CIVILIAN AGENCY ACQUISITION COUNCIL LETTER 98-5

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM: EDWARD C. LOEB
CHAIRMAN
CIVILIAN AGENCY ACQUISITION COUNCIL

Subject: Contracting Restrictions with Department of State Sanctioned Entities

On July 30, 1998, the Department of State’s Bureau of Political-Military Affairs sanctioned seven Russian entities pursuant to Executive Order 12938 dated November 14, 1994, as amended by Executive Order 13094 dated July 28, 1998. These Executive orders authorize the Department of State to sanction entities that have engaged in proliferation activities relating to missiles and/or weapons of mass destruction. The sanctions imposed by the Executive orders require that Federal agencies may not award new contracts to or approve subcontracts with any of these seven sanctioned entities and must terminate existing contracts with any of these entities. A copy of the Federal Register notice that identifies the seven sanctioned entities is enclosed.

The General Services Administration (GSA) has worked with the Department of State to clarify procedures for terminating existing contracts with these sanctioned entities and to develop other procedures that ensure that contracting officers do not award new contracts to these and other entities that the Department of State may sanction in the future. The Department of State has provided these procedures for terminating existing prime contracts that a Federal agency may have with any of the seven sanctioned entities. All terminations should be coordinated with the Department of State's Office of the Procurement Executive. The Office of the Procurement Executive will coordinate with the Department of State’s Bureau of Political-Military Affairs and provide assistance to the Federal agency so that it can determine whether the basis for the contract termination should be for default or for the convenience of the Government. The Federal agency’s decision will consider the actual terms of the contract and the facts underlying the determination to take the sanction measures.
Agencies with existing contracts with any of the seven sanctioned entities should contact Gladys Gines, Procurement Analyst, Department of State, Office of the Procurement Executive. Ms. Gines may be reached at (703) 516-1691 or by fax at (703) 875-6155.

Contracts, other than prime contracts with the seven sanctioned entities, may be affected by the August 6, 1998, Federal Register notice. For example, Government contractors that have subcontracts with any of these sanctioned entities may be affected. The notice requires the Secretary of the Treasury to prohibit the importation into the United States of any supplies, technology, or services produced or provided by these entities. Information or informational materials within the meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)) are excepted from this prohibition. Actions relating to contracts that may be affected by this import ban should be coordinated with the Department of Treasury contact point identified in the Federal Register notice under the paragraph heading, "For Further Information Contact."

Future published notices of sanctions imposed by the Department of State of this type will contain a contact point from the Department of State’s Office of the Procurement Executive, as well as language in the heading of the notice so that Federal agencies can easily determine that the notice has contracting implications. In addition, the Department of State will provide the General Services Administration (GSA) with new Cause and Treatment codes so that entities sanctioned by the Department of State can be placed on GSA’s List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

Enclosure
Federal Register
Vol. 63, No. 151 / Thursday, August 6, 1998 / Notices

Commission's Rule 17a-3. The
Commission believes that the proposed
amendments should help to clarify
member firms' record retention
requirements related to OATS data.
The Commission notes that the
proposal would reference in NASD Rule
3110(h) the definition of the term
"order" set forth in OATS Rule 6951(c).
The Commission believes that the
NASD's efforts to achieve consistency and
uniformity in the definitions used
in the NASD rules are reasonable and
should ease the compliance burdens of
member firms.

Finally, the Commission notes that
the proposal would establish effective
dates for compliance with the proposed
amendments to Rule 3110(h).

III Discussion

After careful review, the Commission
finds that the proposed rule change is
consistent with the requirements of the
Act and the rules and regulations
thereunder applicable to a national
securities association. Specifically, the
Commission believes the proposal is
consistent with the requirements of
Section 15A(b)(2) of the Act. It is
designed to prevent fraudulent and
manipulative acts and practices and to
protect investors and the public interest.

The Commission notes that the
proposed addition of paragraph (d) to
Rule 6957(d) will require member firms
to record information related to the
transmission of orders to non-members,
such as foreign broker-dealers and
foreign exchanges. The Commission
believes that this information, which
will be reported to OATS pursuant to
Rule 6957, should enhance the
NASD's ability to track transactions in
NASDAQ equity securities. OATS was
designed primarily to improve the
NASD's ability to monitor member firms'
transactions in NASDAQ equity
securities for possible violations of
NASDAQ rules or of the federal securities
laws, a purpose that is consistent with
Section 15A of the Act. Because the
current proposal will enhance the
NASD's ability to gather information
required by the OATS rules, it too is
consistent with the Act.

The proposed amendments relating to
the recordkeeping requirements
applicable to OATS are designed
to provide more specific information
regarding the permissible maintenance
of required records. Specifically, the
proposal specifies the length of time
required records must be maintained
and the requirements applicable to the
use of micrographic or electronic storage
media. The proposal also specifically
references the record retention period
and conditions set forth in the

DEPARTMENT OF STATE

Bureau of Political-Military Affairs:

Imposition of Nonproliferation
Measures Against Entities in Russia

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Acting Secretary of State has determined that seven entities in
Russia have engaged in missile technology proliferation activities that
require the imposition of measures pursuant to Executive Order No. 12938
of November 14, 1994, as amended by Executive Order No. 13094 of July 28,
1998.

