



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

MAR 05 2019

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION AND PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Clarification of Other Transactions Guide, November 2018. and Nontraditional
Defense Contractors Supplies and Services

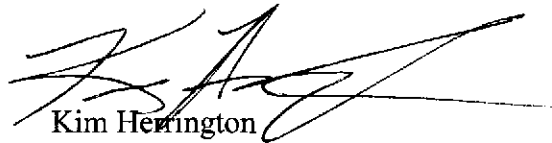
This memorandum provides additional guidance on the use of Other Transactions (OTs) for prototype projects under section 2371b of title 10, United States Code (section 2371b) with consortia to address the perception that consortium membership needs to be limited to United States (U.S.) companies or institutions. OTs for prototype projects are authorized when directly relevant to enhancing the mission effectiveness of military personnel and the supporting platforms, systems, components, or materials proposed to be acquired or developed by the Department of Defense (DoD), or to improvement of platforms, systems, components, or materials in use by the armed forces. Such projects are intended to help broaden the Department's ability to access innovative technology from companies that might otherwise be unable or unwilling to enter into contracts with the Department. Leveraging innovative technology can increase the pace of innovation in the Department to support the warfighter.

In some instances access to innovative commercial technology can be facilitated through innovation-focused consortia arrangements. Consortia that leverage OTs can facilitate agile teaming arrangements among industry and academia innovation leaders to access commercial solutions for defense requirements. The Department permits collaboration with OT consortia in accordance with section 2371b, and specifically recommends/encourages inclusion of National Technical Industrial Base members to leverage access to commercial technology in the United Kingdom, Canada, and Australia. However, access by non-U.S. companies, or by non-U.S. citizens to military technologies, and related information to include technical data must at all times be consistent with U.S. export laws, regulations and policies, the DoD Industrial Security Regulation, and the Department of Commerce export regulations, as applicable.

In addition, I encourage contracting officers to use streamlined and innovative techniques to help speed up the acquisition process, such as DFARS 252.215-7013, Supplies and Services Provided by Nontraditional Defense Contractors. This clause states that supplies and services

provided by a nontraditional defense contractor may be treated as a commercial item. The decision to apply commercial item procedures to the procurement of supplies and services from a nontraditional defense contractor does not require a commercial item determination, and does not mean the supplies or services are commercial.

Questions regarding this matter may be directed to Mr. Larry McLaury at 703-697-6710 or larry.j.mclaury2.civ@mail.mil.

A handwritten signature in black ink, appearing to read 'K. Herrington', is written over the typed name.

Kim Herrington
Acting Principal Director,
Defense Pricing and Contracting