



DEPARTMENT OF DEFENSE

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Office of the Secretary

32 CFR Part 158

[Docket ID: DOD-2009-OS-0029]

RIN 0790-AI48

Operational Contract Support

AGENCY: Department of Defense (DoD).

ACTION: Interim final rule.

SUMMARY: This part establishes policy, assigns responsibilities, and provides procedures for operational contract support (OCS), including OCS program management, contract support integration, and integration of defense contractor personnel into contingency operations outside the United States.

An interim final rule is required to procedurally close gaps and ensure the correct planning, oversight and management of DoD contractors supporting contingency operations, by updating the existing outdated policy. The existing policies are causing significant confusion, as they do not reflect current practices and legislative mandates. The inconsistencies between local Geographic Command guidance and the DoD-wide policies and the Defense Federal Acquisition Regulations Supplement are confusing for those in the field - in particular, with regard to policy on accountability and visibility requirements. Given the sustained employment of a large number of contractors in the U.S. Central Command area of responsibility; the importance of contractor oversight in support of the counter-insurgency operation in Afghanistan; and, the requirement to effectively manage contractors during the transition in Iraq, this issue has become so significant that DoD needs to revise the DoD-wide policies as a matter of urgency.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments must be received by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, 2nd floor, East Tower, Suite 02G09, Alexandria, VA 22350-3100.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Shanna Poole, (703) 692-3032.

SUPPLEMENTARY INFORMATION:

The revised policies include: (1) incorporation of lessons learned from current operations; (2) requirements for the development of contractor oversight plans; (3) requirements for adequate military personnel necessary to execute contract oversight; and, (4) standards of medical care for deployed contractors.

Regulatory Procedures

Executive Order 12866, “Regulatory Planning and Review” and Executive Order 13563,

“Improving Regulation and Regulatory Review”

It has been certified that 32 CFR part 158 does not:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in these Executive Orders.

Section 202, Pub. L. 104-4, “Unfunded Mandates Reform Act”

It has been certified that 32 CFR part 158 does not contain a Federal mandate that may result in expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. 601)

It has been certified that 32 CFR part 158 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 158 does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. These reporting requirements have been approved by OMB under OMB Control Number 0704-0460, Synchronized Predeployment and Operational Tracker (SPOT) System. DOD does not believe this interim rule will require a change in burden or a change in the information collected. DoD cleared the SPOT collection with the interim rule codified at 32 CFR part 159 (which concerned U.S. government private security contractors (USG PSCs)). The SPOT collection package encapsulated the requirement for all DoD contingency contractor personnel to register in the SPOT database - not just USG PSCs. The publication of this rule has no impact on the extant requirement for contractors to use SPOT.

Executive Order 13132, "Federalism"

It has been certified that 32 CFR part 158 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of

Government.

List of Subjects in 32 CFR Part 158

Armed forces, Government contracts, Health and safety, Military personnel, National defense, Passports and visas, Recordkeeping, Security measures.

Accordingly, 32 CFR part 158 is added to read as follows:

PART 158--OPERATIONAL CONTRACT SUPPORT

Sec.

158.1 Purpose.

158.2 Applicability.

158.3 Definitions.

158.4 Policy.

158.5 Responsibilities.

158.6 Procedures.

158.7 Guidance for contractor medical and dental fitness.

Authority: Public Law 110-181; Public Law 110-417.

§ 158.1 Purpose.

This part establishes policy, assigns responsibilities, and provides procedures for operational contract support (OCS), including OCS program management, contract support integration, and integration of defense contractor personnel into contingency operations outside the United States in accordance with the guidance in DoD Directive 3020.49 (see <http://www.dtic.mil/whs/directives/corres/pdf/302049p.pdf>) and the authority in DOD Directive 5134.01 (see <http://www.dtic.mil/whs/directives/corres/pdf/513401p.pdf>).

§ 158.2 Applicability.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense agencies, the DoD field activities, and all other organizational entities within the Department of Defense (hereinafter referred to collectively as the “DoD Components”).

(b) DoD operations (contingency, humanitarian assistance, and other peace operations) outside the United States; other military operations as determined by a Combatant Commander (CCDR); or as directed by the Secretary of Defense (hereinafter referred to collectively as “applicable contingency operations”).

§ 158.3 Definitions.

Unless otherwise noted, the following terms and their definitions are for the purposes of this part.

Acquisition. Defined in 48 CFR 2.101.

Contingency acquisition. The process of acquiring supplies, services, and construction in support of contingency operations.

Contingency contract. A legally binding agreement for supplies, services, and construction let by Government contracting officers in the operational area, as well as other contracts that have a prescribed area of performance within a designated operational area. Contingency contracts include theater support, external support, and systems support contracts.

Contingency contractor personnel. Individual contractors, individual subcontractors at all tiers, contractor employees, and sub-contractor employees at all tiers under all contracts supporting the Military Services during contingency operations.

Contingency operation. Defined in Joint Publication 1-02 (see http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf).

Contingency program management. The process of planning, organizing, staffing, controlling, and leading the operational contract support (OCS) efforts to meet joint force commander (JFC) objectives.

Contract administration. A subset of contracting that includes efforts that ensure supplies and services are delivered in accordance with the conditions and standards expressed in the contract.

Contract administration is the oversight function, from contract award to contract closeout, performed by contracting professionals and designated non-contracting personnel.

Contract administration delegation. A CCDR policy or process related to theater business clearance that allows the CCDR to exercise control over the assignment of contract administration for that portion of contracted effort that relates to performance in, or delivery to, designated area(s) of operations and allows the CCDR to exercise oversight to ensure the contractor's compliance with CCDR and subordinate task force commander policies, directives, and terms and conditions. Whether the CCDR chooses to implement such a process depends on the situation.

Contracting. Defined in 48 CFR 2.101.

Contracting officer. Defined in 48 CFR 2.101.

Contracting Officer's Representative (COR). Defined in 48 CFR 202.101.

Contractor management. The oversight and integration of contractor personnel and associated equipment providing support to the joint force in a designated operational area.

Contractors Authorized to Accompany the Force (CAAF). Contractor personnel, including all tiers of subcontractor personnel, who are authorized to accompany the force in applicable contingency operations and who have been afforded CAAF status through Letter of Authorization (LOA). CAAF generally include all U.S. citizen and Third Country National (TCN) employees not normally residing within the operational area whose area of performance is in the direct vicinity of U.S. forces and who routinely are co-located with U.S. forces (especially in non-permissive environments). Personnel co-located with U.S. forces shall be afforded CAAF status through LOA. In some cases, CCDR subordinate commanders may designate mission-essential Host Nation (HN) or Local national (LN) contractor employees (e.g.,

interpreters) as CAAF. CAAF includes contractors identified as contractors deploying with the force in DoD Instruction 3020.41 and DoD Directive 3002.01E (see <http://www.dtic.mil/whs/directives/corres/pdf/300201p.pdf>). CAAF status does not apply to contractor personnel in support of contingencies within the boundaries and territories of the United States.

Defense contractor. Any individual, firm, corporation, partnership, association, or other legal non-Federal entity that enters into a contract directly with the DoD to furnish services, supplies, or construction. Foreign governments, representatives of foreign governments, or foreign corporations wholly owned by foreign governments that have entered into contracts with the DoD are not defense contractors.

Designated reception site. The organization responsible for the reception, staging, integration, and onward movement of contractors deploying during a contingency. The designated reception site includes assigned joint reception centers and other Service or private reception sites.

Essential contractor service. A service provided by a firm or an individual under contract to the DoD to support vital systems including ships owned, leased, or operated in support of military missions or roles at sea and associated support activities, including installation, garrison, base support, and linguist/translator services considered of utmost importance to the U.S. mobilization and wartime mission. The term also includes services provided to Foreign Military Sales customers under the Security Assistance Program. Services are considered essential because:

(1) The DoD Components may not have military or DoD civilian employees to perform the services immediately.

(2) The effectiveness of defense systems or operations may be seriously impaired and interruption is unacceptable when the services are not available immediately.

External support contracts. Prearranged contracts or contracts awarded during a contingency from contracting organizations whose contracting authority does not derive directly from theater support or systems support contracting authorities.

Functional Combatant Commands. U.S. Joint Forces Command (USJFCOM), U.S. Special Operations Command, U.S. Strategic Command, and U.S. Transportation Command.

Geographic Combatant Commands. U.S. Africa Command, U.S. Central Command, U.S. European Command, U.S. Northern Command, U.S. Pacific Command, and U.S. Southern Command.

Hostile environment. Defined in Joint Publication 1-02.

Host nation (HN). A nation that permits, either by written agreement or official invitation, government representatives and/or agencies of another nation to operate, under specified conditions, within its borders.

Letter of authorization (LOA). A document issued by a procuring contracting officer or designee that authorizes contractor personnel to accompany the force to travel to, from, and within an operational area, and outlines Government-furnished support authorizations within the operational area, as agreed to under the terms and conditions of the contract. For more information, see 48 CFR PGI 225.74.

Local national (LN). An individual who is a permanent resident of the nation in which the United States is conducting contingency operations.

Long-term care. A variety of services that help a person with comfort, personal, or wellness needs. These services assist in the activities of daily living, including such things as bathing and dressing. Sometimes known as custodial care.

Non-CAAF. Personnel who are not designated as CAAF, such as LN employees and non-LN employees who are permanent residents in the operational area or TCNs not routinely residing with U.S. forces (and TCN expatriates who are permanent residents in the operational area) who perform support functions away from the close proximity of, and do not reside with, U.S. forces. Government-furnished support to non-CAAF is typically limited to force protection, emergency medical care, and basic human needs (e.g., bottled water, latrine facilities, security, and food when necessary) when performing their jobs in the direct vicinity of U.S. forces.

Operational contract support (OCS). The ability to orchestrate and synchronize the provision of integrated contract support and management of contractor personnel providing support to the joint force within a designated operational area.

Prime contract. Defined in 48 CFR 3.502.

Qualifying contingency operation. In accordance with Article 2(a)(10) of the Uniform Code of Military Justice (UCMJ) (see <http://www.au.af.mil/au/awc/awcgate/ucmj.htm>), a military contingency operation conducted for the purpose of engaging an enemy or a hostile force in combat where disciplinary authority over civilians under Article 2(a)(10) is governed by the UCMJ, the Secretary of Defense Memorandum, "UCMJ Jurisdiction Over DoD Civilian Employees, DoD Contractor Personnel, and Other Persons Serving With or Accompanying the Armed Forces Overseas During Declared War and in Contingency Operations," dated March 10, 2008 (see <http://www.dtic.mil/whs/directives/corres/pdf/DTM-08-009.pdf>), and the Manual for Courts-Martial, United States, current edition (see <http://www.au.af.mil/au/awc/awcgate/law/mcm.pdf>.)

Replacement center. The centers at selected installations that ensure personnel readiness processing actions have been completed prior to an individual reporting to the aerial port of embarkation for deployment to a designated operational area.

Requiring activity. The organization charged with meeting the mission and delivering the requirements the contract supports. This activity is responsible for delivering the services to meet the mission if the contract is not in effect. The requiring activity may also be the organizational unit that submits a written requirement, or statement of need, for services required by a contract. This activity is responsible for ensuring compliance with DoD Instruction 1100.22 (see <http://www.dtic.mil/whs/directives/corres/pdf/110022p.pdf>) and Deputy Secretary of Defense Memorandums, “In-sourcing Contracted Services—Implementation Guidance” dated May 28, 2009, and “Implementation of Section 324 of the National Defense Authorization Act for Fiscal Year 2008 (FY 2008 NDAA)—Guidelines and Procedures on In-Sourcing New and Contracted Out Functions” dated April 4, 2008 (for both Deputy Secretary of Defense Memorandums see

http://prhome.defense.gov/RSI/REQUIREMENTS/INSOURCE/INSOURCE_GUIDANCE.ASP
X)

Subcontract. Defined in 48 CFR 3.502.

Systems support contracts. Prearranged contracts awarded by Service acquisition program management offices that provide fielding support, technical support, maintenance support, and, in some cases, repair parts support, for selected military weapon and support systems. Systems support contracts routinely are put in place to provide support to many newly fielded weapons systems, including aircraft, land combat vehicles, and automated command and control systems. Systems support contracting authority, contract management authority, and program

management authority reside with the Service system materiel acquisition program offices. Systems support contractors, made up mostly of U.S. citizens, provide support in continental U.S. (CONUS) and often deploy with the force in both training and contingency operations. The JFC generally has less control over systems support contracts than other types of contracts.

Theater business clearance. A CCDR policy or process to ensure visibility of and a level of control over systems support and external support contracts executing or delivering support in designated area(s) of operations. The breadth and depth of such requirements will be situational. Theater business clearance is not necessarily discrete and can be implemented to varying degrees on a continuum during all phases of an operation.