EFFECTIVE DATE: July 30, 1998

FOR FURTHER INFORMATION CONTACT: On
general issues: Vann H. Van Diepen,
Director, Office of Chemical, Biological
and Missile Nonproliferation, Bureau of
Political-Military Affairs, Department of
State (202-647-1142). On import ban
issues: John T. Roth, Director, Policy
Planning and Program Management

BILLING CODE 4010-01-M
Office of Foreign Assets Control, Department of Treasury (252-622-2300)

SUPPLEMENTARY INFORMATION: Pursuant to the authorities vested in the President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) ("IEEPA"), the National Emergencies Act (50 U.S.C. 1601 et seq.), the Arms Export Control Act (22 U.S.C. 2751 et seq.), and section 301 of title 3, United States Code, and Executive Order No. 12938 of November 14, 1994, as amended by Executive Order No. 13094 of July 28, 1998, the Acting Secretary of State determined on July 30, 1998 that the following foreign persons have engaged in proliferation activities related to inifinite missile programs that require the imposition of measures pursuant to sections 4(h), 4(d), and 4(d) of Executive Order No. 12938:

- Baltic State Technical University (including at 1/171, Ilya Krasnoarmetskaya Ul., 198005 St. Petersburg, Russia);
- Eupalco 2000 (including at Moscow, Russia);
- Glavkosmos (including at 9 Krasnoproletarskaya St., 103030 Moscow, Russia);
- Grafit (aka State Scientific Research Institute of Graphite or NIGRFFIT) (including at 2 Ulitsa Elektrodnaya, 11524 Moscow, Russia);
- ING Scientific Enter (including at Moscow, Russia);
- MOSO Company (including at Moscow, Russia); and
- Polyus Scientific Production Association (including at 3 Ulitsa Vvedenskogo, 117342 Moscow, Russia)

Accordingly, until further notice and pursuant to the provisions of Executive Order 12938, the following measures are imposed on these entities, their subunits, and successors:

1. All departments and agencies of the United States Government shall not procure or enter into any contract for the procurement of any goods, technology or services from these entities and shall terminate any existing contracts.
2. All departments and agencies of the United States Government shall not provide any assistance to these entities, and shall not obligate further funds for such purposes.
3. The Secretary of the Treasury shall prohibit the importation into the United States of any goods, technology, or services produced or provided by these entities, other than information or informational materials within the meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

These measures shall be implemented by the responsible departments and agencies as provided in Executive Order 12938.

Dated: August 3, 1998

John Barker,
Acting Assistant Secretary of State for Political Military Affairs.

BILLING CODE 4710-25-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Free Trade Area of the Americas

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for public comment on the Free Trade of the Americas (FTAA) Joint public-private sector Experts Committee on Electronic Commerce (Experts Committee).

IDENTIFICATION OF PRIVATE SECTOR EXPERTS IN ELECTRONIC COMMERCE WHO MAY WISH TO PARTICIPATE IN THE WORK OF THE EXPERTS COMMITTEE

SUMMARY: The FTAA Experts Committee on Electronic Commerce has been established by the 34 countries in the Western Hemisphere participating in the Free Trade Area of the Americas and the Trade Policy Staff Office (TPSO) invites public comment on the work plan of the Experts Committee. In addition, the TPSO seeks to identify U.S. private sector experts on electronic commerce who may be interested in participating in the work of the Experts Committee. Interested members of the public are invited to submit written notice of their interest and their qualifications.

DATES: Written comments on the the Experts Committee and expressions of interest in participating in the work of the Committee should be submitted no later than September 8, 1998.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comment, contact Gloria Blue, Executive Secretary, Trade Policy Staff Office, Office of the United States Trade Representative, (202) 395-3475. All questions concerning the Experts Committee should be directed to Regina Vargo, Deputy Assistant Secretary for the Western Hemisphere, U.S. Department of Commerce, (202) 482-5324, Rvargo@USITA.GOV.

SUPPLEMENTARY INFORMATION: On April 18-19, 1998, President Clinton and his 33 counterparts in the Western Hemisphere initiated negotiations to create the Free Trade Area of the Americas (FTAA) by the year 2005 and to achieve concrete progress toward that objective by the end of the century. The leaders established a general framework for the negotiations, including a Trade Negotiations Committee (TNC), composed of the 34 Minister of Foreign Trade ministers responsible for trade, to oversee the negotiations. They agreed to nine initial negotiating groups, a consultative group and two committees, one of which is a Joint public-private sector Experts Committee on Electronic Commerce. At its June 1998 meeting in Buenos Aires, the TNC agreed that the Experts Committee would be held before the end of October in Miami.

EXPERTS COMMITTEE TERMS OF REFERENCE: The objective of the Experts Committee is to make recommendations to trade ministers on how to increase and broaden the benefits of electronic commerce and how electronic commerce should be dealt with in the context of the FTAA negotiations. Four weeks before the October 1999 ministerial meeting, the Experts Committee is to provide recommendations to the TNC. In order to develop its recommendations, the Experts Committee will focus on:

1. Increasing understanding of the potential benefits of electronic commerce to countries in the hemisphere:
   - Identifying the environment that will allow electronic commerce to flourish.
   - Discussing infrastructure questions and
   - Identifying how electronic commerce can facilitate the operation of trade obligations.

EXPERTS COMMITTEE PRIVATE SECTOR REPRESENTATION: The Experts Committee will consist of both public and private sector representatives. Individual governments will identify private sector participants with a view toward balanced hemispheric representation in terms of geography and electronic commerce issue expertise. Although the FTAA countries have not yet established the detailed on private sector representation, including compensation, number and final selection process, the TPSO seeks to identify U.S. private sector experts on electronic commerce who may be interested in participating in the work of the Committee.

PUBLIC COMMENTS: To prepare for the initial meeting of the Experts Committee in October 1998,