



DEPARTMENT OF DEFENSE

6000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-6000

CHIEF INFORMATION OFFICER

The Honorable Charles E. Grassley
Chairman
Senate Committee on Finance
United States Senate
Washington, DC 20510-6200

MAY 03 2019

Dear Mr. Chairman:

I am responding to your letter of April 9, 2019, on behalf of Acting Secretary Patrick Shanahan. In your letter, you requested information about the Department of Defense's (DoD) general purpose cloud initiative, known as the Joint Enterprise Defense Infrastructure (JEDI) Cloud.

Cloud compute and storage provide the necessary foundation to adopt modern software practices and emerging technologies, such as Artificial Intelligence (AI). The Department's ability to rapidly exploit data through digital modernization is a key differentiator in maintaining military superiority. The DoD's Cloud Strategy, which advocates for a continued multi-cloud, multi-vendor environment, is a critical enabler of national defense.

JEDI Cloud is the Department's general purpose pathfinder initiative to understand the governance, business, technical, and security processes necessary to effectively implement cloud at scale. JEDI Cloud is not, and will not, be the only cloud contract available to DoD users. As previously reported, DoD has over 300 different cloud projects across the Military Departments and Fourth Estate. Consistent with DoD's Cloud Strategy, the Department will continue to have fit-for-purpose cloud contracts that meet the specialized needs of particular requirements, such as software as a service (SaaS).

As an example of where this strategy has worked, the evolution of the intelligence community's (IC's) cloud approach over the past five years is consistent with the approach DoD is pursuing now. The transition of a complex enterprise, like the DoD, to a cloud model requires much more than technology acquisition. A successful transition also requires development and maturation of new business, software development, and cyber security culture. Only after having deployed a general purpose cloud solution over the last five years, is the IC now in a position to pursue more complex strategies for its general purpose needs. DoD's enterprise cloud pathfinder solution will help DoD refine processes and experience, thus informing future DoD acquisitions.

The following are answers to your specific questions:

1. *What internal policies does the Department have in place to ensure that Requests for Procurement [sic](RFP) and subsequent government contracts are not drafted so that they are tailored to match the specific technical capabilities of a particular company when that*

company does not qualify for a sole source contract as per Federal Acquisition Regulation (FAR) 6.101 and FAR 3.301? Were these policies adhered to in this case? If not, why not?

The governing acquisition and ethics laws and their implementing regulations are designed to ensure this does not occur. These laws and regulations were followed for the JEDI Cloud acquisition. In addition, JEDI's warfighting requirements were established by the Joint Requirements Oversight Council and signed by the Vice Chairman of the Joint Chiefs of Staff in December 2017. DoD's process check ensures that fundamental requirements are free of bias.

2. Please provide copies of current Department policy and procedures that address potential conflicts of interest in the contracting process. Please include any policies and procedures that address roles and responsibilities in drafting contracts and requests for proposals, and in reviewing those processes for potential conflicts.

There are a host of ethics laws and regulations applicable to all Executive Branch agencies designed to identify and avoid potential conflicts of interest, including the conflicts of interest laws at 18 U.S.C. §§ 207 and 208, the financial disclosure reporting requirements at 5 U.S.C. app. 101, et. Seq., and implementing ethics regulations at 5 C.F.R. Chapter XVI, Subchapter B and FAR) at 48 C.F.R. Part 3. In addition to these provisions, DoD has implemented supplemental requirements in the Joint Ethics Regulation, DoD 5500.07R, and the DFARS, 48 C.F.R. Part 203. All are publicly available on the internet. Individuals who meet the statutory and/or regulatory filing criteria are required to submit financial disclosure reports setting forth their financial interests and affiliations, which are reviewed by supervisors and ethics counsel, and are required to receive ethics training annually. In addition, DoD requires that all Defense Acquisition Workforce personnel receive annual ethics training.

a. Are any of these policies and procedures subject to independent review or audit?

The Office of Government Ethics (OGE) requires the submission of annual compliance data each February, which includes financial disclosure, ethics training, and disciplinary/remedial actions. Additionally, OGE conducts program reviews approximately every three years. High dollar value procurements are also subject to policy and peer reviews to ensure compliance with procurement law and regulations, to include those at FAR Part 3 and DFARS Part 3.1. Finally, the DoD Inspector General may elect to conduct an independent investigation on a particular matter.

b. Is it common practice for individuals representing or associated with potential bidders to draft contracts or requests for proposals?