Theater support contracts. Contingency contracts awarded by contracting officers deployed to an operational area serving under the direct contracting authority of the Service component, special operations force command, or designated joint contracting authority for the designated contingency operation.

Uniquely military functions. Defined in DoD Instruction 1100.22, "Policy and Procedures for Determining Workforce Mix."

§ 158.4 Policy.

It is DoD policy that:

- (a) OCS actions (e.g., planning, accountability, visibility, deployment, protection, and redeployment requirements) shall be implemented to:
 - (1) Incorporate appropriate contingency program management processes during applicable contingency operations.
 - (2) Comply with applicable U.S., international, and local laws, regulations, policies, and agreements.

(3) Use contract support only in appropriate situations consistent with 48 CFR subpart 7.5, 48 CFR 207.503, and DoD Instruction 1100.22, “Policy and Procedures for Determining Workforce Mix.”

(4) Fully consider, plan for, integrate, and execute acquisition of, contracted support, including synchronizing and integrating contracted support flowing into an operational area from systems support, external support and theater support contracts and managing the associated contractor personnel, into applicable contingency operations consistent with CCDR policies and procedures and Joint Publication (JP) 4-10, “Operational Contract Support,” (see http://www.dtic.mil/doctrine/new_pubs/jp4_10.pdf).

(b) Contractors are generally responsible for providing their own logistical support. However, in austere, uncertain, and/or hostile environments, the DoD may provide logistical support to ensure continuation of essential contractor services. CAAF may receive Government-furnished support commensurate with the operational situation in accordance with the terms and conditions of their contract.

(c) Contracting officers will ensure that contracts used to support DoD operations require:

(1) That CAAF deploying from outside the operational area be processed through formal deployment (replacement) centers or a DoD-approved equivalent process prior to departure, and through in-theater reception centers upon arrival in the operational area, as specified in §158.6 of this part.

(2) That contractors provide personnel who are medically, dentally, and psychologically fit, and if applicable, professionally tested and certified, to perform contract duties in applicable contingency operations. Section 158.6 of this part details medical support and evacuation

procedures. Section 158.7 of this part provides guidance on contractor medical, psychological, and dental fitness.

(3) Solicitations and contracts address any applicable host country and designated operational area performance considerations.

(d) Contracts for highly sensitive, classified, cryptologic, and intelligence projects and programs shall implement this part to the maximum extent practicable, consistent with applicable laws, Executive orders, Presidential Directives, and DoD issuances.

(e) In applicable contingency operations, contractor visibility and accountability shall be maintained through a common joint database, the Synchronized Predeployment and Operational Tracker (SPOT) or its successor.

§ 158.5 Responsibilities.

(a) The Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) shall develop, coordinate, establish, and oversee the implementation of DoD policy for managing OCS.

(b) The Director, Defense Procurement and Acquisition Policy (DPAP), under the authority, direction, and control of the USD(AT&L), shall:

(1) Oversee all acquisition and procurement policy matters including the development of DoD policies for contingency contracting and the coordinated development and publication of contract prescriptions and standardized contract clauses in 48 CFR 207.503, 252.225-7040, and 202.101, and associated contracting officer guidance in 48 CFR PGI 225.74. This includes working collaboratively with OSD Principal Staff Assistants, Chairman of the Joint Chiefs of Staff (CJCS) representatives, and the DoD Component Heads in the development of OCS related policies and ensuring that contracting equities are addressed.

- (2) Develop contingency contracting policy and implement other OCS related policies into DFARS in support of applicable contingency operations.
- (3) Ensure implementation by contracting officers and CORs of relevant laws and policies in 48 CFR Subparts 4.1301, 4.1303, 52.204-9, 7.5, 7.503(e), 2.101, and 3.502; 48 CFR Subparts 207.503, 252.225-7040 and 202.101; and 48 CFR PGI 225.74.
- (4) Propose legislative initiatives that support accomplishment of the contingency contracting mission.
- (5) Improve DoD business processes for contingency contracting while working in conjunction with senior procurement executives across the DoD. Assist other OSD Principal Staff Assistants, CJCS representatives, and DoD Component Heads in efforts to improve other OCS related business processes by ensuring contracting equities and interrelationships are properly addressed.
- (6) Support efforts to resource the OCS toolset under the lead of the Deputy Assistant Secretary of Defense for Program Support (DASD(PS)) pursuant to paragraph (c)(6)(ii) of this section.
- (7) Coordinate activities with other Government agencies to provide unity of effort. Maintain an open, user-friendly source for reports and lessons learned and ensure the coordinated development and publication, through participation on the FAR Council, of standardized contract clauses.
- (8) As a member of the Contracting Functional Integrated Planning Team, collaborate with the Defense Acquisition University to offer education for all contingency contracting personnel.
- (9) Participate in the OCS Functional Capability Integration Board (FCIB) to facilitate development of standard joint OCS concepts, policies, doctrine, processes, plans, programs, tools, reporting, and training to improve effectiveness and efficiency.

(10) In concert with the supported Combatant Commander, coordinate in advance of execution Executive Agency for Head of Contracting Activity requisite Operational Plans (OPLANS), Concept Plans (CONPLANS), and operations, where a lead service or a Joint Theater Support Contracting Command (JTSCC) will be established.

(c) The DASD(PS), under the authority, direction, and control of the USD(AT&L) through the Assistant Secretary of Defense for Logistics and Materiel Readiness (ASD(L&MR)), is responsible for oversight and management to enable the orchestration, integration, and synchronization of the preparation and execution of acquisitions for DoD contingency operations, and shall:

(1) Coordinate policy relating to field operations and contingency contractor personnel in forward areas and the battlespace. In cooperation with the Joint Staff, Military Departments, and OSD, serve as the DoD focal point for the community of practice and the community of interest for efforts to improve OCS program management and oversight.

(2) Co-chair with the Vice Director, Directorate for Logistics, Joint Staff, (VDJ4) the OCS FCIB to lead and coordinate OCS with OSD, Military Department, and Defense Agency senior procurement officers in accordance with the OCS FCIB Charter (see http://www.acq.osd.mil/log/PS/fcib/OCS_FCIB_charter_USA000737-09_signed.pdf).

(3) Ensure integration of joint OCS activities across other joint capability areas and joint warfighting functions.

(4) Provide input to the Logistics Capability Portfolio Manager and the CJCS in the development of capability priorities; review final capability priorities; and provide advice to the Under Secretary of Defense for Policy (USD(P)) in developing the Quadrennial Defense Review

(see http://www.defense.gov/qdr/images/QDR_as_of_12Feb10_1000.pdf) and defense planning and programming guidance, as appropriate.

(5) Serve as the DoD lead to:

(i) Develop a programmatic approach for the preparation and execution of orchestrating, integrating, and synchronizing acquisitions for contingency operations.

(ii) Establish and oversee DoD policies for OCS program management in the planning and execution of combat, post-combat, and other contingency operations involving the Military Departments, other Government agencies, multinational forces, and non-governmental organizations, as required.

(6) Improve DoD business practices for OCS.

(i) In consultation with the Under Secretary of Defense for Personnel and Readiness (USD(P&R)); the Director, DPAP; and the CJCS, ensure a joint web-based contract visibility and contractor personnel accountability system (currently SPOT) is designated and implemented, including business rules for its use.

(ii) Lead the effort to resource the OCS toolset providing improved OCS program management, planning, OCS preparation of the battlefield, systems support, and theater support contracts, contractor accountability systems, and automated contract process capabilities, including reach back from remote locations to the national defense contract base (e.g., hardware and software).

(7) In consultation with the Heads of the OSD and DoD Components, provide oversight of experimentation efforts focusing on concept development for OCS execution.

(8) Serve as the DoD lead for the oversight of training and education of non-acquisition, non-contracting personnel identified to support OCS efforts.

(d) The Director, DLA, under the authority, direction, and control of the USD(AT&L), through the ASD(L&MR) shall, through the Joint Contingency Acquisition Support Office (JCASO), provide enabler OCS support to CCDR OCS planning efforts and training events, and, when requested, advise, assist, and support JFC oversight of OCS operations. Specifically, the Director, JCASO, shall:

- (1) Provide OCS planning support to the CCDR through Joint OCS Planners embedded within the geographic Combatant Command staff. Maintain situational awareness of all plans with significant OCS equity for the purposes of exercise support and preparation for operational deployment. From JCASO forward involvement in exercises and operational deployments, develop and submit lessons learned that result in improved best practices and planning.
- (2) When requested, assist the Joint Staff in support of the Chairman's OCS responsibilities listed in paragraph (l) of this section.
- (3) Facilitate improvement in OCS planning and execution through capture and review of joint OCS lessons learned. In cooperation with USJFCOM, Military Services, other DoD Components, and interagency partners, collect joint operations focused OCS lessons learned and best practices from contingency operations and exercises to inform OCS policy and recommend doctrine, organization, training, materiel, leadership, personnel, and facilities (DOTMLPF) solutions.
- (4) Participate in joint exercises, derive OCS best practices from after-action reports and refine tactics/techniques/procedures, deployment drills, and personal and functional training (to include curriculum reviews and recommendations). Assist in the improvement of OCS related policy, doctrine, rules, tools, and processes.

(5) Provide the geographic CCDRs, when requested, with deployable experts to assist the CCDR and subordinate JFCs in managing OCS requirements in a contingency environment.

(6) Practice continuous OCS-related engagement with interagency representatives and multinational partners, as appropriate and consistent with existing authorities.

(7) Participate in the OCS FCIB to facilitate development of standard joint OCS concepts, policies, doctrine, processes, plans, programs, tools, reporting, and training to improve effectiveness and efficiency.

(e) The Director, Defense Contract Management Agency (DCMA) under the authority, direction, and control of the USD(AT&L), through the Assistant Secretary of Defense for Acquisition (ASD(Acquisition)), plans for and performs contingency contract administration services in support of the CJCS and CCDRs in the planning and execution of military operations, consistent with DCMA's established responsibilities and functions.

(f) The Under Secretary of Defense for Intelligence (USD(I)), as the Principal Staff Assistant for intelligence, counterintelligence, and security in accordance with DoD Directive 5143.01 (see <http://www.dtic.mil/whs/directives/corres/pdf/514301p.pdf>), shall:

(1) Develop, coordinate, and oversee the implementation of DoD security programs and guidance for those contractors covered in DoD Instruction 5220.22 (see

<http://www.dtic.mil/whs/directives/corres/pdf/522022p.pdf> .

(2) Assist the USD(AT&L) in determining appropriate contract clauses for intelligence, counterintelligence, and security requirements.

(3) Establish policy for contractor employees under the terms of the applicable contracts that support background investigations in compliance with 48 CFR 4.1301, 4.1303, and 52.204-9.

(4) Coordinate security and counterintelligence policy affecting contract linguists with the Secretary of the Army pursuant to DoD Directive 5160.41E (see <http://www.dtic.mil/whs/directives/corres/pdf/516041p.pdf>) .

(g) The Assistant Secretary of Defense for Health Affairs (ASD(HA)), under the authority, direction, and control of the USD(P&R), shall assist in the development of policy addressing the reimbursement of funds for qualifying medical support received by contingency contractor personnel in applicable contingency operations.

(h) The Deputy Assistant Secretary of Defense for Readiness (DASD(Readiness)) under the authority, direction, and control of the USD(P&R), shall develop policy and set standards for managing contract linguist capabilities supporting the total force to include requirements for linguists and tracking linguist and role players to ensure that force readiness and security requirements are met.

(i) The Director, Defense Manpower Data Center (DMDC), under the authority, direction, and control of the USD(P&R), through the Director, DoD Human Resources Activity, shall:

(1) Serve as the central repository of information for all historical data on contractor personnel who have been issued common access cards (CAC) and are included in SPOT or its successor, that is to be archived.

(2) Ensure all data elements of SPOT or its successor to be archived are USD(P&R)-approved and DMDC-system compatible, and ensure the repository is protected at a level commensurate with the sensitivity of the information contained therein.

(j) The Under Secretary of Defense (Comptroller)/Chief Financial Officer (USD(C)/CFO), DoD, shall develop policy addressing the reimbursement of funds for qualifying medical support received by contingency contractor personnel in applicable contingency operations.

(k) The Secretaries of the Military Departments and the Directors of the Defense Agencies and DoD Field Activities shall incorporate this part into applicable policy, doctrine, programming, training, and operations and ensure:

(1) Assigned contracting activities populate SPOT with the required data in accordance with Assistant Secretary of Defense for Logistics and Materiel Readiness Publication, "Business Rules for the Synchronized Predeployment and Operational Tracker (SPOT)," current edition (see <http://www.acq.osd.mil/log/PS/spot.html>) and that information has been reviewed for security and operational security (OPSEC) concerns in accordance with paragraph (c)(3)(ii)(E) of §158.6.

