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DEPARTMENT OF THE AIR FORCE
WASHINGTON 20330



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OFFICE OF THE SECRETARY

JUN 20 1967

MEMORANDUM FOR MAJOR GENERAL G. F. KEELING

SUBJECT: Delegation of Special Authority to the Head of a Procuring Activity

1. In addition to your normal assignment as Deputy Chief of Staff, Procurement and Production, Headquarters, Air Force Systems Command, you have recently been assigned additional duties as Assistant Director, MOL (Procurement). This memorandum prescribes your authorities in that latter capacity.

2. All procurement authorities presently vested in you as DCS/P&P, Hq AFSC, pertain to your additional duty of Assistant Director, MOL (Procurement). Pursuant to the National Security Act of 1947, as amended; Chapter 137, Title 10 U.S. Code; Section 8012, Title 10 U.S. Code and other pertinent statutes, regulations and directives, you have previously been designated as Head of a Procuring Activity (HPA) and delegated authority to act for the Secretary of the Air Force in the following particulars:

a. To enter into, approve, and take other action with respect to Contracts, Change Notifications, Change Orders, Supplemental Agreements, Awards, Letter Contracts, Leases, Amendments of Contracts and other contractual instruments;

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b. To approve such deviations from the Armed Services Procurement Regulations (ASPR) and the Air Force Procurement Instructions (AFPI) as the Director of Procurement Policy, Deputy Chief of Staff/Systems and Logistics, Hq USAF, is authorized to approve.

3. Additional special authority is required for you to discharge your responsibilities as Assistant Director, MOL (Procurement). This special authority pertains to covert

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(i.e., "black") contracts necessary to the DORIAN aspects of the MOL Program and presently encompasses work with the Eastman Kodak, General Electric, and McDonnell/Douglas companies. Under no condition is this special authority applicable to any of your responsibilities except as Assistant Director, MOL (Procurement). Specifically, in the contracts cited and such additional contracts as are approved by appropriate authority, the Assistant Director, MOL (Procurement) may omit or change:

- a. ASPR 7-203.7 and 7-104.15 dealing with "Records" and "Examination of Records".
- b. ASPR 12-802, "Non-Discrimination of Employment".
- c. ASPR 1-307.2 and 7-104.18, "Priorities Allocations and Allotments".
- d. ASPR 12-403, "Davis-Bacon Act".
- e. ASPR 9-203(Z), "Rights in Technical Data".
- f. ASPR 1-109.2 and 1-109.5, "Deviations Affecting One Contract or Transaction", and "Request for Approval of Proposed Deviation".

4. With respect to para 3a above, standard contract clauses should be rewritten to provide the following:

- a. In the case of a fixed price subcontract -

"Possible Audit or Records - In the possibility that part or all of the supplies and/or services purchased hereunder may be used in the performance of a Government contract, the Seller agrees to retain all of its directly pertinent books, documents, papers and records related to this contract for a period of three years from the date of final payment hereunder, and upon being advised by the buyer or the United States Government that the supplies and/or services were so used in the performance of a United States Government contract, then to make such books, documents, papers and records available during said three year period to the Comptroller General of the United States, or any of his duly authorized representatives, for examination and audit."

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b. In the case of a CPFF subcontract -

"Audit of Records - The Seller agrees to maintain such records relating to costs reimbursed hereunder as may be directed or approved by the buyer. The seller agrees to preserve such records for such periods of time, both during and subsequent to the performance of work hereunder as may be directed by the buyer. For such periods of time, and during reasonable office hours, the Seller agrees to make such records available at its place of business for inspection and audit by the buyer or auditors designated by the buyer."

c. The Government approval of a subcontract under a CPFF contract written with the foregoing clause therein should be evidenced by a memorandum, to be executed by the prime contractor and the contracting officer, which stipulates:

"The Government approval of the above identified subcontract was in consideration of the promise of the contractor that the contractor will administer the Audit of Records clause therein so that the Government will receive the same rights and protection that it would have received had the Records clause contained in Contract No. _____ been incorporated into the subcontract. Furthermore, in consideration of the Government's approval of the subcontract and the reimbursement of costs thereunder, the contractor does hereby designate as its auditors under the said Audit of Records clause in the subcontract to audit the records of the subcontractor, such auditors as may be designated by the Department of the Air Force or the Comptroller General of the United States. Action taken hereunder will be in consonance with the security requirements of the aforementioned contract between the contractor and the Government."

5. With respect to para 3b above, the omission of the Nondiscrimination in Employment clause would be contrary to the provisions of Executive Order No. 10925, but it is not believed that this deviation would be regarded too seriously, if, in fact, the subcontractor's employment practices were equal to or better than the standards established by the Executive Order or by the President's Committee on Equal Employment Opportunity. To avoid any substantive violation of the prescribed standards:

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a. The proposed subcontractor must already have substantial amounts of Government business, and under prime contracts or subcontracts that included the standard Nondiscrimination in Employment clause.

b. The administrative contracting officer must assure himself--probably through the prime contractor as a security measure--that the proposed subcontractor is fully complying with the Nondiscrimination in Employment clauses in his other contracts, and that the relationship between the proposed subcontract and the other business of the subcontractor is such that it would be patently impractical to establish standards for the proposed subcontract that would not fully comply with the standards of the Nondiscrimination in Employment clause.

c. The administrative contracting officer must make a formal written finding covering this matter which will be included in the contract file for the consideration of the official making the decision on whether or not the deviation should be authorized.

6. With respect to paras 3b and 3f above, these reports are inconsistent with National Reconnaissance Program security requirements. So as not to widen unnecessarily groups having knowledge of NRP activities, both the report of deviation to ASD(I&L) and subcontractor nondiscrimination compliance reports are hereby waived.

7. All contracts which clearly associate MOL with a reconnaissance mission in the National Reconnaissance Program (i.e., EK, and pertinent efforts of GE and Douglas) will be safeguarded and handled in accordance with BYEMAN security standards. Any contract which could reveal the NRP mission for MOL, or hardware for reconnaissance purposes, will likewise be safeguarded and handled in accordance with BYEMAN security standards. With regard to the latter, it is particularly important that the Assistant Director, MOL (Procurement) exercise his authority to approve deviations by permitting appropriate subcontracts to be written omitting therefrom all standard Government clauses or other references which would identify these subcontracts as being related to an MOL contract.

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8. You will exercise the special authority described in para 3 above personally on an individual contract basis pursuant to the procedures and safeguards outlined in paras 4 through 7. Questions regarding BYEMAN security or past practices in this area should be referred to the DNRO or Director, SAFSP, as appropriate, for interpretation and guidance.

9. Changes to the contracts cited in para 3 will not require additional approval to exercise your special authority, nor will prior approval be required for any other on-going covert contracts transferred from SAFSP to MOL; however, new work involving covert contracts or subcontracts will require the one-time approval of the DNRO prior to exercising the special authority cited herein.

10. The special authorities specified in this memorandum may not be redelegated without the express approval of the Secretary of the Air Force.

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