



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

NOV 14 2016

In reply refer to
DARS Tracking Number: 2017-O0001

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 Contracting with Entities that Require Certain
Internal Confidentiality Agreements

Effective immediately, none of the funds appropriated (or otherwise made available) by the Continuing Appropriations Act, 2017 (Pub. L. 114-223), or any other Act that extends to fiscal year (FY) 2017 funds the same prohibitions as contained in section 743, division E, title VII, of the Consolidated Appropriations Act, 2016 (Pub. L. 114-113), may be made available for a contract with an entity that requires employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. Section 103 of the Continuing Appropriations Act, 2017 subjects the funding provided by that Act for FY 2017 to the same conditions set forth in section 743.

When using funds made available by the Continuing Appropriations Act, 2017 (Pub. L. 114-223), or any other Act that extends to FY 2017 funds the same prohibitions as contained in section 743, division E, title VII, of the Consolidated Appropriations Act, 2016 (Pub. L. 114-113), contracting officers shall—

- Include the attached provision at 252.203-7994, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements—Representation (DEVIATION 2017-O0001)(NOV 2016), in all solicitations, including solicitations for the acquisition of commercial items under FAR part 12;
- Include the attached clause at 252.203-7995, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements (DEVIATION 2017-O0001)(NOV 2016), in all solicitations and contracts, including solicitations and contracts for the acquisition of commercial items under FAR part 12; and
- Modify existing contracts awarded on or after October 1, 2016, to the maximum extent practicable, to include the attached clause at 252.203-7995.

This class deviation remains in effect until incorporated in the FAR or otherwise rescinded. My point of contact is Lorena Malcolm, who may be reached at 571-372-6176 or Lorena.Malcolm.civ@mail.mil.



Claire M. Grady
Director, Defense Procurement
and Acquisition Policy

Attachments:
As stated