(2) CAAF meet all theater and/or joint operational area (JOA) admission procedures and requirements prior to deploying to or entering the theater or JOA.

(3) Contracting officers include in the contract:

(i) Appropriate terms and conditions and clause(s) in accordance with 48 CFR 252.225-7040 and 48 CFR PGI 225.74.

(ii) Specific deployment and theater admission requirements according to 48 CFR 252.225-7040 and 48 CFR PGI 225.74, and the applicable CCDR websites.

(iii) Specific medical preparation requirements according to paragraph (c)(8) of §158.6.

(iv) The level of protection to be provided to contingency contractor personnel in accordance with paragraph (d)(5) of §158.6. Contracting officers shall follow the procedures on the applicable CCDR websites to obtain theater-specific requirements.

(v) Government-furnished support and equipment to be provided to contractor personnel with prior coordination and approval of theater adjudication authorities, as referenced on the applicable CCDR websites.

- (vi) A requirement for contractor personnel to show and have verified by the COR, proof of professional certifications/proficiencies as stipulated in the contract
- (4) Standardized contract accountability financial and oversight processes are developed and implemented.
- (5) Requirements packages are completed to include all required documentation (e.g., letter of justification, performance work statement, nominated COR, independent Government estimate (IGE)) are completed and funding strategies are articulated and updated as required.
- (6) CORs are planned for, resourced, and sustained as necessary to ensure proper contract management capabilities are in place and properly executed.
- (7) Assigned contracting activities plan for, and ensure the contractor plans for, the resources necessary to implement and sustain contractor accountability in forward areas through SPOT or its successor.
- (8) Contract support integration plans (CSIPs) and contractor management plans (CMPs) are developed as directed by the supported CCDR.
- (9) The risk of premature loss of mission-essential OCS is assessed and the mitigation of the loss of contingency contractor personnel in wartime or contingency operations who are performing essential contractor services is properly planned for.
- (10) Assigned contracting activities comply with theater business clearance and contract administration delegation policies and processes when implemented by CCDRs to support any phase of a contingency operation.
- (11) Agency equities are integrated and conducted in concert with the CCDR's plans for OCS intelligence of the battlefield.

(12) The implementation of a certification of, and a waiver process for, contractor-performed deployment and redeployment processing in lieu of a formally designated group, joint, or Military Department deployment center.

(13) Support the effort to resource the OCS toolset under the lead of the DASD(PS) pursuant to paragraph (c)(6)(ii) of this section.

(l) The CJCS shall:

(1) Where appropriate, incorporate program management and elements of this part into joint doctrine, joint instructions and manuals, joint training, joint education, joint capability development, joint strategic planning system (e.g., Joint Operation Planning and Execution System (JOPES)), and CCDR oversight.

(2) Co-chair with the VDJ4 the OCS FCIB to lead and coordinate OCS with OSD, Military Department, and Defense Agency senior procurement officers in accordance with OCS FCIB charter. Provide the OCS FCIB with input and awareness of the CJCS functions and activities as defined in 10 U.S.C.153 and 155.

(3) Perform OCS related missions and functions as outlined in the Joint Staff Manual 5100.01¹ and the Chairman's authorities as defined in 10 U.S.C. (see http://uscode.house.gov/download/title_10.shtml)

(m) The geographic CCDRs and the CDRUSSOCOM (when they are the supported commander) shall:

(1) Plan and execute OCS program management, contract support integration, and contractor management actions in all applicable contingency operations in their AOR.

¹ This document is classified Restricted, and is available via Secure Internet Protocol Router Network at <http://js.smil.mil>. If the requester is not an authorized user of the classified network the requestor should contact Joint Staff J-1 at 703-697-9645.

(2) Conduct integrated planning to determine and synchronize contract support requirements to facilitate OCS planning and contracting and contractor management oversight.

(3) In coordination with the Services and functional components, identify military capabilities shortfalls in all the joint warfighting functions that require contracted solutions. Ensure these requirements are captured in the appropriate CCDR, subordinate JFC, Service component and combat support agency CSIP or other appropriate section of the CONPLAN with time-phased force and deployment data (TPFDD), OPLAN or operation order (OPORD).

(4) Require Service component commanders and supporting Defense Agencies and DoD Field Activities to:

(i) Identify and incorporate contract support and operational acquisition requirements in supporting plans to OPLANs and CONPLANs with TPFDD, and to synchronize their supporting CSIPs, CMPs, and contracted requirements and execution plans within geographic CCDR OPLANs and CONPLANs with TPFDD.

(ii) Review their supporting CSIPs and CMPs and identify funding strategies for particular contracted capabilities identified to support each OPLAN and CONPLAN.

(iii) Develop acquisition-ready requirements documents as identified in CSIPs including performance work statements, IGEs, task order change documents, and sole source justifications.

(iv) Ensure CAAF and their equipment are incorporated into TPFDD development and deployment execution processes in accordance with CJCS Manual 3122.02C, JOPES Volume III, "Crisis Action Time-Phased Force and Deployment Data Development and Deployment Execution," June 19, 2006.

- (v) Ensure financial management policies and procedures are in place in accordance with DoD 7000.14-R (see <http://comptroller.defense.gov/fmr/>) and applicable service specific financial management implementation guidance.
- (5) Develop and publish comprehensive OCS plans. Synchronize OCS requirements among all Service components and Defense Agencies and DoD Field Activities operating within or in support of their area of responsibility (AOR). Optimize operational unity of effort by analyzing existing and projected theater support and external support contracts to minimize, reduce, and eliminate redundant and overlapping requirements and contracted capabilities.
- (6) Ensure OCS requirements for the Defense Agencies, multinational partners, and other Governmental agencies are addressed and priorities of effort for resources are deconflicted and synchronized with OCS to military forces.
- (7) Ensure policies and procedures are in place for reimbursing Government-furnished support of contingency contractor personnel, including (but not limited to) subsistence, military air, intra-theater lift, and medical treatment, when applicable.
- (8) Ensure CAAF and equipment requirements (regardless if provided by the Government or the contractor) in support of an operation are incorporated into plan TPFDDs.
- (9) Review Service component assessments of the risk of premature loss of essential contractor services and review contingency plans to mitigate potential premature loss of essential contractor services.
- (10) Establish and communicate to contracting officers theater and/or JOA CAAF admission procedures and requirements, including country and theater clearance, waiver authority, immunizations, required training or equipment, and any restrictions necessary to ensure proper deployment, visibility, security, accountability, and redeployment of CAAF to their AORs and/or

JOAs. Implement DoD Foreign Clearance Guide, current edition (available at <https://www.fcg.pentagon.mil/>).

(11) Coordinate with the Office of the USD(P) to ensure special area, country, and theater personnel clearance requirements are current in accordance with DoD Foreign Clearance Guide, and coordinate with affected agencies (e.g., Intelligence Community agencies) to ensure that entry requirements do not impact mission accomplishment.

(12) Determine and distribute specific theater OCS organizational guidance in plans, to include command, control, and coordination, and Head Contracting Authority (HCA) relationships.

(13) Develop and distribute AOR/JOA-wide contractor management requirements, directives, and procedures into a separate contractor management plan as an annex or the appropriate section of the appropriate plan.

(14) Establish, staff, and execute appropriate OCS-related boards, centers, and working groups.

(15) Integrate OCS into mission rehearsals and training exercises.

(16) When contracts are being or will be executed in an AOR/JOA, designate and identify the organization responsible for managing and prescribing processes to:

(i) Establish procedures and assign authorities for adjudicating requests for provision of Government-furnished equipment and services to contractors when such support is operationally required. This should include procedures for communicating approval to the requiring activity and the contracting officer for incorporation into contracts.

(ii) Authorize trained and qualified contractor personnel to carry weapons for personal protection not related to the performance of contract-specific duties.

(iii) Establish procedures for, including coordination of, inter-theater strategic movements and intra-theater operational and tactical movements of contractor personnel and equipment.

- (iv) Collect information on and refer to the appropriate Government agency offenses, arrests, and incidents of alleged misconduct committed by contractor personnel on or off-duty.
- (v) Collect and maintain information relating to CAAF and selected non-CAAF kidnappings, injuries, and deaths.
- (vi) Identify the minimum standards for conducting and processing background checks, and for issuing access badges to HN, LN, and TCN personnel employed, directly or indirectly, through Government-awarded contracts.
- (vii) Remove CAAF from the designated operational area who do not meet medical deployment standards, whose contract period of performance has expired, or who are noncompliant with contract requirements.
- (viii) Designate additional contractor personnel not otherwise covered by personnel recovery policy for personnel recovery support in accordance with DoD Directive 3002.01E.
- (ix) Ensure that contract oversight plans are developed, and that adequate personnel to assist in contract administration are identified and requested, in either a separate contractor management plan as an annex of plans and orders and/or within appropriate parts of plans and orders.
- (x) Develop a security plan for the protection of contingency contractor personnel according to paragraph (d)(5) of §156.8.
- (xi) Develop and implement theater business clearance and, if required, Contract Administration Delegation policies and procedures to ensure visibility of and a level of control over systems support and external support contracts providing or delivering contracted support in contingency operations.

(17) Enforce the individual arming policy and use of private security contractors in accordance with 32 CFR part 159 and DoD Directive 5210.56 (see

<http://www.dtic.mil/whs/directives/corres/pdf/521056p.pdf>).

(18) Establish a process for reviewing exceptions to medical standards (waivers) for the conditions in paragraph (j) of §158.7, including a mechanism to track and archive all approved and denied waivers and the medical conditions requiring waiver. Additionally, serve as the final approval/disapproval authority for all exceptions to this policy, except in special operations where the Theater Special Operations Command (TSOC) commander has the final approval or disapproval authority.

(19) Establish mechanisms for ensuring contractors are required to report offenses alleged to have been committed by or against contractor personnel to appropriate investigative authorities.

(20) Assign responsibility for providing victim and witness protection and assistance to contractor personnel in connection with alleged offenses.

(21) Ensure applicable predeployment, deployment, in-theater management, and redeployment guidance and procedures are readily available and accessible by planners, requiring activities, contracting officers, contractors, contractor personnel and other interested parties on a webpage, and related considerations and requirements are integrated into contracts through contract terms, consistent with security considerations and requirements.

(22) Ensure OCS preparation of the battlefield is vetted with intelligence agencies when appropriate.

(23) Integrate OCS planning with operational planning across all primary and special staff sections.

(n) The functional CCDRs utilizing OCS shall ensure their Commands follow the procedures in this part and applicable operational-specific guidance provided by the supported geographic CCDR.

§ 158.6 Procedures.

(a) Requirements, Relationships, and Restrictions. In implementing this part, the Heads of DoD Components shall abide by applicable laws, regulations, DoD policy, and international agreements as they relate to contractor personnel supporting applicable contingency operations.

(1) Status of Contractor Personnel.

(i) Pursuant to applicable law, contracted services may be utilized in applicable contingency operations for all functions not inherently governmental. Contractor personnel may be utilized in support of such operations in a non-combat role as long as contractor personnel residing with the force in foreign contingencies have been designated as CAAF by the force they accompany and are provided with an appropriate identification card pursuant to the Geneva Convention Relative to the Treatment of Prisoners of War (see <http://www.icrc.org/ihl.nsf/FULL/375>). If captured during international armed conflict, contractors with CAAF status are entitled to prisoner of war status. Some contractor personnel may be covered by the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (see

<http://www.icrc.org/ihl.nsf/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>) should they be captured during armed conflict. All contractor personnel may be at risk of injury or death incidental to enemy actions while supporting military operations. CAAF status does not apply to contractor personnel supporting domestic contingencies.

(ii) Contractor personnel may support applicable contingency operations such as by providing communications support; transporting munitions and other supplies; performing maintenance

functions for military equipment; providing private security services; providing foreign language interpretation and translation services, and providing logistic services such as billeting and messing. Each service to be performed by contractor personnel in applicable contingency operations shall be reviewed on a case-by-case basis in consultation with the cognizant manpower official and servicing legal office to ensure compliance with DoD Instruction 1100.22 and relevant laws and international agreements.

(2) Local and Third-Country Laws. Subject to the application of international agreements, all contingency contractor personnel must comply with applicable local and third country laws. Contractor personnel may be hired from U.S., LN, or third country sources and their status may change (e.g., from non-CAAF to CAAF), depending on where they are detailed to work by their employer or on the provisions of the contract. The CCDRs, as well as subordinate commanders and Service component commanders, and the Directors of the Defense Agencies and DoD Field Activities should be cognizant of limiting factors regarding the employment of LN and TCN personnel. Limiting factors may include imported labor worker permits; workforce and hour restrictions; medical, life, and disability insurance coverage; taxes, customs, and duties; cost of living allowances; hardship differentials; access to classified information; and hazardous duty pay.

