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JOINING THE DEFENSE DIRECTIVES AND DEFENSE ACQUISITION REGULATORY

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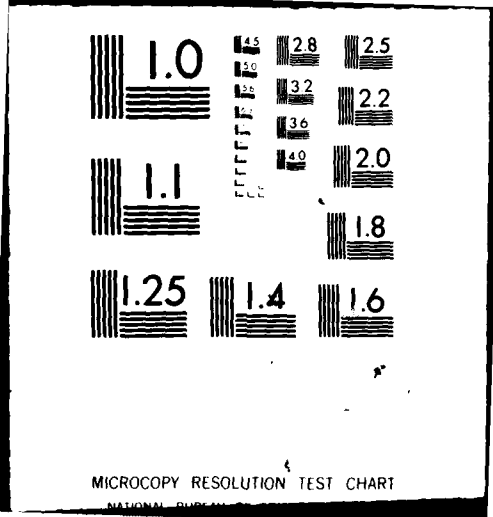
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JOINING THE DEFENSE DIRECTIVES
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Alvin W. Platt
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within OUSDRE so that a positive indication of any impact on the DAR is documented during the coordination cycle of such directives and instructions.

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EXECUTIVE SUMMARY

The Defense Acquisition Regulatory System (DAR System) provides detailed regulations governing Department of Defense (DoD) acquisition of supplies and services. The DoD Directives System provides overall DoD-level instructions, direction and policy on any subject. All acquisition policies and directions contained in directives and instructions issued under the DoD Directives System should be implemented in the DAR.

The purpose of this study was to determine how effectively the DAR and the DoD Directive System are or can be joined. The findings indicate that there are no serious impediments to joining the two systems. Directives and instructions sometimes contain language affecting acquisition which often is not incorporated into the DAR. Differing interpretations of the scope of the acquisition process create some difficulty in identifying specific acquisition related issuances. The DoD Directives System does not assign the subject "acquisition" to any specified numerical sequence.

It is recommended that the definition of acquisition in the pending draft revision to the DAR be used universally. The DAR should incorporate all acquisition material now appearing in directives and instructions into a new "policy" section and become the complete set of regulations governing acquisition policy and procedures. In addition, coordination procedures for review of new directives and instructions should be tightened within OUSDRE so that a positive indication of any impact on the DAR is documented during the coordination cycle of such directives and instructions.

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1. INTRODUCTION

The Department of Defense Directives System establishes the following issuances:

- "a. Department of Defense Directives, to publish Secretary of Defense decisions relating to policies, plans, programs, charters, delegations of authority, or other major actions.
- b. Department of Defense Instructions, to provide supplementary guidance implementing Secretary of Defense decisions.
- c. Department of Defense Transmittals, to amend or cancel Directives, Instructions, and certain other DoD publications."

The Defense Acquisition Regulatory System (DAR System) provides policy and regulations governing contractual actions for DoD acquisition activities.

The Deputy Under Secretary of Defense for Research and Engineering (Acquisition Policy) seeks improvements in the DAR System to assure appropriate DAR implementation of and distribution of any acquisition policy or material included in the DoDDs and DoDIs.

This study was initiated to evaluate how the DAR System should provide implementation of acquisition policy and material contained in DoDDs and DoDIs and recommend changes necessary to correct implementation inadequacies. The purpose is to provide an improved DAR in the sense that a single DoD publication could include all DoD policy and regulations related to acquisition.

This study consisted primarily of a review of existing policies, administrative procedures, and related documentation along with interviews with local personnel. No attempt was made to perform a complete audit and review of the directive and acquisition regulatory systems or their distribution beyond the formal lists.

2. FINDINGS

DIVERSE SOURCES OF ACQUISITION ISSUANCES

The DoD Directives System does not assign responsibility for acquisition to any single OSD organizational element. According to the provisions of DoDD 5025.1 (11/18/77), the heads of specified major elements are authorized to originate DoDDs, DoDIs, and other "issuances" (such as manuals) "relevant and necessary to accomplish their assigned responsibilities." Thus, acquisition-related DoDDs and DoDIs can be, and are, issued by any authorized element. For example, areas of ASD (Comptroller) responsibility set forth in DoDD 5188.3 (7/11/72) include "budgeting, auditing, and fiscal functions," and the Comptroller from time to time originates, coordinates, and issues DoDIs which address acquisition issues. An example is DoDI 7110.2, "Budget Guidance for Value Engineering" (4/3/72), which prescribes Value Engineering sharing procedures as applied to DoD contracts.

