

**BY ORDER OF THE COMMANDER
AIR COMBAT COMMAND**

**AIR COMBAT COMMAND
INSTRUCTION 64-101**



13 JUNE 2023

Contracting

**CONTRACTOR VISITS AND
MANAGEMENT OF CONTRACTOR
RELATIONS**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements ACPD 64-1, *The Contracting System*, and Department of Defense 5500.07-R, *Joint Ethics Regulation (JER)*. It sets forth responsibilities and procedures for interactions with contractor personnel. This publication applies to all ACC military and civilian personnel, including Air Force Reserve Command Units, Air National Guard Units, individual Reservists and United States Space Force personnel assigned to ACC. Refer recommended changes and questions about this publication to the OPR using the DAF Form 847, *Recommendation for Change of Publication*; route DAF Forms 847 from the field through the appropriate functional's chain of command. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFI 33-322, *Records Management and Information Governance Program*, and disposed of in accordance with the Air Force Records Information Management System Record Disposition Schedule. This publication may be supplemented at any level, but all direct Supplements must be routed to the OPR of this publication for coordination prior to certification and approval. The authorities to waive wing/unit level requirements in this publication are identified with a Tier ("T-0, T-1, T-2, T3") number following the compliance statement. See DAFMAN 90-161, *Publishing Processes and Procedures*, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the Publication OPR for non-tiered compliance items.

SUMMARY OF CHANGES

This publication has been revised and should be reviewed. The changes include updating of references, incorporating Tier authorities, and various minor and clerical items. No significant changes to the scope or intent have been made to the document.

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Chapter 1

INTRODUCTION

1.1. General Considerations. As military members and civilian personnel, we are called to exemplify Air Force core values in all that we do. We honor our oath, demonstrate integrity, and consistently strive to promote public confidence in all activities, including protecting government funding and resources. At the same time, we maintain effective, fair, impartial, and transparent relations with contractors in the defense industry. Interactions with private industry are absolutely crucial to our effort to “bring the future faster,” providing vital information regarding market conditions and technological capabilities. By maintaining a solid, professional working environment, without partiality to any particular contractor, we maximize our relationship with defense industry.

1.2. Framework. The attached guidance provides a framework for ensuring a proper relationship, consistent with applicable statutes and regulations. When in doubt, seek an ethics advisory opinion from your designated ethics advisor (Staff Judge Advocate).

Chapter 2

OVERVIEW AND RESPONSIBILITIES

2.1. Application. This instruction incorporates federal law (including the Procurement Integrity Act) and DoD regulations (including the Joint Ethics Regulation) which are applicable to all military and civilian personnel (see [Attachment 1](#)), including ACC NAFs, wings, and subordinate organizations. However, the processes delineated regarding contractor visits within HQ ACC (Chapter 3, Attachment 2 – Attachment 4) apply solely to HQ ACC personnel. For all others, consult your respective organization's instructions/SOP regarding contractor visits.

2.2. Interactions with Industry. Productive, professional interactions between ACC personnel and industry partners are crucial and should be encouraged. Such interactions enable the government to better understand the competitive marketplace and develop effective acquisition strategies that meet the government's requirements. "Industry days" (such as ACC Acquisition Management Integration Center [AMIC]'s Industry Collaboration Day) also provide an opportunity for multiple vendors to meet with the government, enhancing collaboration while meeting ethics considerations.

2.3. Ethics Considerations. Professionalism, integrity, transparency, and impartiality are the cornerstones of effective relationships with contractors. All ACC personnel have an ethical responsibility to avoid even the appearance of impropriety. Interactions, including visits with contractor personnel, on or off-duty, must be professional and:

2.3.1. Bolster public confidence in acquisition activities, and protect classified, sensitive, and privileged data, including source selection information;

2.3.2. Treat all prospective contractors equally, without conferring partiality, special privileges or access to one over another;

2.3.3. Safeguard proprietary information of contractors/companies, including avoiding disclosure to other companies. See [paragraph 6.7.2](#) regarding advisory & assistance services (A&AS) contractors.

2.3.4. Avoid contractor misperceptions of government endorsement or unauthorized commitments. Only the warranted contracting officer may execute binding commitments/contracts; and

2.3.5. In workplace interactions on existing contracts (i.e., non-personal services contracts), recognize the crucial distinction between government employees and contractor employees. Contractor employees (non-personal services contracts) are solely under the control, supervision, and direction of the contractor company.

2.4. Discrepancies. Promptly report potential concerns or violations to the respective Commander, Contracting Officer, Staff Judge Advocate, or Inspector General.

