate safeguards have been established prior to its release, and approval of the CO is obtained. In some situations, it may be necessary for individuals to disseminate a redacted version of the information that has omitted the procurement sensitive information. The omitted procurement sensitive information will be addressed as separate matter in a Government only forum.

4. CONFLICTS OF INTEREST. Individuals and organizations often have access to procurement sensitive information, which could potentially create either an individual and/or organizational conflict of interest or an unfair competitive advantage.

a. The CO shall evaluate actual and potential conflicts of interest as early in the acquisition process as possible to avoid, neutralize, or mitigate significant potential conflicts before issuance of a solicitation and contract award. Each procurement situation is examined on the basis of its particular facts and the nature of the proposed contract.

b. References (h) and (i), address DHA procurement policies and procedures for individual and organizational conflicts of interest respectively.

5. NON-DISCLOSURE AGREEMENT (NDA). All individuals who will need access to or have access to procurement sensitive information shall be required to complete and sign a NDA, DHA Form 821, Source Selection Non-Disclosure Agreement or DHA Form 49, DHA Contractor Non-Disclosure Agreement, prior to beginning work on the subject acquisition (see Reference (j)). The CO will provide training and ensure that individuals are aware of their responsibilities concerning use of such information and protection procedures.

6. IDENTIFYING PROCUREMENT SENSITIVE INFORMATION. An originator of information that may be procurement sensitive, or an individual who obtains information that may be procurement sensitive, shall provide the information to and consult with the CO who shall determine whether the information is procurement sensitive information.

a. The CO may seek advice of the Office of General Counsel in the determination.

b. If the information is identified as procurement sensitive information it shall be appropriately marked as "Procurement Sensitive Information." Information will be identified with any additional official markings that may be required by law or regulation (e.g. "For Official Use Only" as used in accordance with the Freedom of Information Act), and as may be required and/or determined appropriate by CO.

c. Measures shall be taken to restrict its further release, and take other actions as required by and in accordance with References (d) through (l). This information shall be shared only with the smallest possible audience having a need to know and only for the specific purpose authorized by CO.

7. PROCESSING PROCUREMENT SENSITIVE INFORMATION. All individuals shall seek guidance from the CO regarding the coordination of documents, dissemination, and transmission of procurement sensitive information. Procurement sensitive information should not be transmitted electronically unless encryption is utilized. Depending on a particular procurement, other restrictions may apply.

a. All individuals shall ensure procurement sensitive information be protected on network drives by restricting access to those individuals who have a need to know, have signed an NDA, and have completed training.

b. Create subfolders and restrict permissions on network drives and within computer information systems/software programs and applications, and/or other types of information systems to segregate and preclude inappropriate access to procurement sensitive information.

8. SAFEGUARDING RELEASE OF CONTRACT DOCUMENTS. If it is determined the information is not procurement sensitive and may be released to third-party entities, the Chiefs of the Contracting Divisions determine and oversee this process (see Reference (k)).

9. PROCUREMENT INTEGRITY ACT. Violations of the requirements of the Procurement Integrity Act could result in civil and/or criminal penalties. Every member of the acquisition team shall become familiar with the prohibitions and certification requirements of the Act and similar statutes and regulations pertaining to the specific acquisition. Direct questions and/or issues regarding procurement integrity policy and regulations to the CO and legal counsel assigned.

10. MAINTENANCE AND OVERSIGHT OF GOVERNMENT INFORMATION.

Procurement sensitive information is considered a federal record(s) (References (m) and (n)). DHA personnel have federal records management responsibilities. An individual's office maintains an active program for the continuous management of records throughout the records life cycle. DHA offices shall establish files restricting access to government personal only. Those files shall be used to maintain strict control over procurement sensitive information. Additional information regarding the Health Affairs/DHA Records Management Program can be found in Reference (o), or DHA Records Management Office SharePoint site at: <https://info.health.mil/cos/admin/pmss/SitePages/Records%20Management.aspx>.

***All personnel involved in the acquisition process are responsible for maintaining the integrity of the procurement and protecting procurement sensitive information.***

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

A	Acquisition
CO	Contracting Officer
DAD	Deputy Assistant Director
DHA	Defense Health Agency
DHA-AI	Defense Health Agency-Administrative Instruction
FAR	Federal Acquisition Regulation
HCA	Head of the Contracting Activity
NDA	Non-Disclosure Agreement
PM	Program Manager

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this DHA-AI.

CO. A person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings (Reference (e)).

procurement sensitive information. This includes, but is not limited to: Contractor bid or proposal information (see Reference (e), Federal Acquisition Regulation 3.104-1), Source Selection Sensitive Information (see Reference (e), Federal Acquisition Regulation 3.104-1), all non-public information, documents, conversations, discussions, data, correspondence, electronic mail, text messages, presentations, or any other written or verbal communications relating to, concerning, or affecting procurement data; agency sensitive information; information in requirements documents (e.g., purchase requisitions, Statements of Work Performance Work Statements); acquisition strategies, acquisition plans, questions from offerors; the identity of government personal involved in the solicitation; draft or issued solicitations (e.g., Requests for Quotations, Request for Bids, Requests for Proposals); offerors' identities; source selection plans, evaluations of technical and cost proposals, competitive range determinations, evaluation reports, confidential information, business proprietary information, the schedule of key technical and procurement events in the award determination process; awards and contracts; and any other information that would likely jeopardize the integrity or successful completion of a procurement to which the information relates.



federal record. Includes all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them (Defined in References (l) and (m)).

source selection information. A subset of procurement sensitive information (Reference (e)).

third-party entities. An individual or other entity who is not a direct party to a contract or agreement, but who somehow has an interest in or is affected by it; someone other than the principles to an agreement (Reference(k)).

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