



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

SEP 06 2019

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION
EXECUTIVE)
INSPECTOR GENERAL OF THE
DEPARTMENT OF DEFENSE
DEPUTY ASSISTANT SECRETARY OF THE
ARMY (PROCUREMENT), ASA (ALT)
DEPUTY ASSISTANT SECRETARY OF THE
NAVY (ACQUISITION & LOGISTICS
MANAGEMENT), ASN (RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DEFENSE FIELD
ACTIVITIES

SUBJECT: Waiver to Section 801 of the National Defense Authorization Act for Fiscal Year 2008

This waiver is in accordance with Section 801 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008, as amended, by the Under Secretary of Defense for Acquisition, and Sustainment as delegated to the Principal Director, Defense Pricing and Contracting. Several Department of Defense Components have requested to continue receiving contract administration of supplies and services received through the Federal Occupational Health Service (FOH), a division of the Program Support Center (PSC) within the Department of Health and Human Services (HHS).

- Under NDAA FY 2008 (Public Law 110-181), section 801, "Internal Controls for Procurements on Behalf of the Department of Defense (DoD) by Certain Non- Defense Agencies," at subsection (b)(1), allows an acquisition official of the DoD to place an order, make a purchase, or otherwise procure property or services for the DoD in excess of the simplified acquisition threshold through a non-defense agency only if the head of the non-defense agency has certified that the agency will comply with defense procurement requirements for the fiscal year.
- HHS PSC self de-certified under Section 801 for FY 2019 and currently has not provided a certification under Section 801 for FY 2020.

- DoD requires continued FOH administration for the already awarded services in the following areas:
 - Worklife Services
 - EAP Services
 - Clinical Laboratories
 - FOHNet
 - Web-Based Respirator Tool
 - Cardiac Services
 - West Staffing
 - East Staffing
 - NCR Staffing
 - Industrial Hygiene
 - AED Program
 - National Staffing
 - CTI Staffing Support
 - FedHealth
 - TJC Consulting
 - Cloud Computing Services
 - On-line Health Promotion Tool
 - Wellness Fitness and Health Promotion Staffing

- This waiver is necessary in order to maintain continuity of operations until follow on contracts can be awarded by the Department. I have determined that it is necessary and in the best interests of DoD to continue contract administration of existing FOH services issued by PSC on behalf of DoD.

This waiver is valid for contract administration for the period to correspond to the attached FOH notice of termination of its interagency agreements with the Department. My point of contact for this is Mr. Greg Snyder who can be reached at 703-614-0719, or gregory.d.snyder.civ@mail.mil.



Kim Herrington
Acting Principal Director,
Defense Pricing and Contracting


Attachments:
As stated



DEPARTMENT OF HEALTH & HUMAN SERVICES

Program Support Center

Bethesda, MD 20814

To: Department of Defense Customers
From: CDR Tomas Bonome 
Date: September 06, 2019
Re: Cancellation of FOH Interagency Agreements with DoD

Effective in 60 days, the Department of Health and Human Services (HHS), Federal Occupational Health Service (FOH) is invoking the cancellation clause in its interagency agreements (IAAs) with the Department of Defense (DoD). This correspondence serves as the cancellation notice required in FOH IAAs with DoD components.

FOH is a division of the HHS Program Support Center (PSC). As a result of an internal review that is ongoing, PSC has determined that it does not have the policies and procedures necessary to continue providing FOH services to DoD in fiscal year (FY) 2020. Some DoD components have experienced a break in employee assistance and other related FOH services. PSC is undertaking the contract actions necessary to restore services to the affected DoD components. PSC anticipates that services will be restored within the next week.

Concerning PSC's decertification under Section 801 of the FY 2008 National Defense Authorization Act, PSC has sought guidance from the Office of the Under Secretary of Defense (Acquisition and Sustainment) regarding the waiver requirement. It is PSC's understanding that the Under Secretary of Defense (Acquisition and Sustainment) intends to issue a class waiver for FOH services during the 60-day IAA cancellation period.

To assist DoD in contracting for the services DoD was receiving through FOH contracts, PSC has named Tomas Bonome (Tomas.Bonome@foh.hhs.gov) as the point of contact for information concerning the scope of work for FOH contracts. PSC anticipates an orderly termination of the affected IAAs over the next 60 days.

Questions concerning this policy decision should be directed to Tomas Bonome (Tomas.Bonome@foh.hhs.gov) with a courtesy copy to Evelyn Kappeler (evelyn.kappeler@hhs.gov).