Chapter 3

RULES FOR CONTRACTOR VISITS WITHIN HQ ACC

3.1. Summary. In acquisitions, the Government requires a “level playing field,” with “full and open competition,” without favor to any particular company/individual. No company/individual should have unfair access to Government information or personnel.

3.2. Purpose of Visit. When an individual seeks a meeting with Government officials, the first step is to determine the individual's intended purpose. The purpose may be less clear, particularly for visits by former/retired DoD personnel. Former DoD personnel (retired/separated, military/civilian) may visit HQ ACC activities in different capacities, including in the representation of contractor interests (professional/business).

3.2.1. Personal/Social Visits. Retired DoD officials who visit HQ ACC activities for only personal reasons (personal relationship) should be accorded billeting and other privileges and courtesies authorized by law and regulation as commensurate with the retiree's status. When visits are strictly personal/social, there are no further coordination requirements. A personal visit, however, may evolve into professional/business matters, requiring further processing under the business rules.

3.2.2. Professional/Business. If a representative of a company (a) has an actual contract, (b) is an offeror in an on-going source selection, or (c) has a prospective interest in a future solicitation or government requirement, then follow the procedures in [Attachment 2](#) (“Business Rules”) for meeting requests of a professional/business nature.

3.2.3. Retired DoD Officials Representing Contractors. While retired DoD officials may be accorded billeting and other privileges and courtesies authorized by law and regulation as commensurate with the retiree's status, they cannot be granted preferential access over other contractors to government personnel or government non-public information. Such visits garner high scrutiny within DoD, Congress, and industry (including other contractors). To avoid the appearance of impropriety, favoritism, or unfair advantage, ACC personnel should ensure compliance with the business rules ([Attachment 2](#)), exercise care in protecting information, and memorialize all visits.

3.2.4. Visitors Representing Other Non-Federal Entities (NFEs). NFE's may include private associations/groups, in accordance with its charter and the interests of its members. While retired DoD officials may be accorded billeting and other privileges and courtesies authorized by law and regulation as commensurate with the retiree's status, they cannot be granted preferential access over other NFEs, including special access to government personnel or government non-public information. Again, to avoid the appearance of impropriety, favoritism, or unfair advantage, ACC personnel should ensure compliance with the business rules ([Attachment 2](#)), exercise care in protecting information, and memorialize all visits.

3.3. Military Ceremonies, Commemorations, Social Events: Since attendees may include retired DoD officials, contractors, and NFE personnel, ACC personnel must exercise care not to engage in “shop talk,” inadvertently disclosing non-public information. Special care must also be taken to avoid misperceptions of favoritism/endorsement and other appearances of impropriety. If conversations should evolve into potential acquisitions or official matters, ACC personnel should exercise care, avoid releasing non-public information, and memorialize all conversations.

3.4. Invitations/Visits to Contractor Facilities: When pertaining to existing contracts, the visit must be pre-coordinated with the Contracting Officer. For invitations/visits when there is no existing contract, follow the guidance in the business rules. To demonstrate impartiality, additional visits (to facilities of other similarly situated contractors) may be required. NFEs represented by a retired DoD official may be provided support for its events only in accordance with the requirements of DoD 5500.07-R, DoDM 5400.7_AFMAN 33-302, *Freedom of Information Act Program*, and AFI 33-332, *Air Force Privacy and Civil Liberties Program*, and only to the extent that support would be provided to a similar NFE represented by an individual who is not a retired senior official.

3.5. Demonstrations: Any demonstrations of a contractor's technology must be coordinated in advance with the government POC. Generally, any demonstration is expected to be conducted at contractor expense, without resources of the government. However, to the extent the visiting contractor requires de minimis support (for example, use of a whiteboard), the government may provide. Demonstrations that may require more than de minimis support from the government must be planned in advance, to ensure compliance with regulations, legal coordination, consideration of benefits and risks, and execution of a demonstration agreement when appropriate. Additionally, contractors may leave products/technology for government personnel to touch, practice, manipulate, and experiment with. The government assumes no legal obligation and no liability for any alteration/loss/damage to the contractor's products/technology. Contact ACC/JA in advance to discuss bailment agreements when appropriate.