(3) U.S. Laws. CAAF, with some exceptions, are subject to U.S. laws and Government regulations. For example, all U.S. citizen and TCN CAAF may be subject to prosecution pursuant to Federal law including, but not limited to, 18 U.S.C. 3261 (also known and hereinafter referred to as “The Military Extraterritorial Jurisdiction Act of 2000 (MEJA), as amended”). MEJA extends U.S. Federal criminal jurisdiction to certain defense contractor personnel for offenses committed outside U.S. territory. Additionally, CAAF are subject to prosecution

pursuant to 10 U.S.C. chapter 47 (also known and hereinafter referred to as “The Uniform Code of Military Justice (UCMJ)”) in accordance with Secretary of Defense Memorandum (“UCMJ Jurisdiction Over DoD Civilian Employees, DoD Contractor Personnel, and Other Persons Serving With or Accompanying the Armed Forces Overseas During Declared War and in Contingency Operations,” March 10, 2008). Other laws may allow prosecution of offenses by contractor personnel, such as 18 U.S.C. 7(9). Immediate consultation with the servicing legal office and the contracting officer is required in all cases of suspected MEJA and/or UCMJ application to conduct by CAAF personnel, especially in non-combat operations or in undeclared contingencies.

(4) Contractual Relationships. The contract is the only legal basis for the relationship between the DoD and the contractor. The contract shall specify the terms and conditions, to include minimum acceptable professional standards, under which the contractor is to perform, the method by which the contractor will be notified of the deployment procedures to process contractor personnel, and the specific support relationship between the contractor and the DoD. The contract shall contain standardized clauses to ensure efficient deployment, accountability, visibility, protection, authorized levels of health service, and other support, sustainment, and redeployment of contractor personnel. It shall also specify the appropriate flow-down of provisions and clauses to subcontracts, and shall state that the service performed by contractor personnel is not considered to be active duty or active service in accordance with DoD Directive 1000.20 (see <http://www.dtic.mil/whs/directives/corres/pdf/100020p.pdf>) and 38 U.S.C. 106.

(5) Restrictions on Contracting Inherently Governmental Functions. Inherently governmental functions and duties are barred from private sector performance in accordance with DoD Instruction 1100.22, 48 CFR 207.503, 48 CFR 7.5, Public Law (P.L.) 105-270, and Office of

Management and Budget Circular A-76 (see http://www.whitehouse.gov/omb/circulars_a076_a76_incl_tech_correction). As required by 48 CFR 7.503(e), 48 CFR 207.503, and Deputy Secretary of Defense Memorandum, “In-sourcing Contracted Services – Implementation Guidance” dated May 28, 2009, contracting officials shall request requiring officials to certify in writing that functions to be contracted (or to continue to be contracted) are not inherently governmental. Requiring officials shall determine whether functions are inherently governmental based on the guidance in DoD Instruction 1100.22.

(6) Restrictions on Contracting Functions Exempted From Private Sector Performance. As required by 48 CFR 207.503 and Deputy Secretary of Defense Memorandum, “In-sourcing Contracted Services – Implementation Guidance,” May 28, 2009, contracting officials shall request requiring officials to certify in writing that functions to be contracted (or continue to be contracted) are not exempted from private sector performance. Requiring officials shall determine whether functions are exempted from private sector performance based on the guidance in DoD Instruction 1100.22.

(7) Requirements for Contracting Commercial Functions. As required by 10 U.S.C. 2463 and Deputy Secretary of Defense Memorandum, “In-sourcing Contracted Services – Implementation Guidance”, in advance of contracting for commercial functions or continuing to contract for commercial functions, requiring officials shall consider using DoD civilian employees to perform the work. Requiring officials shall determine whether DoD civilian employees should be used to perform the work based on the guidance in Deputy Secretary of Defense Memorandum, “In-sourcing Contracted Services – Implementation Guidance” and Deputy Secretary of Defense Memorandum “Implementation of Section 324 of the National Defense

Authorization Act for Fiscal Year 2008 (FY 2008 NDAA) – Guidelines and Procedures on In-Sourcing New and Contracted Out Functions,” April, 4, 2008.

(8) International Laws, Local Laws, and Host Nation (HN) Support Agreements. Planners and requiring activities, in coordination with contracting officers shall take international laws, local laws, and HN support agreements into account when planning for contracted support, through assistance and coordination of the staff judge advocates (SJAs) office of the geographic CCDRs; the Commander, United States Special Operations Command (CDRUSSOCOM); the Commander, United States Transportation Command (CDRUSTRANSCOM); and the Service component commander SJA offices. These laws and support agreements may affect contracting by restricting the services to be contracted, limiting contracted services to LN or HN contractor sources or, in some cases, by prohibiting contractor use altogether.

(9) Status-of-Forces Agreements (SOFAs). Planners and requiring activities, in coordination with contracting officers shall review applicable SOFAs and related agreements to determine their affect on the status and use of contractors in support of applicable contingency operations, with the assistance and coordination of the geographic CCDR SJA offices.

(b) OCS Planning. Combatant and subordinate JFCs determine whether contracted support capabilities are appropriate in support of a contingency. When contractor personnel and equipment are anticipated to support military operations, military planners will develop orchestrated, synchronized, detailed, and fully developed CSIPs and CMPs as components CONPLANS and OPLANS, in accordance with appropriate strategic planning guidance. CONPLANS without TPFDD and OPORDs shall contain CSIP- and CMP-like guidance to the extent necessary as determined by the CCDR. OCS planning will, at a minimum, consider HN

support agreements, acquisition cross-servicing agreements, and Military logistics support agreements.

(1) CSIPs. All CCDR CONPLANs with TPFDD and OPLANs shall include a separate CSIP (i.e., Annex W) in accordance with Chairman of the Joint Chiefs of Staff Manual 3122.02C and Joint Publication 4-0, “Joint Logistics,” July 18, 2008. Further, plans and orders should contain additional contract support guidance, as appropriate, in applicable annexes and appendixes within the respective plans (e.g., contracted bulk fuel support guidance should be addressed in the Class III(B) Appendix to the Logistic Annex). Service component commanders shall provide supporting CSIPs as directed by the CCDR.

(2) CMPs. All CCDR CONPLANs with TPFDD and OPLANs shall include a separate CMP and/or requisite contractor management requirements document in the applicable appendix or annex of these plans (e.g., private security contractor rules for the use of force should be addressed in the Rules of Engagement Appendix to the Concept of the Operation Annex) in accordance with Chairman of the Joint Chiefs of Staff Manual 3122.02C and Joint Publication 4-0, “Joint Logistics,” July 18, 2008. Service component commanders shall provide supporting CMPs as directed by the CCDR.

(3) Continuation of Essential Contractor Services. To ensure that critical capabilities are maintained, it is necessary to assess the risk of premature loss of mission-essential contracted support. Supported and supporting commanders shall plan for the mitigation from the risk of premature loss of contingency contractor personnel who are performing essential contractor services. Planning for continuation of essential contractor services during applicable contingency operations includes:

(i) Determining all services provided overseas by defense contractors that must continue during an applicable contingency operation. Contracts shall obligate defense contractors to ensure the continuity of essential contractor services during such operations.

(ii) Developing mitigation plans for those tasks identified as essential contractor services to provide reasonable assurance of continuation during crisis conditions. These mitigation plans should be developed as part of the normal CSIP development process.

(iii) Ensuring the Secretaries of the Military Departments and the geographic CCDRs plan for the mitigation from the risk of premature loss of contingency contractor personnel who are performing essential contractor services. When the cognizant DoD Component Commander or geographic CCDR has a reasonable doubt about the continuation of essential services by the incumbent contractor during applicable contingency operations, the commander shall prepare a mitigation plan for obtaining the essential services from alternative sources (military, DoD civilian, HN, or other contractor(s)). This planning requirement also applies when the commander has concerns that the contractor cannot or will no longer fulfill the terms of the contract:

(A) Because the threat level, duration of hostilities, or other factors specified in the contract have changed significantly;

(B) Because U.S., international, or local laws; HN support agreements; or SOFAs have changed in a manner that affect contract arrangements; or

(C) Due to political or cultural reasons.

(iv) Encouraging contingency contractor personnel performing essential contractor services overseas to remain in the respective operations area.

(4) Requirements for Publication. CCDRs shall make OCS planning factors, management policies, and specific contract support requirements available to affected contingency contractor personnel. To implement the OCS-related requirements of DoD Directive 1100.4 (see <http://www.dtic.mil/whs/directives/corres/pdf/110004p.pdf>), DoD Instruction 1100.19 (see <http://www.dtic.mil/whs/directives/corres/pdf/110019p.pdf>), DoD Directive 5205.02 (see <http://www.dtic.mil/whs/directives/corres/pdf/520502p.pdf>), the mandated CCDR website at http://www.acq.osd.mil/dpap/pacc/cc/areas_of_responsibility.html shall include the information in paragraphs (b)(4)(i) through (b)(4)(ix) of this section (the data owner must review this information for security classification and OPSEC considerations prior to its posting).

(i) Theater Business Clearance and Contract Administration Delegation requirements for external support and systems support contracts executing or delivering contracted support in the CCDR's AOR (implemented at the CCDR's discretion).

(ii) Restrictions imposed by applicable international and local laws, SOFAs, and HN support agreements.

(iii) CAAF-related deployment requirements and theater reception.

(iv) Reporting requirements for accountability of contractor personnel and visibility of contracts.

(v) OPSEC plans and restrictions.

(vi) Force protection policies.

(vii) Personnel recovery procedures.

(viii) Availability of medical and other Government-furnished support.

(ix) Redeployment procedures.

(5) Implementing OCS Plan Decisions Into Contracts.

(i) Specific contract-related considerations and requirements set forth in Annex Ws of CONPLANs with TPFDD and OPLANs shall be reflected and addressed in CCDR policies (e.g., Theater Business Clearance/Contract Administration Delegation) and orders that apply to contractors and their personnel, maintained on CCDR OCS webpages and integrated into contracts performing or delivering in a CCDR area of responsibility. When such CCDR policies potentially affect contracts other than those originated in the CCDR AOR, the CCDR should consult the contingency contracting section of the Office of the Director, DPAP, for advice on how best to implement these policies. All contracted services in support of contingency operations shall be included and accounted for in accordance with 10 U.S.C. 235 and 2330a. This accounting shall be completed by the operational CCDR requiring the service.

(ii) When making logistics sustainability recommendations, the DoD Components and acquisition managers shall consider the requirements of DoD Instruction 5000.02 (see <http://www.dtic.mil/whs/directives/corres/pdf/500002p.pdf>) and paragraph (a)(5) of this section. Early in the contingency or crisis action planning process, they shall coordinate with the affected supported and supporting commands any anticipated requirements for contractor logistics support arrangements that may affect existing CONPLANs, OPLANs, and OPORDs. As part of the supporting plans, supporting organizations (Service components, defense agencies, others) must provide adequate data (e.g., estimates of the numbers of contractors and contracts and the types of supplies or services that will be required to support their responsibilities within the OPLAN) to the supported command planners to ensure the supported commander has full knowledge of the magnitude of contracted support required for the applicable contingency operation.

(6) TPFDD Development. Deployment data for CAAF and their equipment supporting the Military Services must be incorporated into TPFDD development and deployment execution processes in accordance with Chairman of the Joint Chiefs of Staff Manual 3122.02C (see https://ca.dtic.mil/cjcs_directives/cjcs/manuals.htm). The requirement to provide deployment data shall be incorporated into known system support and external support contracts and shall apply regardless of whether defense contractors will provide or arrange their own transportation.

(c) Deployment and Theater Admission Requirements and Procedures. The considerations in this section are applicable during CAAF deployment processing.

(1) General.

(i) The CCDR or subordinate JFC shall provide specific deployment and theater admission requirements to the DoD Components for each applicable contingency operation. These requirements must be delineated in supporting contracts as explained in 48 CFR PGI 225.74. At a minimum, contracting officers shall ensure that contracts address operational area-specific contract requirements and the means by which the Government will inform contractors of the requirements and procedures applicable to a deployment.

(ii) A formally designated group, joint, or Military Department deployment center (e.g., replacement center, Federal deployment center, unit deployment site) shall be used to conduct deployment and redeployment processing for CAAF, unless contractor-performed theater admission preparation is authorized according to paragraph (c)(5), or waived pursuant to paragraph (c)(15), of this section. However, a Government-authorized process that incorporates all the functions of a deployment center may be used if designated in the contract.

(2) Country Entry Requirements. Special area, country, and theater personnel clearance documents must be current in accordance with the DoD Foreign Clearance Guide (available at

<https://www.fcg.pentagon.mil/>) and coordinated with affected agencies (e.g., Intelligence Community agencies) to ensure that entry requirements do not impact accomplishment of mission requirements. CAAF employed in support of a DoD mission are considered DoD-sponsored personnel for DoD Foreign Clearance Guide purposes. Contracting officers shall ensure contracts include a requirement that CAAF must meet theater personnel clearance requirements and must obtain personnel clearances prior to entering applicable contingency operations. Contracts shall require CAAF to obtain proper identification credentials (e.g., passport, visa) as required by the terms and conditions of the contract.