The Department adheres to all acquisition and ethics laws and regulations and has adopted supplemental requirements to further promote compliance. As noted above, there is a robust set of laws and regulations designed to identify and avoid potential conflicts of interest. Individuals are required to disclose potential conflicts and, unless a waiver/authorization is issued, must refrain from participation in matters where a conflict or impartiality concern exists. However, the system is reliant upon individual employees to properly disclose and recuse themselves from participation when a conflict or impartiality issue exists. When personnel fail

to comply with these laws, they are subject to a range of penalties for failure to do so, including referral to the Department of Justice for criminal prosecution.

c. To what extent did the Department follow its policies and procedures addressing potential conflicts of interest in designing the JEDI contract?

The Department followed its policies and procedures for addressing potential conflicts of interests in designing the JEDI contract. The Government Accountability Office previously held that Protester's allegations regarding conflicts of interest do not provide a basis for sustaining the protest. Further, in light of new information subsequently provided to the contracting officer on February 12, 2019, the contracting officer conducted further inquiries and determined on April 10, 2019 that there was no impact to the integrity of the acquisition.

3. Department officials have reportedly described JEDI Cloud as a "pathfinder" intended to provide a model for the Department's future transition of legacy IT systems to the cloud. Please describe any related efforts to ensure full and open competition for future Department cloud services contracts.

The Competition in Contracting Act, as implemented in FAR Part 6, is the basis for ensuring no improper sole sourcing occurs for all contracts, including future DoD cloud service contracts.

a. The Department has also said that it "expects to maintain contracts with numerous cloud providers to access specialized capabilities not available under the JEDI Cloud contract." Please describe these specialized capabilities, as well as any related efforts to ensure full and open competition for related contracts.

Current fit-for-purpose examples of cloud services in DoD include milCloud 2.0, an on-premise implementation, and Defense Enterprise Office Solution (DEOS), which leverages SaaS and is focused on Office Productivity applications. Since DoD expects that cloud technology and commercial offerings will continue to become more interoperable and seamlessly integrated, the Department is best served by a robust, competitive, and innovative technology industrial base.

4. In a May 2018 report to Congress, the Department indicated that the "underlying documentation required by the Federal Acquisition Regulation to support the single award ID/IQ approach is still under development within the Department." The Department also said that it would not release the final JEDI solicitation until it executed the underlying justification documents. Please provide the Department's justification supporting the use of a single award ID/IQ approach for the JEDI contract.

The Department's justification for the use of a single award Indefinite Delivery/Indefinite Quantity (ID/IQ) approach was published on July 26, 2018 on FedBizOpps¹ along with the JEDI Cloud Request for Proposal.

¹ <https://www.fbo.gov/index.php?mode=form&id=7a17a56421e2d84e53c8ee6f7209ef8f&tab=ntype>

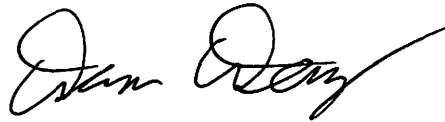
5. In September 2018, the OMB published their CLOUD SMART Strategy Proposal. How does the JEDI program and procurement process align with the Federal government-wide strategy outlined in the aforementioned document?

The DoD's JEDI effort is entirely consistent with the Federal Cloud Computing - Cloud Smart framework. The Cloud Smart framework emphasizes the need for Federal agencies to develop organizational maturity in the areas of security, procurement, and workforce management as they relate to the cloud computing business model. This is exactly the approach the Department is taking leveraging JEDI as the general purpose cloud pathfinder within the broader DoD cloud strategy.

Working with JEDI as a joint, enterprise solution to general purpose cloud computing, rather than the patchwork of dissimilar and disconnected component-level solutions that exist today, will allow the DoD to focus effort on maturing business and technical processes related to cyber assessment and defense in a cloud environment, cost modeling and planning for cloud transition, and development of a cloud-savvy DoD technical workforce. DoD adds the need to further mature processes related to software development and functional testing as process improvement goals connected to the JEDI pathfinder.

This approach adheres not only to the Federal Cloud Computing strategy, but models the successful cloud transition activities in other federal agencies. The Department looks forward to continuing to discuss with Congress the implementation of DoD's Cloud Strategy over the coming months.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dana Deasy', with a stylized flourish at the end.

Dana Deasy