Other DoDDs and DoDIs issued by the various DoD elements often contain acquisition-related subject matter, as shown in the following table.

<u>Number</u>	<u>Subject</u>	<u>Responsible DoD Organization</u>
4100.35	Development of Integrated Logistic Support for Systems/Equipments	MRA&L
4115.1	DoD Coordinated Procurement Program - Purchase Assignments	MRA&L
4140.19	Phased Provisioning of Selected Items for Initial Support of Weapons Systems, Support Systems and End Items of Equipment	MRA&L
2010.6	Standardization and Interoperability of Weapons Systems and Equipment Within the North Atlantic Treaty Organization (NATO)	ISA
2110.32	Financial Procedures for Military Assistance Sales Under the Military Procurement Agreement Between the United States and the Federal Republic of Germany	ISA

2000.3	International Interchange of Patent Rights and Technical Information	GC
5000.4	OSD Cost Analysis Improvement Group	PA&E

ACQUISITION SCOPE VARIOUSLY DEFINED

The lack of a uniform description of the scope of acquisition has contributed to the separation of the Directives System and DAR System. OMB Circular A-109 defines acquisition as follows:

System acquisition process means the sequence of acquisition activities starting from the agency's reconciliation of its mission needs with its capabilities, priorities and resources, and extending through the introduction of a system into operational use or the otherwise successful achievement of program objectives.

This definition encompasses activities and functions much broader than those usually associated with the conventional view of acquisition as approximating procurement. Originally, the Armed Services Procurement Regulation (ASPR) was created to regulate the procurement process. However, the ASPR was recently redesignated as the Defense Acquisition Regulation (DAR), without any change in scope or basic purpose. Therefore, while proclaiming itself as an acquisition regulation it remains less; i.e., a procurement regulation. Some of these issues may be resolved by the pending draft revisions of the Federal Acquisition Regulation (FAR) and the DAR. Both drafts contain the following definition of acquisition:

Acquisition means the acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase, lease, or barter, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.

If it is understood that the phrase in line 5, "when agency needs are established" means that the description of supplies and services to be procured has been determined at the

time the acquisition process starts, the above definition of acquisition is equivalent to the conventional procurement definition.

ACQUISITION ISSUANCES SCATTERED THROUGHOUT THE DIRECTIVES SYSTEM

The subject of acquisition is not confined to a particular number sequence in the DoD Directive System. Thus, in the consolidated quarterly index of all DoDDs and DoDIs dealing with acquisition, the identification numbers under "acquisition" or "procurement" span almost the entire DoD Directive System. Administrative Instruction No. 41, "Department of Defense Directives System Procedures" (2/78), which implements DoD 5025.1, assigns subjects to major numerical categories as follows:

- 1000 — Manpower, Personnel and Reserve
- 2000 — International Programs
- 3000 — Planning and Readiness
- 4000 — Logistics and Resources Management
- 5000 — General Administration
- 6000 — Health and Medical
- 7000 — Comptrollership

There are some subcategories within the major numerical categories which deal with acquisition subjects; however they are not consolidated into a single major numerical sequence. Examples of these are

- 4105 — Procurement and Contracting
- 42XX — Production and Requirements
- 7045 — Program Management
- 71XX — Budgeting
- 7140 — Procurement
- 7640 — Contract Auditing
- 78XX — Contract Financing

Discrete topics of acquisition policy and procedures are not consistently addressed in the same numerical subcategory. Value Engineering, for instance, is addressed in DoDD 5010.8 entitled, "DoD Value Engineering Program", as well as in DoDI 7110.2 entitled, "Budget Guidance for Value Engineering".

The almost random distribution of acquisition-related policy and regulatory material throughout the DoD Directives System means there is no single, identifiable set of "ac-

quisition" issuances. There is no existing consolidated list of issuances which contain all the acquisition policy and procedures.