Chapter 4

PROCUREMENT INTEGRITY ACT RESTRICTIONS

4.1. General. The Procurement Integrity Act (Title 41 United States Code [USC] Section 2102, *Prohibitions on Disclosing and Obtaining Procurement Information*) provides restrictions applicable to both government and contractor personnel. During the conduct of any federal agency procurement of property or services, competing contractors are prohibited, prior to the award of a contract, from knowingly soliciting or obtaining (directly or indirectly) any proprietary or source selection information regarding such procurement, from any officer or employee of an agency. **(T-0)**

4.2. One-Year Ban on Accepting Compensation from a Contractor. (41 USC § 2102, FAR 3.104-3(d)). A former government employee may not accept compensation from a contractor that has been awarded a contract, as an employee or consultant of the contractor, within one year after the former government employee:

4.2.1. Served as the procuring contracting officer, the source selection authority, a member of the source selection evaluation board, or the chief of a financial or technical evaluation team on a contract in excess of \$10,000,000 awarded to that contractor. **(T-0)**

4.2.2. Served as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of \$10,000,000 awarded to that contractor. Personally made a decision to: (A) award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of \$10,000,000 to that contractor; (B) establish overhead or other rates applicable to a contract or contracts for that contractor that are valued in excess of \$10,000,000; (C) approve issuance of a contract payment or payments in excess of \$10,000,000 to that contractor; or (D) pay or settle a claim in excess of \$10,000,000 with that contractor. **(T-0)**

4.2.3. The prohibition does *not* apply to accepting compensation from any division or affiliate of a contractor that does not produce "the same or similar products or services" as the entity of the contractor that is responsible for the contract the employee was involved in (such as a commercial division of the contractor).

4.2.4. Current and former government employees can request a legal opinion or "30-day letter" from HQ ACC/JAC on whether the one-year compensation ban applies to them with regard to any company.

Chapter 5

POST-GOVERNMENT EMPLOYMENT

5.1. General. Beyond the restrictions of the Procurement Integrity Act, the JER, DoD 5500.07-R, paragraph 9-800, states that current DoD employees shall not knowingly deal, on behalf of the government, with former DoD employees, if the former employee's participation in the transaction would violate any statute, or DoD directive, regulation, or policy. **(T-0)** Thus, government employees should not deal with a former employee if they believe that doing so would violate any law or regulation. As a courtesy, contractors may be reminded of the potential post-government employment restrictions which may apply to the visit and their responsibility to adhere to any bans that apply.

5.2. Lifetime Representation Ban. (18 U.S.C. Section 207(a)(1)). Military officers and federal civilian employees who participated personally and substantially in a government contract or other particular matter are prohibited for life from representing the contractor (or any other third party) before the Air Force or any other federal agency, in connection with that contract or matter. The ban does not apply to enlisted personnel. **(T-0)**

5.3. Two-Year Representation Ban. (18 U.S.C. Section 207(a)(2)). Military officers and federal civilian employees who had a contract or other particular matter under their official responsibility during their last year in the government may not, for two years, represent the contractor (or any other third party) before the Air Force or any federal agency, in connection with that contract or matter. The ban does not apply to enlisted personnel. **(T-0)**

5.4. "One-Year No Contact Rule". (18 U.S.C. Section 207(c)). Retired senior officials are prohibited from contacting any employee of their former agency on behalf of a third party within one year of their retirement in connection with any matter on which the third party seeks official action by the agency. **(T-0)**

5.5. One-Year Ban Regarding Foreign Entities. (18 U.S.C. Section 207(f)). Flag and general officers and SES employees may not, for one year after leaving the government:

5.5.1. Represent a foreign government or foreign political party before any US government agency with intent to influence a decision by a US government agency. **(T-0)**

5.5.2. Aid or advise a foreign government or foreign political party with intent to influence a decision by a US government agency. **(T-0)**

5.6. Ban on Representation during Terminal Leave. (18 U.S.C. Sections 203 and 205). Military officers and government civilian employees are prohibited from representing any person, company, or organization (other than the USG) before the Air Force or any other federal agency. The ban does not apply to enlisted personnel. **(T-0)**

5.7. Ban on Lobbying Activities. (Public Law 115-91, Section 1045). Departing flag and general officers and senior civilian equivalents are prohibited from lobbying the Department of Defense or certain other executive branch officials regarding DoD matters. Lobbying includes behind-the-scenes activity supporting lobbying contacts during the applicable cooling off period. The duration of the ban is based on the grade of the employee. **(T-0)**

5.7.1. Military Officers in Grade of O-9, O-10, and Civilian Equivalents (Tier 3 SES & DISES, all Presidential Appointees confirmed by the Senate): Ban is for two years after retirement or separation. **(T-0)**