(3) Accountability and Visibility of Contingency Contracts and Contractor Personnel.

- (i) DoD contracts and contractors supporting an applicable contingency operation shall be accountable and visible in accordance with this part, 48 CFR PGI 225.74, and section 862 of Public Law 110-181 (“National Defense Authorization Act for Fiscal Year 2008,” January 28, 2008). Additionally, contract linguist utilization will be tracked using the Contract Linguist Enterprise-wide Database in accordance with DoD Directive 5160.41E. OCS requirements and contractor accountability and visibility must be preplanned and integrated into plans and OPORDs in accordance with Joint Publication 4-10 and Chairman of the Joint Chiefs of Staff Manual 3122.02C and U.S. citizen, U.S. legal alien contractor, LN, and TCN information provided in accordance with CJCS Manual 3150.13C (see http://www.dtic.mil/cjcs_directives/cdata/unlimit/m315013.pdf).
- (ii) As stated in the Deputy Under Secretary of Defense (Logistics and Materiel Readiness) and Deputy Under Secretary of Defense (Program Integration) Memorandum, “Designation of Synchronized Predeployment and Operational Tracker (SPOT) as Central Repository for Information on Contractors Deploying with the Force,” January 25, 2007 (see

[http://www2.centcom.mil/sites/contracts/Synchronized%20Predeployment%20and%20Operational%20Tracker/01-SPOT%20DFARS%20Deviation%202007-](http://www2.centcom.mil/sites/contracts/Synchronized%20Predeployment%20and%20Operational%20Tracker/01-SPOT%20DFARS%20Deviation%202007-00004,%2019%20MAR%202007.pdf)

[00004,%2019%20MAR%202007.pdf](http://www2.centcom.mil/sites/contracts/Synchronized%20Predeployment%20and%20Operational%20Tracker/01-SPOT%20DFARS%20Deviation%202007-00004,%2019%20MAR%202007.pdf)), SPOT was designated as the joint web-based database to assist the CCDRs in maintaining awareness of the nature, extent, and potential risks and capabilities associated with OCS for contingency operations, humanitarian assistance and peacekeeping operations, or military exercises designated by the CCDR. To facilitate integration of contingency contractors and other personnel as directed by the USD(AT&L) or the CCDR, and to ensure accountability, visibility, force protection, medical support, personnel recovery, and other related support can be accurately forecasted and provided, these procedures shall apply for establishing, maintaining, and validating the database:

(A) SPOT or its successor shall:

(1) Serve as the central repository for up-to-date status and reporting on contingency contractor personnel as directed by the USD(AT&L), 48 CFR 252.225-7040 and 48 CFR PGI 225.74, or the CCDR, as well as other Government agency contractor personnel as applicable.

(2) Track contract information for all DoD contracts supporting applicable contingency operations, as directed by the USD(AT&L), 48 CFR PGI 225.74 and Chairman of the Joint Chiefs of Staff Manual 3150.13C, or the CCDR. SPOT data elements are intended to provide planners and CCDRs an awareness of the nature, extent, and potential risks and capabilities associated with contracted support.

(3) Provide personnel accountability via unique identifier (e.g., Electronic Data Interchange Personnel Identifier (EDI-PI)) of DoD contingency contractor personnel and other personnel as directed by the USD(AT&L), 48 CFR PGI 225.74, Chairman of the Joint Chiefs of Staff Manual 3150.13C, or the CCDR.

(4) Contain, or link to, minimum contract information (e.g., contract number, contract category, period of performance, contracting agency and contracting office) necessary to establish and maintain accountability and visibility of the personnel in paragraph (c)(3)(ii)(A)1. of this section, to maintain information on specific equipment related to private security contracts, and the contract capabilities in contingency operations, humanitarian assistance, and peacekeeping operations, or military exercises designated by the CCDR.

(5) Comply with the personnel identity protection program requirements of DoD Directive 5205.02, DoD 5400.11-R (see <http://www.dtic.mil/whs/directives/corres/pdf/540011r.pdf>), and DoD 6025.18-R (see <http://www.dtic.mil/whs/directives/corres/pdf/602518r.pdf>); be consistent with the DoD Global Information Grid enterprise architecture in DoD Directive 8000.01 (see <http://www.dtic.mil/whs/directives/corres/pdf/800001p.pdf>); and be compliant with DoD Directive 8320.02 (see <http://www.dtic.mil/whs/directives/corres/pdf/832002p.pdf>), DoD Directive 4630.05 (see <http://www.dtic.mil/whs/directives/corres/pdf/463005p.pdf>), and DoD Directive 8500.01E (see <http://www.dtic.mil/whs/directives/corres/pdf/850001p.pdf>).

(B) All required data must be entered into SPOT or its successor before a contractor employee is permitted to deploy to or enter a military theater of operations. Contracting officers, through the terms of the contracts, shall require contractors to enter data before an employee's deployment and to maintain and update the information for all CAAF, as well as non-CAAF as directed by the USD(AT&L), 48 CFR PGI 225.74, or the CCDR. The contract shall require the contractor to use SPOT or its successor, to enter and maintain data on its employees.

(C) A summary of all DoD contract services or capabilities for all contracts that are awarded to support contingency, humanitarian assistance, and peacekeeping operations, to include theater,

external, and systems support contracts, shall be entered into SPOT or its successor in accordance with 48 CFR 252.225-7040 and 48 CFR PGI 225.74.

(D) In accordance with applicable acquisition policy and regulations, all defense contractors awarded contracts that support applicable contingency operations shall be required, under the terms and conditions of each affected contract, to input employee data and maintain by-name accountability of designated contractor personnel in SPOT or its successor as required by 48 CFR 252.225-7040 and 48 CFR PGI 225.74. Contractors shall be required under the terms and conditions of their contracts to maintain policies and procedures for knowing the general location of their employees and to follow the procedures provided to them to submit up-to-date, real-time information reflecting all personnel deployed or to be deployed in support of contingency, humanitarian assistance, and peacekeeping operations. Prime contractors shall be required under the terms and conditions of their contract to follow the procedure provided to them to submit into SPOT or its successor, up-to-date, real-time information regarding their subcontractors at all tiers.

(E) In all cases, classified information responsive to the requirements of this part shall be reported and maintained on systems approved for the level of classification of the information provided.

(4) LOA. A SPOT-generated LOA shall be issued by the contracting officer or designee to all CAAF as required by the clause in 48 CFR subpart 252.225-7040 and selected non-CAAF (e.g., LN private security contractors) as required under 48 CFR PGI 225.74 or otherwise designated by the CCDR. The contract shall require that all contingency contractor personnel who are issued an LOA will carry the LOA with them at all times. For systems authorized in accordance

with paragraph (c)(3)(ii)(B) of this section, DoD Components shall coordinate with the SPOT program manager to obtain an LOA handled within appropriate security guidelines.

(5) Deployment Center Procedures.

(i) Affected contracts shall require that all CAAF process through a designated deployment center or a Government-authorized, contractor-performed deployment processing facility prior to deploying to an applicable contingency operation. Upon receiving the contracted company's certification that employees meet deployability requirements, the contracting officer or his/her representative will digitally sign the LOA. The LOA will be presented to officials at the deployment center. The deployment process shall be for, but not limited to:

(A) Verifying accountability information in SPOT or its successor.

(B) Issuing applicable Government-furnished equipment.

(C) Verifying medical and dental screening, including required military-specific vaccinations and immunizations (e.g., anthrax, smallpox).

(D) Verifying and, when necessary, providing required training (e.g., Geneva Conventions; law of armed conflict; general orders; standards of conduct; force protection; personnel recovery; first aid; operations security; anti-terrorism; counterintelligence reporting; the use of chemical, biological, radiological, nuclear (CBRN) protective ensemble), country and cultural awareness briefings, and other training and briefings as appropriate.

(ii) Affected contingency contracts shall require that, prior to deployment, contractors certify to the Government authorizing representative named in the contract that all required deployment processing actions have been completed for each individual.

(6) CAAF Identification, Training, and Security Clearance Requirements. Contracts shall require eligible CAAF to be issued an identification card with the Geneva Conventions

Accompanying the Force designation in accordance with DoD Instruction 1000.13 (see <http://www.dtic.mil/whs/directives/corres/pdf/100013p.pdf>) and DTM 08-003 (see <http://www.dtic.mil/whs/directives/corres/pdf/DTM-08-003.pdf>). CAAF shall be required to present their SPOT generated LOA as proof of eligibility at the time of ID card issuance. All CAAF shall receive training regarding their status under the law of war and the Geneva Convention. In addition and to the extent necessary, the contract shall require the defense contractor to provide personnel who have the appropriate security clearance or are able to satisfy the appropriate background investigation to obtain access required for the applicable contingency operation.

(7) Government Support. Generally, contingency contracts shall require that contractors provide all life, mission, and administrative support to their employees necessary to perform the contract in accordance with DoD Instruction 4161.02 (see <http://www.dtic.mil/whs/directives/corres/pdf/416102p.pdf>) and CCDR guidance as posted on the CCDR OCS website. As part of preparing an acquisition requirement, the requiring activity will include an estimate of the Government support that is required to be provided to CAAF and selected non-CAAF in accordance with 48 CFR 4.1301, 4.1303, 52.204-9, 7.5, 7.503(e), 2.101, and 3.502 and 48 CFR PGI 225.74. The requiring activity will confirm with theater adjudication authorities that the Government has the capacity, capability, and willingness to provide the support. However, in many contingency operations, especially those in which conditions are austere, uncertain, and/or non-permissive, the contracting officer may decide it is in the interest of the Government to allow for selected life, mission, medical, and administrative support to some contingency contractor personnel. Prior to awarding the contract, the contracting officer will request the requiring activity to verify that proper arrangements for Government support at

the deployment center and within the designated operational area have been made. The contract shall specify the level of Government-furnished support to be provided to CAAF and selected non-CAAF and what support is reimbursable to the Government. The requiring activity will ensure that approved GFS is available.

(8) Medical Preparation.

(i) In accordance with §158.7 of this part, contracts shall require that contractors provide medically and physically qualified contingency contractor personnel to perform duties in applicable contingency operations as outlined in the contract. Any CAAF deemed unsuitable to deploy during the deployment process due to medical or dental reasons will not be authorized to deploy. The Secretary of Defense may direct immunizations as mandatory for CAAF performing DoD-essential contractor services in accordance with Joint Publication 4-0, “Joint Logistics”, and Chairman of the Joint Chiefs of Staff Manual 3150.13C. For CAAF who are U.S. citizens, contracts shall require contractors to make available the medical and dental records (including current panoramic x-ray) of the deploying employees who grant release authorization for this purpose, according to contract terms based on this section, DoD Directive 6485.02E (see <http://www.dtic.mil/whs/directives/corres/pdf/648502p.pdf>), applicable joint force command surgeon guidance, and relevant Military Department policy.

(ii) Government personnel cannot force a contractor employee to receive an immunization or disclose private medical records against his or her will; therefore, particularly for medical requirements that arise after contract award, the contracting officer will allow contractors time to notify and/or hire employees who are willing to meet Government medical requirements and disclose their private information.

(iii) Medical threat pre-deployment briefings will be provided to all CAAF to communicate health risks and countermeasures in the designated operational area in accordance with DoD Instruction 6490.03 (see <http://www.dtic.mil/whs/directives/corres/pdf/649003p.pdf>). Health readiness, force health protection capability, either as a responsibility of the contractor or the DoD Components, will be fully delineated in plans, orders, and contracts to ensure appropriate medical staffing in the operational area. Health surveillance activities shall also include plans for contingency contractor personnel who are providing essential contractor services (as detailed in DoD Directive 6490.02E (see <http://www.dtic.mil/whs/directives/corres/pdf/649002Ep.pdf>). Deoxyribonucleic acid (DNA) collection and other medical requirements are further addressed in §158.7 of this part.

(9) Individual Protective Equipment (IPE). When necessary and directed by CCDR, the contracting officer will include language in the contract authorizing CAAF and selected non-CAAF, as designated by the CCDR, to be issued military IPE (e.g., CBRN protective ensemble, body armor, ballistic helmet) in accordance with DoD Directive 1100.4. This equipment shall typically be issued at the deployment center, before deployment to the designated operational area, and must be accounted for and returned to the Government or otherwise accounted for in accordance with appropriate DoD Component standing regulations (including DoD Instruction 4161.2 (see <http://www.dtic.mil/whs/directives/corres/pdf/416102p.pdf>), directives, instructions, and supplementing publications). It is important to plan and resource IPE as required by the geographic CCDR or subordinate JFC, and the terms of the contract. Training on the proper care, fitting, and maintenance of issued protective equipment will be provided as part of contractor deployment training. This training will include practical exercises within the context of the various mission-oriented protective posture levels. When a contractor is required under

the terms and conditions of the contract to provide IPE, such IPE shall meet minimum standards as defined by the contract.