DISTRIBUTION DIFFERENCES

DoDD/DoDI distribution is more limited than DAR distribution. The DAR is provided in large numbers to the lowest levels of acquisition organizations, to industry, and to the public. While, technically, outsiders can obtain unclassified DoDDs and DoDIs, they are not normally distributed to anyone who is not on the list established in DoD 5025.1 and Administrative Instruction No. 41. We believe that inclusion of acquisition-related DoDDs and DoDIs in the DAR will provide greater access to those documents and thereby enhance the effectiveness of the DAR as an acquisition regulation.

CURRENT LINKS

The established Directive review cycle appears adequate to ensure that all new acquisition-related issuances are included in the DAR. DoD Directive 5025.1 and its implementing Administrative Instruction No. 41 require that the originator of any proposed DoDD or DoDI (or revision thereto) is to ensure "full coordination" of such proposed documents with other appropriate major DoD elements, military departments, or other organizations. Our limited review indicates that such coordination is done routinely by acquiring appropriate management signatures from each concerned unit on standard form SD106.

One aspect of the current DoDD/DoDI coordination cycle could limit effective linkage with the DAR. The review procedure calls for implementation of any required DoDD/DoDI direction by issuance of subordinate procedural or regulatory documents. Our review reveals that such implementation is often not documented during the coordination cycle. Sometimes there is a unilateral direction in the DoDD/DoDI that implementation shall be effected within a prescribed time limit after issuance. In other instances, there is a positive assertion by a coordinating addressee that implementation has been effected

without indicating the nature of the implementation. Figure 2-1 is an example of Form SD106 signoff without positive indication of any DAR action or inaction even though such action may have been considered as appropriate.

DoD DIRECTIVES SYSTEM COORDINATION AND CONTROL RECORD

TYPE OF ISSUANCE DoD Instruction	SUBJECT NUMBER 7000.2	SUBJECT CAPTION Performance Measurement for Selected Acquisitions	
FROM: Signature and Title of OSD Organization Head or (Authorized Delegate) <i>James B. ...</i>		CONTACT OFFICER (Typed Name and Extension) Robert R. Kempf OX50706	DATE FORWARDED 2/23/77
REMARKS This revision to DoDI 7000.2 reflects changes resulting from an update to the C/SCSC Joint Implementation Guide. No significant changes to the criteria themselves have been made. Revisions consist primarily of improved definitions of terms and updating of references. The addition to Para. II.B. was an industry recommendation.		RETURN NO LATER THAN 3/25/77	
		FOR USE OF ORIGINATING OFFICE ONLY (Check appropriate box (es) below)	
		1. THE CLASSIFICATIONS (See DoC Legislation (2001-2)) ARE <input type="checkbox"/> TOP SECRET <input type="checkbox"/> SECRET <input type="checkbox"/> CONFIDENTIAL	
		2. THE DOCUMENT IS: <input type="checkbox"/> FOR OFFICIAL USE ONLY <input checked="" type="checkbox"/> UNCLASSIFIED	
		3. THE DOCUMENT WILL BE PUBLISHED IN THE FEDERAL REGISTER (See DoD Directive 4600.7) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
		4. THE DOCUMENT WILL BE PUBLISHED AS A RULEMAKING DOCUMENT IN THE F.R. (See DoD Directive 4600.9) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
		5. SIGNATURE OF CONTACT OFFICER <i>Robert R. Kempf</i>	

TO ADDRESSEES LISTED BELOW

The attached draft is forwarded for review and comment.

1. If the draft as written is approved, please indicate concurrence by signing in the appropriate space below. (If signed by a "language", please show title.)
2. If changes are suggested, please attach a separate memorandum covering the suggestions, and so indicate in the appropriate space below.