5.7.2. Military Officers in Grade of O-7, O-8, and Civilian Equivalents (Tier 1 & 2, SES & DISES, SL, ST, and DISL): Ban is for one year after retirement or separation. **(T-0)**

Chapter 6

SAFEGUARDING OF GOVERNMENT INFORMATION

6.1. General. Government employees must safeguard proprietary, source selection, classified, Personally Identifiable Information, Personal Information protected under the Privacy Act of 1974, as amended and other sensitive and non-public information. **(T-0)** Release of certain types of information to unauthorized contractor personnel to analyze, create charts and graphs, and databases, could violate the Procurement Integrity Act, the Trade Secrets Act, the Arms Export Control Act, the Privacy Act, or other laws or regulations and could subject the releaser to civil and/or criminal penalties and adverse personnel actions. In general, contractor employees should not participate in developing Government requirements or in evaluating offers in response to an acquisition. While they can be tasked to do these things under a contract, their company could be prohibited from competing for that particular requirement in any subsequent contract competition. Additionally, it may not be readily apparent what information may be available to contractors under the contract. It is important to be aware of protecting information of military value and ensure that information is appropriately protected and marked (e.g., “Controlled Unclassified Information” and “Source Selection Sensitive Information.”)

6.2. Official Duties. In conjunction with official duties, employees solely use their time and resources to serve the United States (5 Code of Federal Regulation (CFR) 2635.705). Unless part of one’s duties, government employees generally do not assist contractors. **(T-0)**

6.3. Prohibition Against Giving Preferential Treatment. (5 CFR 2635.101(b)(8)). Government employees are prohibited from giving preferential treatment to any private individual or company. When information is authorized for release, the preferred (and legally prudent) method of disseminating information is to give all interested contractors the same information at the same time. Providing additional or advance information to one potential offeror may give an unlawful competitive advantage to that offeror and compromise the source selection. When in doubt, coordinate with the respective contracting officer.

6.4. Prohibition Against Disclosure of Non-Public Information. (5 CFR 2635.703(a)). Employees will not disclose non-public information to further the private interests of any individual, company, or organization. Non-public information means information the employee gains by reason of federal employment, and he or she knows (or reasonably should know) has not been made available to the general public. All government contracts that authorize contractor employees to access CUI or Personally Identifiable Information, Personal Information protected under the Privacy Act of 1974, as amended, material must contain the markers to ensure data protection (See Federal Acquisition Regulation (FAR) Part 24). **(T-0)**

6.5. Prohibition Against Disclosure of Information Related to a Source Selection. Government employees will not disclose contractor bid or proposal information or source selection information (see 41 USC § 2102, and Federal Acquisition Regulation (FAR) 3.104-4(a)). When a contracting office releases/publishes information pertaining to a specific acquisition, the information is released to all prospective offerors, without favor or unfair advantage to any particular offeror. **(T-0)**

6.6. Prohibition Against Disclosure of Advance Procurement Information. According to the FAR, a high level of business security must be maintained in order to preserve the integrity of the

acquisition process (FAR 5.401(a)). **(T-0)** FAR 5.401(b) and (c) provide that government employees participating directly or indirectly in the acquisition process may not disclose:

- 6.6.1. Information on plans that would provide undue or discriminatory advantage to private or personal interests;
- 6.6.2. Information received in confidence from an offeror;
- 6.6.3. Information otherwise requiring protection under the Joint Ethics Regulation, DoDM 5400.7_AFMAN 33-302, or AFI 33-332, and;
- 6.6.4. Information pertaining to internal agency communications; for example, technical reviews, market research reports, acquisition strategy documents, etc. **(T-0)**

6.7. Prohibition against Release of Information about a Procurement before Solicitation is Issued. Information concerning proposed acquisitions will not be released outside the government before solicitation except for pre-solicitation notices in accordance with FAR 14.205 or FAR 36.213-2, long-range acquisition estimates in accordance with FAR 5.404, or synopses in accordance with FAR 5.201. Within the government, such information will be restricted to those having a legitimate interest in the information (also known as ‘need to know’). Releases of information will be made to all prospective offerors as nearly as possible at the same time, so one prospective offeror is not given an unfair advantage over another offeror (FAR 14.211(a)). **(T-0)**

6.7.1. **Sensitive Government Meetings.** Government personnel must exercise great care against unintentional disclosure of information protected by the Procurement Integrity Act and the Trade Secrets Act to a contractor employee. Government personnel must be aware of the identity and status of all participants at any meeting in which sensitive DoD information will be discussed and must ensure contractor personnel are allowed to attend the meeting only if they have a legitimate contractual purpose for attending and have signed the appropriate nondisclosure agreement. **(T-0)**