(10) Clothing. Defense contractors or their personnel are responsible for providing their own personal clothing, including casual and working clothing required by the assignment. Generally, commanders shall not issue military clothing to contractor personnel or allow the wearing of military or military look-alike uniforms. However, a CCDR or subordinate JFC deployed forward may authorize contractor personnel to wear standard uniform items for operational reasons. Contracts shall require that this authorization be in writing and maintained in the possession of authorized contractor personnel at all times. When commanders issue any type of standard uniform item to contractor personnel, care must be taken to ensure, consistent with force protection measures, that contractor personnel are distinguishable from military personnel through the use of distinctive patches, arm bands, nametags, or headgear.

(11) Weapons. Contractor personnel shall not be authorized to possess or carry firearms or ammunition during applicable contingency operations except as provided in paragraphs (d)(5) and (d)(6) of this section and in 32 CFR part 159. The contract shall provide the terms and conditions governing the possession of firearms.

(12) Training. Joint training policy and guidance for the Military Services, including DoD contractors, is provided in CJCS Instruction 3500.01F (see http://www.dtic.mil/doctrine/training/cjcsi3500_01f.pdf). Standing training requirements shall be placed on the CCDR OCS websites for reference by contractors. Training requirements that are specific to the operation shall be placed on the CCDR websites immediately after a declared contingency so contracting officers can incorporate them into the appropriate contracts as soon as possible. Training requirements must be contained or incorporated by reference in contracts

employing contractor personnel in support of an applicable contingency operation. Training requirements include specific training requirements established by the CCDR and training required in accordance with this part, 32 CFR part 159, DoD Directive 2000.12 (see <http://www.dtic.mil/whs/directives/corres/pdf/200012p.pdf>), and DoD Instruction 2000.16 (see <http://www.dtic.mil/whs/directives/corres/pdf/200016p.pdf> and DoD Instruction 1300.23 (see <http://www.dtic.mil/whs/directives/corres/pdf/130023p.pdf>).

(13) Legal Assistance. Individual contractor personnel are responsible to have their personal legal affairs in order (including preparing and completing powers of attorney, wills, trusts, estate plans, etc.) before reporting to deployment centers. Contractor personnel are not entitled to military legal assistance either in-theater or at the deployment center.

(14) Contractor Integration. It is critical that CAAF brought into an operational area are properly integrated into the military operation through a formal reception process. This shall include, at a minimum, ensuring as they move into and out of the operational area, and commensurate with local threat levels, that they:

- (i) Have met theater entry requirements and are authorized to enter the theater.
- (ii) Are accounted for.
- (iii) Possess any required IPE, including CBRN protective ensemble.
- (iv) Have been authorized any required Government-furnished support and force protection.

(15) Waivers. For contract support in the operational area that is required for less than 30 consecutive days, the CCDR or designee may waive a portion of the formal procedural requirements in paragraph (c)(5) of this section, which may include waiving the requirement for processing through a deployment center. However, the requirements to possess proper identification cards and to establish and maintain accountability and visibility for all defense

contractors in accordance with applicable policy shall not be waived, nor shall any medical requirement be waived without the prior approval of qualified medical personnel. If contingency contractor personnel are authorized to be armed, the requirements of paragraphs (d)(5) and (d)(6) of this section cannot be waived.

(d) Contractor In-Theater Management Requirements. The DoD Components shall adhere to the in-theater management policies of this section in managing contingency contractor personnel in support of applicable contingency operations.

(1) Reception. All CAAF shall be processed into the operational area through a designated reception site. The site shall verify, based upon a visual inspection of the LOA, that contractor personnel are entered into SPOT or its successor, and verify that personnel meet theater-specific entry requirements. Contractor personnel already in the designated operational area when a contingency is declared must report to the appropriate designated reception site as soon as it is operational. If any CAAF does not have the proper documentation, the person will be refused entry into the theater, and the contracting officer will notify the contractor to take action to resolve the reason for the lack of proper documentation for performing in that area. Should the contractor fail to take that action, the person shall be sent back to his or her departure point, or directed to the Service component command or Defense Agency responsible for that specific contract for theater entrance processing.

(2) Contractor Use Restrictions. CCDRs, through their respective contracting officers or their representatives, may place specific restrictions on locations or timing of contracted support based on the prevailing operational situation, in coordination with subordinate commanders and the applicable Defense Agencies.

(3) Contractor Security Screening. Contractor screening requirements for CAAF and non-CAAF who require access to U.S. facilities will be integrated into OPSEC programs and plans.

(4) Contractor Conduct and Discipline. Terms and conditions of contracts shall require that CAAF comply with theater orders, applicable directives, laws, and regulations, and that employee discipline is maintained. Non-CAAF who require base access will be directed to follow base force protection and security-related procedures as applicable.

(i) Contracting officers are the legal link between the requiring activity and the contractor. The contracting officer may appoint a designee (usually a COR) as a liaison between the contracting officer and the contractor and requiring activity. This designee monitors and reports contractor performance and requiring activity concerns to the contracting officer. The requiring activity has no direct contractual relationship with or authority over the contractor. However, the ranking military commander may, in emergency situations (e.g., enemy or terrorist actions or natural disaster), urgently recommend or issue warnings or messages urging that CAAF and non-CAAF personnel take emergency actions to remove themselves from harm's way or take other appropriate self-protective measures.

(ii) The contractor is responsible for disciplining contingency contractor personnel. However, in accordance with paragraph (h)(1) of 48 CFR 252.225-7040, the contracting officer may direct the contractor, at its own expense, to remove and replace any contingency contractor personnel who jeopardize or interfere with mission accomplishment, or whose actual field performance (certification/professional standard) is well below that stipulated in the contract, or who fail to comply with or violate applicable requirements of the contract. Such action may be taken at Government discretion without prejudice to its rights under any other provision of the contract, including the Termination for Default. A commander also has the authority to take certain

actions affecting contingency contractor personnel, such as the ability to revoke or suspend security access or impose restrictions from access to military installations or specific worksites.

(iii) CAAF, with some restrictions (e.g., LN CAAF are not subject to MEJA), are subject to prosecution under MEJA and UCMJ in accordance with 18 U.S.C. 7(9), 2441, and 3261 and Secretary of Defense Memorandum, “UCMJ Jurisdiction Over DoD Civilian Employees, DoD Contractor Personnel, and Other Persons Serving With or Accompanying the Armed Forces Overseas During Declared War and in Contingency Operations,” March 10, 2008. Commanders possess significant authority to act whenever criminal activity is committed by anyone subject to MEJA and UCMJ that relates to or affects the commander’s responsibilities. This includes situations in which the alleged offender’s precise identity or actual affiliation is to that point undetermined. Secretary of Defense Memorandum, “UCMJ Jurisdiction Over DoD Civilian Employees, DoD Contractor Personnel, and Other Persons Serving With or Accompanying the Armed Forces Overseas During Declared War and in Contingency Operations,” March 10, 2008, sets forth the scope of this command authority in detail. Contracting officers will ensure that contractors are made aware of their status and liabilities as CAAF and the required training requirements associated with this status. Subject to local or HN law, SOFA, and the jurisdiction of the Department of State (e.g., consulate or chief of mission) over civilians in another country, commanders retain authority to respond to an incident, restore safety and order, investigate, apprehend suspected offenders, and otherwise address the immediate needs of the situation.

(iv) The Department of Justice may prosecute misconduct under applicable Federal laws, including MEJA and 18 U.S.C. 2441. Contingency contractor personnel are also subject to the domestic criminal laws of the local nation absent a SOFA or international agreement to the contrary. When confronted with disciplinary problems involving contingency contractor

personnel, commanders shall seek the assistance of their legal staff, the contracting officer responsible for the contract, and the contractor's management team.

(v) In the event of an investigation of reported offenses alleged to have been committed by or against contractor personnel, appropriate investigative authorities shall keep the contracting officer informed, to the extent possible without compromising the investigation, if the alleged offense has a potential contract performance implication.

(5) Force Protection and Weapons Issuance. CCDRs shall develop security plans for protection of CAAF and selected non-CAAF (e.g., those working on a military facility or as otherwise determined by the operational commander) in locations where the civil authority is either insufficient or illegitimate, and the commander determines it is in the interests of the Government to provide security because the contractor cannot obtain effective private security services; such services are unavailable at a reasonable cost; or threat conditions necessitate security through military means.

(i) In appropriate cases, the CCDR may provide security through military means commensurate with the level of security provided DoD civilians. Specific security measures shall be mission and situation dependent as determined by the CCDR and provided to the contracting officer. The contracting officer shall include in the contract the level of protection to be provided to contingency contractor personnel as determined by the CCDR or subordinate JFC. Specific procedures for determining requirements for and integrating contractors into the JOA force protection structure will be placed on the geographic CCDR websites.

(ii) Contracts shall require all contingency contractor personnel to comply with applicable CCDR and local commander force protection policies. Contingency contractor personnel working within a U.S. Military facility or in close proximity of U.S. Military forces may receive

incidentally the benefits of measures undertaken to protect U.S. forces in accordance with DoD Directive 2000.12 (see <http://www.dtic.mil/whs/directives/corres/pdf/200012p.pdf>). However, it may be necessary for contingency contractor personnel to be armed for individual self-defense.

Procedures for arming for individual self-defense are:

(A) According to applicable U.S., HN, or international law; relevant SOFAs; international agreements; or other arrangements with local authorities and on a case-by-case basis when military force protection and legitimate civil authority are deemed unavailable or insufficient, the CCDR (or a designee no lower than the general/flag officer level) may authorize contingency contractor personnel to be armed for individual self-defense.

(B) The appropriate SJA to the CCDR shall review all applications for arming contingency contractor personnel on a case-by-case basis to ensure there is a legal basis for approval. In reviewing applications, CCDRs shall apply the criteria mandated for arming contingency contractor personnel for private security services provided in paragraph (d)(6) of this section and 32 CFR part 159. In such cases, the contractor will validate to the contracting officer, or designee, that weapons familiarization, qualification, and briefings regarding the rules for the use of force have been provided to contingency contractor personnel in accordance with CCDR policies. Acceptance of weapons by contractor personnel shall be voluntary and permitted by the defense contractor and the contract. In accordance with paragraph (j) of 48 CFR 252.225-7040, the contract shall require that the defense contractor ensure such personnel are not prohibited by U.S. law from possessing firearms.

(C) When armed for personal protection, contingency contractor personnel are only authorized to use force for individual self-defense. Unless immune from local laws or HN jurisdiction by virtue of an international agreement or international law, the contract shall include language

advising contingency contractor personnel that the inappropriate use of force could subject them to U.S. and local or HN prosecution and civil liability.

(6) Use of Contractor Personnel for Private Security Services. If, consistent with applicable U.S., local, and international laws; relevant HN agreements, or other international agreements and this part, a defense contractor may be authorized to provide private security services for other than uniquely military functions as identified in DoD Instruction 1100.22. Specific procedures relating to contingency contractor personnel providing private security services are provided in 32 CFR part 159.

(7) Personnel Recovery, Missing Persons, and Casualty Reporting.

(i) DoD Directive 3002.01E (see <http://www.dtic.mil/whs/directives/corres/pdf/300201p.pdf>) outlines the DoD personnel recovery program and Joint Publication 3-50 (see http://www.dtic.mil/dpmo/laws_directives/documents/joint_pu_3_50.pdf) details its doctrine.

The DoD personnel recovery program covers all CAAF employees regardless of their citizenship. If a CAAF becomes isolated or unaccounted for, the contractor must expeditiously file a search and rescue incident report (SARIR) (available at http://www.armystudyguide.com/content/the_tank/army_report_and_message_formats/search-and-rescue-incident.shtml) to the theater's personnel recovery architecture, i.e., the component personnel recovery coordination cell or the Combatant Command joint personnel recovery center.

(ii) Upon recovery following an isolating event, a CAAF returnee shall enter the first of three phases of reintegration in DoD Instruction 2310.4 (see <http://www.dtic.mil/whs/directives/corres/pdf/231004p.pdf>). The additional phases of

reintegration in DoD Instruction 2310.4 shall be offered to the returnee to ensure his or her physical and psychological well being while adjusting to the post-captivity environment.

