DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

JUN 2 1 2010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
COMMANDERS OF COMBATANT COMMANDS
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Policy for Communication with Industry

The commercial base on which the Department depends should be knowledgeable of and aligned with the Department's strategic and tactical objectives. Early, frequent, and clear communication among the Department and its current and potential suppliers helps promote our national security. Ensuring this communication is fair, even, and transparent helps the Department: maximize materiel and service support to the Warfighter; set realistic expectations and technologically achievable requirements; enhance the ability of organizations to meet cost, schedule and performance objectives; and establish policies and business practices that promote the long-term viability and competitiveness of the commercial base supporting defense. Such dialogue helps industry make informed investment and business decisions necessary to meet near- and longer-term requirements of the Department.

The Department's policy is for representatives at all levels of the Department to have frequent, fair, even and transparent dialogue with the commercial base on matters of mutual interest, as appropriate, in a manner which protects sensitive information, operation, sources, methods, and technologies. For the Department, this includes representatives of end users and requirements generators as well as those within acquisition organizations. Traditional and non-traditional suppliers are to be included in such dialogue. Matters of mutual interest include, but are not limited to: DoD and

OSD 06333-10

industry business practices and policies; removal of barriers to competition; technology trends and development objectives; security challenges; and the performance of organizations, contracts, projects and programs.

Offices of General Counsel will assist their supported commands to facilitate planning for both formal and informal communications with industry. Subject to sound business judgment and the attached statutory limitations on the government's ability to exchange information, officials within the Department are encouraged to communicate with industry as necessary to conduct official business. Ethics laws and rules *per se* do not prohibit communications with industry representatives; they do mandate fair and even treatment such that communication opportunities with DoD officials must be made available to all interested outside parties. All methods of communication, unless statutorily prohibited, are permitted. Communication with a wide and diverse variety of businesses of all sizes and with industry organizations is often the best overall strategy to ensure the communication is fair, even and transparent.

Early and frequent communication, as appropriate, in a manner which protects sensitive information, operation, sources, methods, and technologies, is to be promoted across the breadth and depth of the Department. It is not required, desired, or practicable that industry outreach be centrally managed. Nevertheless, to be productive, communication by the Department with outside parties must be clear and consistent. DoD organizations will ensure their communications represent DoD positions.

Attachment:
As stated

ATTACHMENT

Communications with Industry

The following are statutorily based limitations on communicating with firms and representatives of the defense industrial base.

- Conflict of Interest Prohibition (18 U.S.C. § 208)
  - Government officials may not participate in a matter that presents an actual or apparent conflict of interest.
- Procurement Integrity Act (41 U.S.C. § 423)
  - Government officials may not disclose proprietary or source selection information.
- Competition in Contracting Act (10 U.S.C. 2304)
  - Government officials may not give unauthorized preferential treatment to one firm but must treat all firms equally.
- Trade Secrets Act (18 U.S.C. §1905)
  - Government officials may not disclose trade secrets or other proprietary information without permission of the owner of the information.
  - Government officials must protect procurement-sensitive information and information that would not otherwise be disclosed to the public under the Freedom of Information Act.
- Federal Advisory Committee Act (5 U.S.C. App.2)
  - Government officials must comply with the Federal Advisory Committee Act when seeking consensus advice or recommendations from a group that includes non-government employees.