6.7.2. **Non-disclosure Agreements (NDA).** Government personnel must ensure that all personnel (including contractor employees, such as advisory & assistance services (A&AS) contractors) who are granted access to another contractor’s information in furtherance of a contract task must sign the appropriate non-disclosure agreements. Further, the visiting contractor must be apprised of the presence of the A&AS contractor personnel and be afforded the opportunity to execute a company-to-company NDA. **(T-0)**

6.8. Organizational Conflicts of Interest. Government personnel should guard against providing contractors access to non-public information that could give them an unfair advantage in a current or future competition for contract work, allowing contractor employees to unfairly set or influence government requirements, or allowing a contractor to evaluate its own performance or subcontractor’s performance. Contractors with unmitigated or unacceptable conflicts may be excluded from future contract competitions and may be subject to other administrative actions (see FAR 9.5). If there is a potential OCI or question regarding information access to a contractor, contact the respective contracting officer.

6.9. Trade Secrets Act. The Trade Secrets Act states that, unless authorized by law, an employee may not publish or disclose any information that comes to him or her in the course of employment or official duties and that concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income,

profits, losses, or expenditures of any person, firm, partnership, corporation, or association (18 USC § 1905, *Disclosure of Confidential Information Generally*). **(T-0)**

6.10. Classified Material. If a visiting contractor proposes discussion of any classified material, the hosting office will take action to obtain and process a visit authorization letter (VAL) from the contractor's security office in accordance with 32 CFR Part 117, *National Industrial Security Program Operating Manual Supplement (NISPOM)*; see AFI 16-1401, *Information Protection*). **(T-0)** Direct any questions concerning this requirement to HQ ACC/A4S.

6.11. Release of Information. Release of classified and unclassified information to foreign nationals or individuals representing foreign companies is governed by DAFMAN 16-201, *Department of the Air Force Foreign Disclosure and Technology Transfer Program*. DAFMAN 16-201 is the governing directive for foreign visitors to US military installations and defense contractor facilities. If the foreign official or contractor is visiting in support of a Foreign Military Sales Case or is representing their government, then a Foreign Visit Request (FVR) must be initiated through their respective embassy in Washington D.C. or through SAF/IAPD. Otherwise, foreign contractor visits fall under the purview of the National Industrial Security Program (32 CFR Part 117). Contact ACC/IAP for assistance on questions or additional information.

Chapter 7

WORKPLACE RELATIONSHIPS WITH CONTRACTOR PERSONNEL

7.1. General. Interactions between government personnel and contractor personnel should be grounded in professionalism and mutual respect. Contractor personnel may work side-by-side with government personnel, usually in non-personal services contracts. In non-personal services contracts, the government does not directly supervise or manage the contractor employees. Appropriate care must be taken to avoid treating contractor personnel as government employees. Consult the contracting officer (CO), contracting officer representative (COR), and quality assurance evaluator (QAE) regarding the contractual responsibilities of the contractor employees. However, as a guide to successful interactions with contractor employees, the following general rules are applicable.

7.2. Supervision. Contractor employees work for the contractor. Government personnel observe performance requirements under the contract, but again, do not supervise or direct the contractor employees. If there is a performance deficiency by a contractor employee, refer the deficiency to the designate CO, COR, or QAE.

7.3. Revision of Duties: The Statement of Work or Performance Work Statement is part of the contract and generally delineates the contractor's responsibilities. Government personnel (other than the CO) do not have the authority to revise (increase or decrease responsibilities) under the terms of the contract. Only the warranted CO may alter the contract. Requiring or accepting services that are not included in the contract may result in a potential violation of the Anti-Deficiency Act. Report potential violations to the CO, COR, or QAE.

7.4. Identification of Contractor Employees. Ensure that contractor employees are clearly identified (distinctive badges, distinctive "CTR" e-mail addresses, and voice mail).

7.5. Government Resources. If permitted in the contract, the contractor personnel may be authorized use of "Government Furnished Equipment" (GFE)(i.e., office equipment, telephones, computer, and internet). Report potential misuse to the CO, COR, or QAE.

7.6. Team-Building Events. Although the contract may specify time-requirements for contractor employees, only the contractor may dictate overtime or "time off" for the contractor employees. When the government conducts "team-building" or morale activities (i.e., sports events), the events are for the government employees. Only if the contractor company permits and the contractor employee chooses to attend in an off-duty capacity (with no reduction in contractual requirements), then the contractor employee may be permitted to attend.