(iii) Accounting for missing persons, including contractors, is addressed in DoD Directive 2310.07E (see <http://www.dtic.mil/whs/directives/corres/pdf/231007p.pdf>). Evacuation of dependents of contractor personnel is addressed in DoD Directive 3025.14 (see <http://www.dtic.mil/whs/directives/corres/pdf/302514p.pdf>). All CAAF and non-CAAF casualties shall be reported in accordance with Joint Publication 1-0, "Personnel Support to Joint Operations," October 16, 2006 (see http://www.dtic.mil/doctrine/new_pubs/jp1_0.pdf) and ASD(L&MR) Publication, "Business Rules for the Synchronized Predeployment and Operational Tracker (SPOT)," current edition. (See <http://www.acq.osd.mil/log/PS/spot.html>)

(8) Mortuary Affairs.

(i) CAAF who die while in support of U.S. forces shall be covered by the DoD mortuary affairs program as described in DoD Directive 1300.22 (see <http://www.dtic.mil/whs/directives/corres/pdf/130022p.pdf>). Every effort shall be made to identify remains and account for un-recovered remains of contractors and their dependents who die in military operations, training accidents, and other multiple fatality incidents. The remains of CAAF who are fatalities resulting from an incident in support of military operations deserve and shall receive the same dignity and respect afforded military remains.

(ii) The DoD may provide mortuary support for the disposition of remains and personal effects at the request of the Department of State. The USD(P&R) shall coordinate this support with the Department of State to include cost reimbursement, where appropriate. The disposition of non-CAAF contractors (LNs and TCNs) shall be given the same dignity and respect afforded U.S. personnel. The responsibility for coordinating the transfer of these remains to the HN or affected

nation resides with the geographic CCDR in coordination and conjunction with the Department of State through the embassies or the International Red Cross, as appropriate, and in accordance with applicable contract provisions.

(9) Medical Support and Evacuation. Theater-specific contract language to clarify available healthcare can be found on the CCDR websites. During applicable contingency operations in austere, uncertain, and/or hostile environments, CAAF may encounter situations in which they are unable to access medical support on the local economy. Generally, the DoD will only provide resuscitative care, stabilization, hospitalization at Level III medical treatment facilities (MTFs), and assistance with patient movement in emergencies where loss of life, limb, or eyesight could occur. Hospitalization will be limited to stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system in accordance with DoD Instruction 6000.11 (see <http://www.dtic.mil/whs/directives/corres/pdf/600011p.pdf>). All costs associated with the treatment and transportation of CAAF to the selected civilian facility are reimbursable to the Government and shall be the responsibility of contractor personnel, their employers, or their health insurance providers. Nothing in this paragraph is intended to affect the allowability of costs incurred under a contingency contract. Medical support and evacuation procedures are:

(i) Emergency Medical and Dental Care. All CAAF will normally be afforded emergency medical and dental care if injured while supporting contingency operations. Additionally, non-CAAF employees who are injured while in the vicinity of U.S. forces will also normally receive emergency medical and dental care. Emergency medical and dental care includes medical care situations in which life, limb, or eyesight is jeopardized. Examples of emergency medical and dental care include examination and initial treatment of victims of sexual assault; refills of

prescriptions for life-dependent drugs; repair of broken bones, lacerations, infections; and traumatic injuries to the dentition.

(ii) Primary Care. Primary medical or dental care normally will not be authorized or be provided to CAAF by MTFs. When required and authorized by the CCDR or subordinate JFC, this support must be specifically authorized under the terms and conditions of the contract and detailed in the corresponding LOA. Primary care is not authorized for non-CAAF employees. Primary care includes routine inpatient and outpatient services, non-emergency evacuation, pharmaceutical support, dental services, and other medical support as determined by appropriate military authorities based on recommendations from the joint force command surgeon and on the existing capabilities of the forward-deployed MTFs.

(iii) Long-Term Care. The DoD shall not provide long-term care to contractor personnel.

(iv) Quarantine or Restriction of Movement. The CCDR or subordinate commander has the authority to quarantine or restrict movement of contractor personnel according to DoD Instruction 6200.03 (see <http://www.dtic.mil/whs/directives/corres/pdf/620003p.pdf>).

(v) Evacuation. Patient movement of CAAF shall be performed in accordance with DoD Instruction 6000.11 (see <http://www.dtic.mil/whs/directives/corres/pdf/600011p.pdf>). When CAAF are evacuated for medical reasons from the designated operational area to MTFs funded by the Defense Health Program, normal reimbursement policies will apply for services rendered by the facility. Should CAAF require medical evacuation outside the continental United States (OCONUS), the sending MTF shall assist CAAF in making arrangements for transfer to a civilian facility of their choice. When U.S. forces provide emergency medical care to non-CAAF, these patients will be evacuated or transported via national means (when possible) to their local medical systems.

(10) Other Government-Furnished Support. In accordance with DoD Component policy and consistent with applicable laws and international agreements, Government-furnished support may be authorized or required when CAAF and selected non-CAAF are deployed with or otherwise provide support in the theater of operations to U.S. Military forces deployed OCONUS. Types of support are listed in 48 CFR PGI 225.74 and may include transportation to and within the operational area, mess operations, quarters, phone service, religious support, and laundry.

(i) In operations where no reliable or local mail service is available, CAAF who are U.S. citizens will be authorized postal support in accordance with DoD 4525.6-M (see <http://www.dtic.mil/whs/directives/corres/pdf/452506m.pdf>). CAAF who are not U.S. citizens will be afforded occasional mail service necessary to mail their pay checks back to their homes of record.

(ii) Morale, welfare, and recreation (MWR) and exchange services will be authorized for CAAF who are U.S. citizens in accordance with 10 U.S.C. 133. CAAF who are not U.S. citizens and non-CAAF are not authorized MWR and exchange services.

(e) Redeployment Procedures. The considerations in this section are applicable during the redeployment of CAAF.

(1) Transportation Out of Theater. When the terms and conditions of the contract state that the Government shall provide transportation out of theater:

(i) Upon completion of the deployment or other authorized release, the Government shall, in accordance with each individual's LOA, provide contractor employees transportation from the theater of operations to the location from which they deployed, unless otherwise directed.

(ii) Prior to redeployment from the AOR, the contractor employee, through their defense contractor, shall coordinate contractor exit times and transportation with CONUS Replacement Center (CRC) or designated reception site. Additionally, intelligence out-briefs must be completed and customs and immigration briefings and inspections must be conducted. CAAF are subject to customs and immigration processing procedures at all designated stops and their final destination during their redeployment. CAAF returning to the United States are subject to U.S. reentry customs requirements in effect at the time of reentry.

(2) Post-Deployment Health Assessment. In accordance with DoD Instruction 6490.03, contracts shall require that CAAF complete a post-deployment health assessment in the Defense Medical Surveillance System (DMSS) at the termination of the deployment (within 30 days of redeployment). These assessments will only be used by the DoD to accomplish population-wide assessments for epidemiological purposes, and to help identify trends related to health outcomes and possible exposures. They will not be used for individual purposes in diagnosing conditions or informing individuals they require a medical followup. Diagnosing conditions requiring medical referral is a function of the contractor.

(3) Redeployment Center Procedures. In most instances, the deployment center/site that prepared the CAAF for deployment will serve as the return processing center. As part of CAAF redeployment processing, the deployment center/site personnel will screen contractor records, recover Government-issued identification cards and equipment, and conduct debriefings as appropriate. The amount of time spent at the return processing center will be the minimum required to complete the necessary administrative procedures.

(i) A special effort will be made to collect all CACs from returning deployed contractors.

(ii) Contractor employees are required to return any issued clothing and equipment. Lost, damaged, or destroyed clothing and equipment shall be reported in accordance with procedures of the issuing facility. Contractor employees shall also receive a post-deployment medical briefing on signs and symptoms of diseases to watch for, such as tuberculosis. As some countries hosting an intermediate staging base may not permit certain items to enter their borders, some clothing and equipment, whether issued by the contractor, purchased by the employee, or provided by the Government, may not be permitted to exit the AOR. In this case, alternate methods of accounting for Government-issued equipment and clothing will be used according to CCDR or JFC guidance and contract language.

(4) Update to SPOT. Contracting officers or their designated representative must verify that defense contractors have updated SPOT to reflect their employee's change in status within 3 days of his or her redeployment as well as close out the deployment and collect or revoke the LOA.

(5) Transportation to Home Destination. Transportation of CAAF from the deployment center/site to the home destination is the employer's responsibility. Government reimbursement to the employer for travel will be determined by the terms and conditions of the contract.

§158.7 Guidance for contractor medical and dental fitness

(a) General.

(1) DoD contracts requiring the deployment of CAAF shall include medical and dental fitness requirements as specified in this section. Under the terms and conditions of their contracts, defense contractors shall provide personnel who meet such medical and dental requirements as specified in their contracts.

(2) The geographic CCDR will establish theater-specific medical qualifications. When exceptions to these standards are requested through the contracting officer, the geographic CCDR will establish a process for reviewing such exceptions and ensuring that a mechanism is in place to track and archive all approved and denied waivers, including the medical condition requiring the waiver.

(3) The geographic CCDR shall also ensure that processes and procedures are in place to remove contractor personnel in theater who are not medically qualified, once so identified by a healthcare provider. The geographic CCDR shall ensure appropriate language regarding procedures and criteria for requiring removal of contractor personnel identified as no longer medically qualified is developed, is posted on the CCDR OCS website, and also ensure contracting officers incorporate the same into all contracts for performance in the AOR.

(4) Unless otherwise stated in the contract, all pre-, during-, and post-deployment medical evaluations and treatment are the responsibility of the contractor.

(b) Medical and Dental Evaluations.

(1) All CAAF deploying in support of a contingency operation must be medically, dentally, and psychologically fit for deployment as stated in DoD Directive 6200.04 (see <http://www.dtic.mil/whs/directives/corres/pdf/620004p.pdf>). Fitness specifically includes the ability to accomplish the tasks and duties unique to a particular operation and the ability to tolerate the environmental and operational conditions of the deployed location. Under the terms and conditions of their contracts, defense contractors will provide medically, dentally, and psychologically fit contingency contractor personnel to perform contracted duties.

(2) Just as military personnel must pass a complete health evaluation, CAAF shall have a similar evaluation based on the functional requirements of the job. All CAAF must undergo a medical

and dental assessment within 12 months prior to arrival at the designated deployment center or Government-authorized contractor-performed deployment processing facility. This assessment should emphasize diagnosing cardiovascular, pulmonary, orthopedic, neurologic, endocrinologic, dermatologic, psychological, visual, auditory, dental, and other systemic disease conditions that may preclude performing the functional requirements of the contract, especially in the austere work environments encountered in some contingency operations.

(3) In accordance with DoD Instruction 6490.03, contracts shall require that CAAF complete a pre-deployment health assessment in the DMSS at the designated deployment center or a Government-authorized contractor-performed deployment processing facility. These assessments will only be used by the DoD to accomplish population-wide assessments for epidemiological purposes, and to help identify trends related to health outcomes and possible exposures. They will not be used for individual purposes in diagnosing conditions or informing individuals they require a medical followup. Diagnosing conditions requiring medical referral is a function of the contractor.

(4) In general, CAAF who have any of the medical conditions in paragraph (j) of this section, based on an individual assessment pursuant to DoD Instruction 6490.03, should not deploy.

(5) Individuals who are deemed not medically qualified at the deployment center or at any period during the deployment process based upon an individual assessment, or who require extensive preventive dental care (see paragraph (j)(2)(xxv) of this section) will not be authorized to deploy.

(6) Non-CAAF shall be medically screened when specified by the requiring activity, for the class of labor that is being considered (e.g., LNs working in a dining facility).

(7) Contracts shall require contractors to replace individuals who develop, at any time during their deployment, conditions that cause them to become medically unqualified.

(8) In accordance with DoD Instruction 6490.03, contracts shall require that CAAF complete a post-deployment health assessment in DMSS at the termination of the deployment (within 30 days of redeployment).

(c) Glasses and Contact Lenses. If vision correction is required, contractor personnel will be required to have two pair of glasses. A written prescription may also be provided to the supporting military medical component so that eyeglass inserts for use in a compatible chemical protective mask can be prepared. If the type of protective mask to be issued is known and time permits, the preparation of eyeglass inserts should be completed prior to deployment. Wearing contact lenses in a field environment is not recommended and is at the contingency contractor employee's own risk due to the potential for irreversible eye damage caused by debris, chemical or other hazards present, and the lack of ophthalmologic care in a field environment.

(d) Medications. Other than force health protection prescription products (FHPPPs) to be provided to CAAF and selected non-CAAF, contracts shall require that contractor personnel deploy with a minimum 90-day supply of any required medications obtained at their own expense. Contractor personnel must be aware that deployed medical units are equipped and staffed to provide emergency care to healthy adults. They will not be able to provide or replace many medications required for routine treatment of chronic medical conditions, such as high blood pressure, heart conditions, and arthritis. The contract shall require contractor personnel to review both the amount of the medication and its suitability in the foreign area with their personal physician and make any necessary adjustments before deploying. The contract shall require the contractor to be responsible for the re-supply of required medications.