X	DIR DEF RESEARCH AND ENGINEERING	X	SECY OF THE ARMY
X	ASST SEC DEF (Comptroller)	X	SECY OF THE NAVY
	ASST SEC DEF (Health and Environment)		SECY OF THE AIR FORCE
X	ASST SEC DEF (Installations and Logistics) <i>DALE R. BABIONE</i>	X	Acting Assistant Secretary of Defense, (Installations and Logistics) WAR ST.
	ASST SEC DEF (Intelligence)	X	
	ASST SEC DEF (International Security Affairs)		DIR, DEFENSE CIVIL PREPAREDNESS AGENCY
	ASST SEC DEF (Legislation Affairs)	X	DIR, DEFENSE COMMUNICATIONS AGENCY
	ASST SEC DEF (Procurement and Materiel Affairs)	X	DIR, DEFENSE CONTRACT AUDIT AGENCY
X	ASST SEC DEF (Program Analysis and Evaluation)		DIR, DEFENSE INTELLIGENCE AGENCY
	ASST SEC DEF (Public Affairs)		DIR, DEFENSE INVESTIGATIVE SERVICE
X	GENERAL COUNSEL, DOD		DIR, DEFENSE MAPPING AGENCY
	SPEC ASST TO SEC DEF AND DEP SEC DEF		DIR, DEFENSE NUCLEAR AGENCY
	ASST TO SEC DEF AND DEP SEC DEF		DIR, DEFENSE SECURITY ASSISTANCE AGENCY
	ASST TO THE SEC DEF (Armed Forces)	X	DIR, DEFENSE SUPPLY AGENCY
	ASST TO SEC DEF FOR SALT		DIR, DOD SALT TASK FORCE
	SEC DEF REP TO NSFR NEGOTIATIONS		DIR, NATIONAL SECURITY AGENCY
	DEFENSE ADVISOR US MISSION TO NATO	X	DIR, TELECOMMUNICATIONS & COMMAND & CONTROL SYSTEMS

SD FORM 105 PAR 7b 105 L71245U

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

3. RECOMMENDATIONS

1) The DAR should become the sole DoD acquisition regulation, containing all promulgations pertaining to acquisition as defined in 2) below. DoDD 5000.35 should be revised to achieve this objective. Simultaneously, paragraph 1-106.1 of the DAR should be revised to state that all regulations and issuances relating to the acquisition process are contained in the DAR.

It is suggested that the DAR Council be asked to establish a new section entitled "Policy". This section would contain the DoDD/DoDI total reprints or extracts of pertinent sections indexed as in the DoDD/DoDI index currently published. That index allows convenient cross reference by subject, number, and responsible DoD organization.

The concept of an ASPR policy section has previously been recommended. ASPR Committee records provide a further discussion of the utility and development of the policy section. Frequent operating level criticism of the regulation is based on the user's inability to find in the regulation the policy rationale necessary to interpret and apply the regulations.

Concern that a policy section in DAR would repeat language contained in a directive or instruction should not bias the objective of achieving a single, complete source of all acquisition promulgations. The argument that this approach may add material to the already voluminous DAR should not be used to justify an incomplete DAR. The potential for increased understanding of acquisition by broader dissemination of policy is, we believe, a more important point.

2) The definition of acquisition contained in the draft revision of the DAR should be adopted for all DoD acquisition issuances (see page 2-2).

3) Steps should be taken to incorporate acquisition material from current DoDDs/DoDIs into the DAR. First, all those DoDDs and DoDIs currently indexed as acquisition or procurement should be incorporated without further analysis. Second, a DAR Council subcommittee should review the indexed issuances for currency and consistency with DAR needs. This review will probably modify the scope or number of DoDDs and DoDIs in the new policy section. Third, the same subcommittee should selectively review DoDDs and DoDIs not currently indexed to decide whether or not they are relevant to acquisition. This process will presume that the subcommittee can, from title or their own experience, detect such issuances. Those DoDDs or DoDIs found to be relevant to acquisition would be included in the Defense Acquisition Regulation policy section.

New or revised issuances can be reviewed by OUSDRE(AP) through the normal coordination procedures. However, more care should be exercised on the part of OUSDRE(AP) to assure adequate review of any impact on the DAR during the coordination of new or revised DoDDs and DoDIs. The procedures should require that draft documents sent to the OUSDRE, which appear to have any impact on the acquisition process, promptly be reviewed by the Acquisition Policy Group within the OUSDRE organization. The results of the review should be documented as to the impact on the DAR including a statement as to specific sections or provisions affected and a recommendation for or against inclusion in the policy section of the DAR.