7.7. Social Events. In off-duty social events (i.e., holiday party, baby shower, other personal events), contractor employees should never be expected to attend events. Similarly, contractor personnel should never host social events for the unit.

7.8. Gifts. Government personnel must not solicit or accept gifts from contractor personnel, absent consultation with the designated ethics advisor (ACC/JA). **(T-0)** For example, contractor personnel should not be solicited to contribute to Combined Federal Campaign/Air Force Assistance Fund, unit fundraisers, retirement or going-away gifts.

7.9. Awards. Contractor employees are compensated and recognized by their contractor employer. In general, contractor employees should not be given government awards or

recognition. If an individual has performed exceptionally well, warranting consideration of a letter of appreciation or commander's coin, then consult the CO, COR, or QAE before providing the recognition.

7.10. Future Acquisitions. The Government promotes full and open competition, without partiality to any particular contractor. When contracts reach their end-date, the Government will usually re-compete the requirements. Government personnel should ensure that the incumbent contractor employees are not included in meetings or e-mails which may jeopardize the source selection. Report concerns or issues to the CO, COR, or QAE.

7.11. Other Requirements. The contractor is required to ensure that contractor employees adhere to key Air Force requirements. For example, contractor employees must safeguard GFE/resources, protect sensitive and classified documents, and act professionally. A contractor employee that fails to so adhere (i.e., engages in sexual harassment or jeopardizes the safety/health of others) may be removed by the contractor. Report potential violations to the CO, COR, or QAE.

CHRISTINE C. PIPER, Colonel, USAF
Staff Judge Advocate

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

5 CFR Part 2635, *Standards of Ethical Conduct for Employees of the Executive Branch*

18 USC § 203, *Compensation to Members of Congress, Officers, and Others in Matters Affecting the Government*

18 USC § 205, *Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government*

18 USC § 207, *Restrictions on Former Officers, Employees, and Elected Officials of the Executive and Legislative Branches*

18 USC § 1905, *Disclosure of Confidential Information Generally*

32 CFR Part 117, *National Industrial Security Program Operating Manual (NISPOM)*

41 USC § 2102, *Prohibitions on Disclosing and Obtaining Procurement Information*

AFI 33-322, *Records Management and Information Governance Program*, 23 March 2020

AFI 33-332, *Air Force Privacy and Civil Liberties Program*, 10 March 2020

AFPD 64-1, *The Contracting System*, 6 November 2018

DAFMAN 16-201, *Department of the Air Force Foreign Disclosure and Technology Transfer Program*, 19 January 2021

DoD 5500.07-R, *Joint Ethics Regulation (JER)*, 17 November 2011

DoDM 5400.07_AFMAN 33-302, *Freedom of Information Act Program*, 27 April 2018

Federal Acquisition Regulation (FAR), current edition

Public Law 115-91, National Defense Authorization Act for Fiscal Year 2018, Section 1045, *Prohibition on Lobbying Activities With Respect to the Department of Defense by Certain Officers of the Armed Forces and Civilian Employees of the Department Following Separation from Military Service or Employment with the Department*

Prescribed Forms

None

Adopted Forms

DAF Form 847, *Recommendation for Change of Publication*

Abbreviations and Acronyms

AMIC—Acquisition Management Integration Center

A&AS—Advisory and Assistance Services

CAAS—Combined Advisory and Assistance Services Contract

CO—Contracting Officer

COR—Contracting Officer Representative

CFR—Code of Federal Regulations

CTR—Contractor

DoD—Department of Defense

FAR—Federal Acquisition Regulation

FFRDC—Federally Funded Research and Development Center

FVR—Foreign Visit Request

GAL—Global Address List

GOV—Government Vehicle

GSA—Government Services Administration

HQ ACC—Headquarters Air Combat Command

IPT—Integrated Product Team

JER—Joint Ethics Regulation

NFE—Non-Federal Entity

QAE—Quality Assurance Evaluator

SES—Senior Executive Service

SMTP—Simple Mail Transport Protocol

SSA—Source Selection Authority

USC—United States Code

Attachment 2

HQ ACC BUSINESS RULES

A2.1. Procedures. For contractor visits of a professional/business nature, the following procedures apply.

Table A2.1. HQ ACC Business Rules.