(e) Comfort Items. The contract shall require that CAAF take spare hearing-aid batteries, sunglasses, insect repellent, sunscreen, and any other supplies related to their individual physical requirements. These items will not be provided by DoD sources.

(f) Immunizations. A list of immunizations, both those required for entry into the designated area of operations and those recommended by medical authorities, shall be produced for each deployment; posted to the geographic CCDR website or other venue, as appropriate; and incorporated in contracts for performance in the designated AOR.

(1) The geographic CCDR, upon the recommendation of the appropriate medical authority (e.g., Combatant Command surgeon), shall provide guidance and a list of immunizations required to protect against communicable diseases judged to be a potential hazard to the health of those deploying to the applicable theater of operation. The Combatant Command surgeon of the deployed location shall prepare and maintain this list.

(2) The contract shall require that CAAF be appropriately immunized before completing the pre-deployment process.

(3) The Government shall provide military-specific vaccinations and immunizations (e.g., anthrax, smallpox) during pre-deployment processing. However, the contract shall stipulate that CAAF obtain all other immunizations (e.g., yellow fever, tetanus, typhoid, flu, hepatitis A and B, meningococcal, and tuberculin (TB) skin testing) prior to arrival at the deployment center.

(4) Theater-specific medical supplies and FHPPPs, such as anti-malarials and pyridostigmine bromide, will be provided to CAAF and selected non-CAAF on the same basis as they are to active duty military members. Additionally, CAAF will be issued deployment medication information sheets for all vaccines or deployment-related medications that are dispensed or administered.

(5) A TB skin test is required within 3 months prior to deployment. Additionally, the contract shall stipulate that CAAF and selected non-CAAF bring to the JOA a current copy of Public Health Service Form 791, "International Certificate of Vaccination," (also known as "shot record," available for purchase at <http://bookstore.gpo.gov/collections/vaccination.jsp>).

(g) Human Immunodeficiency Virus (HIV) Testing. HIV testing is not mandatory for contingency contractor personnel unless specified by an agreement or by local requirements. HIV testing, if required, shall occur within 1 year before deployment.

(h) Armed Forces Repository of Specimen Samples for the Identification of Remains (AFRSSIR). For identification of remains purposes, all CAAF who are U.S. citizens shall obtain a dental panograph and provide a specimen sample suitable for DNA analysis prior to or during deployment processing. The DoD Components shall ensure that all contracts require CAAF who are U.S. citizens to provide specimens for AFRSSIR as a condition of employment according to DoD Instruction 5154.30 (see <http://www.dtic.mil/whs/directives/corres/pdf/515430p.pdf>). Specimens shall be collected and managed as provided in paragraphs (h)(1) through (h)(3) of this section.

(1) All CAAF who are U.S. citizens processing through a deployment center will have a sample collected and forwarded to the AFRSSIR for storage. Contracts shall require contractors to verify in SPOT or its successor that AFRSSIR has received the sample or that the DNA reference specimen sample has been collected by the contractor.

(2) If CAAF who are U.S. citizens do not process through a deployment center or the defense contractor is authorized to process its own personnel, the contract shall require that the contractor make its own arrangements for collection and storage of the DNA reference specimen through a private facility, or arrange for the storage of the specimen by contacting AFRSSIR. Regardless

of what specimen collection and storage arrangements are made, all defense contractors deploying CAAF who are U.S. citizens must provide the CAAF name and Social Security number, location of the sample, facility contact information, and retrieval plan to AFRSSIR. If AFRSSIR is not used and a CAAF who is a U.S. citizen becomes a casualty, the defense contractor must be able to retrieve identification media for use by the Armed Forces Medical Examiner (AFME) or other competent authority to conduct a medical-legal investigation of the incident and identification of the victim(s). These records must be retrievable within 24 hours for forwarding to the AFME when there is a reported incident that would necessitate its use for human remains identification purposes. The defense contractor shall have access to:

(i) Completed DD Form 93 or equivalent record.

(ii) Location of employee medical and dental records, including panograph.

(iii) Location of employee fingerprint record.

(3) In accordance with DoD Instruction 5154.30 (see

<http://www.dtic.mil/whs/directives/corres/pdf/515430p.pdf>), AFRSSIR is responsible for implementing special rules and procedures to ensure the protection of privacy interests in the specimen samples and any DNA analysis of those samples. Specimen samples shall only be used for the purposes outlined in DoD Instruction 5154.30. Other details, including retention and destruction requirements of DNA samples, are addressed in DoD Instruction 5154.30.

(i) Pre-Existing Medical Conditions. All evaluations of pre-existing medical conditions should be accomplished prior to deployment. Personnel who have pre-existing medical conditions may deploy if all of these conditions are met:

(1) The condition is not of such a nature that an unexpected worsening is likely to have a medically grave outcome or a negative impact on mission execution.

(2) The condition is stable and reasonably anticipated by the pre-deployment medical evaluator not to worsen during the deployment under contractor-provided medical care in-theater in light of the physical, physiological, psychological, environmental, and nutritional effects of the duties and location.

(3) Any required ongoing health care or medications must be available or accessible to the contractor, independent of the military health system, and have no special handling, storage, or other requirements (e.g., refrigeration requirements and/or cold chain, electrical power requirements) that cannot be met in the specific theater of operations. Personnel must deploy with a minimum 90-day supply of prescription medications other than FHPPPs.

(4) The condition does not and is not anticipated to require duty limitations that would preclude performance of duty or to impose accommodation. (The nature of the accommodation must be considered. The Combatant Command surgeon (or his delegated representative) is the appropriate authority to evaluate the suitability of the individual's limitations in-theater.)

(5) There is no need for routine out-of-theater evacuation for continuing diagnostics or other evaluations.

(j) Conditions Usually Precluding Medical Clearance.

(1) This section is not intended to be comprehensive. A list of all possible diagnoses and their severity that should not be approved would be too expansive to list in this part. In general, individuals with the conditions in paragraphs (j)(2)(i) through (j)(2)(xxx) of this section, based on an individual assessment pursuant to DoD Instruction 6490.03, will not normally be approved for deployment. The medical evaluator must carefully consider whether climate; altitude; nature of available food and housing; availability of medical, behavioral health, and dental services; or

other environmental and operational factors may be hazardous to the deploying person's health because of a known physical or mental condition.

(2) Medical clearance for deployment of persons with any of the conditions in this section shall be granted only after consultation with the appropriate Combatant Command surgeon. The Combatant Command surgeon makes recommendations and serves as the geographic CCDR advisor; however, the geographic CCDR is the final approval or disapproval authority except as provided in paragraph (k)(3) of this section. The Combatant Command surgeon can determine if adequate treatment facilities and specialist support is available at the duty station for:

- (i) Physical or psychological conditions resulting in the inability to effectively wear IPE, including protective mask, ballistic helmet, body armor, and CBRN protective ensemble, regardless of the nature of the condition that causes the inability to wear the equipment if wearing such equipment may be reasonably anticipated or required in the deployed location.
- (ii) Conditions that prohibit immunizations or use of FHPPs required for the specific deployment. Depending on the applicable threat assessment, required FHPPs, vaccines, and countermeasures may include atropine, epinephrine and/or 2-pam chloride auto-injectors, certain antimicrobials, antimalarials, and pyridostigmine bromide.
- (iii) Any chronic medical condition that requires frequent clinical visits, that fails to respond to adequate conservative treatment, or that necessitates significant limitation of physical activity.
- (iv) Any medical condition that requires durable medical equipment or appliances or that requires periodic evaluation and/or treatment by medical specialists not readily available in theater (e.g., CPAC machine for sleep apnea).
- (v) Any unresolved acute or chronic illness or injury that would impair duty performance in a deployed environment during the duration of the deployment.

- (vi) Active tuberculosis or known blood-borne diseases that may be transmitted to others in a deployed environment. (For HIV infections, see paragraph (j)(2)(xvii) of this section.)
- (vii) An acute exacerbation of a physical or mental health condition that could affect duty performance.
- (viii) Recurrent loss of consciousness for any reason.
- (ix) Any medical condition that could result in sudden incapacitation including a history of stroke within the last 24 months, seizure disorders, and diabetes mellitus type I or II, treated with insulin or oral hypoglycemic agents.
- (x) Hypertension not controlled with medication or that requires frequent monitoring to achieve control.
- (xi) Pregnancy.
- (xii) Cancer for which the individual is receiving continuing treatment or that requires periodic specialty medical evaluations during the anticipated duration of the deployment.
- (xiii) Precancerous lesions that have not been treated and/or evaluated and that require treatment and/or evaluation during the anticipated duration of the deployment.
- (xiii) Any medical condition that requires surgery or for which surgery has been performed that requires rehabilitation or additional surgery to remove devices.
- (xv) Asthma that has a Forced Expiratory Volume-1 (FEV-1) of less than or equal to 50 percent of predicted FEV-1 despite appropriate therapy, that has required hospitalization at least 2 times in the last 12 months, or that requires daily systemic oral or injectable steroids.
- (xvi) Any musculoskeletal condition that significantly impairs performance of duties in a deployed environment.

(xvii) HIV antibody positive with the presence of progressive clinical illness or immunological deficiency. The Combatant Command surgeon should be consulted in all instances of HIV seropositivity before medical clearance for deployment.

(xviii) Hearing loss. The requirement for use of a hearing aid does not necessarily preclude deployment. However, the individual must have sufficient unaided hearing to perform duties safely.

(xviii) Loss of vision. Best corrected visual acuity must meet job requirements to safely perform duties.

(xx) Symptomatic coronary artery disease.

(xxi) History of myocardial infarction within 1 year of deployment.

(xxii) History of coronary artery bypass graft, coronary artery angioplasty, carotid endarterectomy, other arterial stenting, or aneurysm repair within 1 year of deployment.

(xxiii) Cardiac dysrhythmias or arrhythmias, either symptomatic or requiring medical or electrophysiologic control (presence of an implanted defibrillator and/or pacemaker).

(xxiv) Heart failure.

(xxv) Individuals without a dental exam within the last 12 months or who are likely to require dental treatment or reevaluation for oral conditions that are likely to result in dental emergencies within 12 months.

(xxvi) Psychotic and/or bipolar disorders. For detailed guidance on deployment-limiting psychiatric conditions or psychotropic medications, see ASD(HA) Memorandum "Policy Guidance for Deployment-Limiting Psychiatric Conditions and Medications" November 7, 2006 (see http://www.ha.osd.mil/policies/2006/061107_deployment-limiting_psych_conditions_meds.pdf).

(xxvii) Psychiatric disorders under treatment with fewer than 3 months of demonstrated stability.

(xxviii) Clinical psychiatric disorders with residual symptoms that impair duty performance.

(xxviii) Mental health conditions that pose a substantial risk for deterioration and/or recurrence of impairing symptoms in the deployed environment.

(xxx) Chronic medical conditions that require ongoing treatment with antipsychotics, lithium, or anticonvulsants.

(k) Exceptions to Medical Standards (Waivers). If a contractor believes an individual CAAF employee with one of the conditions listed in paragraphs (j)(2)(i) through (j)(2)(xxx) of this section can accomplish his or her tasks and duties and tolerate the environmental and operational conditions of the deployed location, the contractor may request a waiver for that individual through the contracting officer or designee.

(1) Waivers are unlikely for contractor personnel and an explanation should be given as to why other persons who meet the medical standards could not be identified to fulfill the deployed duties. Waivers and requests for waivers will include a summary of a detailed medical evaluation or consultation concerning the medical condition(s). Maximization of mission accomplishment and the protection of the health of personnel are the ultimate goals. Justification will include statements indicating the CAAF member's experience, position to be placed in, any known specific hazards of the position, anticipated availability and need for care while deployed, and the benefit expected to accrue from the waiver.

(2) Medical clearance to deploy or continue serving in a deployed environment for persons with any of the conditions in paragraphs (j)(2)(i) through (j)(2)(xxx) of this section must have the concurrence by the Combatant Command surgeon, or his designee, who will recommend

approval or disapproval to the geographic CCDR. The geographic CCDR, or his designee, is the final decision authority for approvals and disapprovals.

(3) For CAAF employees working with Special Operations Forces personnel who have conditions in paragraphs (j)(2)(i) through (j)(2)(xxx) of this section, medical clearance may be granted after consultation with the appropriate Theater Special Operations Command (TSOC) surgeon. The TSOC surgeon, in coordination with the Combatant Command surgeon and senior in-theater medical authority, will ascertain the capability and availability of treatment facilities and specialist support in the general duty area versus the operational criticality of the particular SOF member. The TSOC surgeon will recommend approval or disapproval to the TSOC Commander. The TSOC Commander is the final approval or disapproval authority.

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