1. <u>Routine Workplace Interactions with Contractors in HQ ACC</u>	Regular interaction with contractor personnel are absolutely necessary. Government personnel should, however, be thoroughly aware of the instruction, particularly Chapter 7, "Workplace Relationships with Contractor Personnel." Government personnel should be especially vigilant in ensuring that contractor personnel only receive information that they need to know to perform their contracted duties. When contractor personnel seek other sensitive information, including future requirements or future procurement initiatives, they must be referred to the respective contracting officer.
2. <u>For HQ ACC visits to Commanders, Directors, Contracting Officers, Program Managers (which are not related to administration of existing contracts)</u>	Refer the contractor to the "Contractor Visit Questionnaire" (see Atch 4 of this instruction and questionnaire posted at https://www.facebook.com/AirForceAMIC). This questionnaire helps make the visit more productive for both the Contractor and Government. Contractors should submit the questionnaire (and all slides/presentation materials) at least 10 working days in advance of the proposed meeting, in order for the Government to review the request. <u>Appoint an Action Officer (AO):</u> The visited organization should appoint an AO to: * Receive and review the completed Contractor Visit Questionnaire * Ensure that the contractor submitted all attachments (slides, bios) * Do not promise or schedule meeting until (1) the AO has the complete questionnaire with attachments; and (2) the AO has confirmed approval by the senior HQ ACC officer to be visited * Coordinate the request with HQ ACC visited personnel * Arrange meetings rooms/audio-visual equipment * Ensure that all requisite personnel are present * Ensure that all personnel understand the constraints of what may/may not be discussed (Atch 3, "Guidelines for Meeting with DoD Contractors"). * Ensure that the key points of the meeting are memorialized (in an MFR or other form) to order to protect government interests. <u>Forward request for legal review.</u> For ACC requests, forward the meeting request documents to HQ ACC/JAQ for formal review (acc.ja@us.af.mil, (757) 764-9599).
3. <u>For visits to COMACC, ACC/CD, ACC/DS, ACC Directors</u>	<u>Special provisions for senior leader visits.</u> Engagements with industry are beneficial to the Government, but require special care to safeguard command prerogative, enhance the integrity of source selections, and eliminate misperceptions of contractor favoritism. The action offeror will ensure the procedures of para 2 (Questionnaire, AO duties, Legal Review). If a visit/meeting is required to take place less than 48 hours after submission of the visit request; or if the contractor is unwilling to provide documentation, contact ACC/JA at the contact information in paragraph (2) above.
<u>Questions to Consider Before Scheduling a Meeting</u> Will the visit discuss an on-going or future source selection or government requirement? Is the meeting one-sided (i.e., receiving contractor capabilities briefing) or will the contractor be seeking government information? What information can the government share, and how do I ensure that other competitors/contractors have access to the same information? Would competitors/other contractors regard this meeting as giving an unfair competitive advantage (i.e., early access to information)? And if so, how do I mitigate those concerns? If other competitors/contractors also seek a meeting, will I be able to accommodate other meetings?	

What logistic requirements are necessary to accommodate the meeting? What unique security considerations/processes need to be addressed before conducting the meeting?

Is there data/information that the contractor intends to present that will be proprietary? If so, how will I protect the data/information? Should I require that the contractor not provide any proprietary data/information?

Is this the right time and right place to conduct this meeting? Is this meeting in the best interests of the government? Do I have the right people at this meeting to address any questions?

Attachment 3

GUIDELINES FOR MEETING WITH DOD CONTRACTORS

Table A3.1. Guidelines for Meeting with DoD Contractors.

1. It is legally permissible and highly encouraged for senior government officials to discuss matters of mutual interest with DoD contractors or potential contractors. The contractors may present capability briefings and discuss technological developments.
2. It is very important in any meeting and exchange of information that classified or non-public information (e.g., sensitive source selection information, contractor proprietary information) be closely protected. Beyond the most obvious reasons for this requirement it must be remembered that competitors may not have access to the same material or information and therefore be placed at a competitive disadvantage.
3. Perception is important; the procurement process must be fair, transparent, free of bias, and with a goal of enhancing full and open competition. When contractor personnel are former co-workers or friends, it's especially critical to maintain professional distance.
4. Senior officials must be especially vigilant. Visits may impact on-going procurements and affect senior officers (regarding post-government employment). Keep the visit simple; have a good agenda and stick with it; and don't allow for a fishing expedition for information.
5. Preserve competitiveness and maintain a level playing field. Be sensitive to whether a meeting, action, or release of information would give a competitive advantage to a contractor.
6. Safeguard proprietary information of contractors/companies, including avoiding disclosure to other companies. See paragraph 6.7.2 regarding advisory & assistance services (A&AS) contractors.
7. All similarly situated contractors should receive equal treatment. When you meet with a contractor, assume that you are speaking to the entire DoD contractor community. Once you meet with one, be prepared to grant similar requests from other similarly situated contractors.
8. In some situations, a contractor may only intend to present materials/briefings (present only) regarding the contractor's capabilities. In other situations, there may be more fluid discussions between the Government and contractor regarding general missions and capabilities (NOT related to an ongoing requirement or acquisition), and the Government should treat contractors equally, without giving preferential treatment (information/access) to any particular contractor. Finally, there may be situations where there is an on-going requirement or acquisition. To safeguard the acquisition, the Government must be vigilant regarding the information that is shared (see para 13). If there has been a significant exchange of information in a meeting with a contractor, you may need to distribute publicly available information to the community of interested DoD contractors. This ensures a level playing field among all similarly-situated contractors. For example, the information may need to be distributed to all interested DoD contractors at an "Industry Day."

9. Set an agenda. After agreeing to meet with a contractor, the contractor should provide all the information in the Contractor Visit Questionnaire, including the name of the company, the topic for discussion, and any current contracts, competitions, or active proposals that the contractor has pending with the Air Force.

10. Make your meeting's primary purpose to receive information. While it is permissible to ask informational and clarifying questions during a meeting or briefing, you should avoid asking contractors to send follow-up information or task them in any way.

11. The meeting should not be the basis for further action, and should not unintentionally solicit formal proposals.

12. Only a warranted contracting officer can bind the government. Ensure that the contractor understands this. Do not make unauthorized commitments, promises purporting to bind the government or representations that would compromise the Government's position. For the same reason, do not offer assistance or advice. Contractors may interpret suggestions as requests to take action, resulting in a claim against the Air Force.

13. Be impartial and do not give preferential treatment to any private party. Accordingly, do not give VIP visitor treatment to contractor representatives who visit in that capacity or who intend to discuss contractor business (no all-day escort, no government vehicle rides from the airport, no officially-hosted free meals, etc.).

14. Protect "inside" information. Do not release information that is not otherwise available to the public (or to a relevant community of DoD contractors). This includes:

(a) Information not available to the public under the Freedom of Information Act;

(b) Information protected under the Privacy Act of 1974, as amended, Trade Secrets, and classified material;

(c) Selective release of advance procurement information, Air Force requirements, or premature release of contract award decisions; and

(d) Acquisition information, such as, unopened bids, proposed costs, the government's estimate of costs, source selection plans, price evaluations, competitive range determinations, ranking of bids, proprietary information (such as labor rates), reports of Source Selection Evaluation Boards, and other information marked: "SOURCE SELECTION INFORMATION." See FAR 2.101 and 3.104-1 for definitions. Avoid private discussions about the contractor's business and its relationship with the Air Force. Your staff members should sit in on any discussions or meetings.

15. Be wary of gifts. Small gifts are occasionally offered in meetings with contractors. Food and refreshments that are not a meal (e.g., coffee and pastry) may be accepted. You may also accept presentation items, such as commemorative coins, or items worth less than \$20.

Consult JA when something other than a nominal gift is offered. Gifts which are not to be retained personally will usually become Air Force property.

16. Decline meetings with prospective offerors when a source selection is contemplated or in progress (particularly after a solicitation has been released). Also, avoid discussing or responding to questions on matters that are being litigated. In these situations, there is a danger of inadvertently making improper disclosures.

17. If in doubt, don't hesitate to consult the Staff Judge Advocate for guidance or an ethics advisory opinion.

Attachment 4**CONTRACTOR VISIT QUESTIONNAIRE****A4.1. Template.**

A4.1.1. For HQ ACC contractor visits, contractors must first be registered with ACC AMIC. The registration template and questionnaire are available at <https://www.facebook.com/AirForceAMIC>.

A4.1.2. A tentative date for the requested visit cannot be set until ALL the information in the questionnaire is provided.

A4.1.3. Command policy requires a minimum of 10 working days to coordinate a staff package, including contracting and legal coordination, after ALL information is received. A visit date will be confirmed after approval of the staff package.

A4.1.4. No contract, binding commitment, or government endorsement should be inferred nor relied upon by the contractor, absent express written documentation from the warranted contracting officer.

A4.1.5. Visiting contractors are apprised that the Government may have advisory and assistance services (A&AS) contractors in attendance of meetings. The visiting contractor may, if it wishes, execute a company-to-company nondisclosure agreement in advance of any meeting. Contact the government POC for contact information for the A&AS contractor.