



ACQUISITION
AND SUSTAINMENT

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

NOV 20 2018

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
(ATTN: SERVICE ACQUISITION EXECUTIVES)
COMMANDERS OF THE COMBATANT COMMANDS
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES
DIRECTOR OF THE DEFENSE INNOVATION UNIT

SUBJECT: Authority for Use of Other Transactions for Prototype Projects Under
10, United States Code, Section 2371b

- Reference: (a) "Authority for Use of Other Transactions for Prototype Projects Under 10 U.S.C. 2371b," dated March 10, 2016
(b) Section 873 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232)
(c) Joint Explanatory Statement accompanying the Department of Defense Appropriations Act, 2019 (Public Law 115-245), pages 153-154

The purposes of this memorandum are to (1) designate Components authorized to execute Other Transaction (OT) agreements as provided for in title 10, United States Code, section 2371b; (2) rescind reference (a) and replace it to expand approval authority and increase the dollar thresholds for use of OTs; and (3) establish additional data collection and reporting requirements.

I hereby designate the Directors of the Defense Agencies, the Directors of Field Activities with contracting authority, the Commanding Officers of Combatant Commands (CCMDs) with contracting authority and the Director of the Defense Innovation Unit as having the authority to carry out Prototype OTs and follow-on Production OTs as permitted by section 2371b. All previous designations to Defense Agencies and Field Activities are rescinded. The designation portion of this memorandum does not apply to the military departments, the Defense Advanced Research Projects Agency (DARPA), and the Missile Defense Agency (MDA), which have their own authorities prescribed in statute.

Approval authorities and dollar thresholds for Prototype and Production OTs are set forth below. These authorities are non-delegable above \$100 million.

Organization	Transaction Value		
	Up to \$100M	\$100M to \$500M	Over \$500M
CCMDs with contracting authority	Commanding Officer	USD(R&E) or USD(A&S)	USD(R&E) or USD(A&S)*
DAs/FAs with contracting authority/DIU	Director	USD(R&E) or USD(A&S)	USD(R&E) or USD(A&S)*
Military Departments	Senior Procurement Executive	Senior Procurement Executive	USD(R&E) or USD(A&S)*
DARPA MDA	Director	Director	USD(R&E) or USD(A&S)*

** An Under Secretary must also make a written determination in accordance with section 2371b. Additionally, the Congress shall be notified at least 30 days before this authority is exercised. The Office of the Under Secretary making the written determination is responsible for Congressional notification.*

In determining the value of OTs for the purposes of assessing compliance with the authority levels set forth above, OTs will be measured based on the value of each transaction, rather than the total value of all OTs that might be executed in a prototype project or for follow-on production. That is, a prototype project may consist of multiple transactions to the same or different parties, each of which shall be considered separately when considering dollar thresholds. Transaction value shall include all options with prices established in the OT as awarded, as well as the amount associated with any cost-sharing borne by the contractor where the basis for the OT is subsection 2371b(d)(1)(C). Regardless of value, a separate OT approval will be required for each phase—prototype or follow-on production—and separately within a phase for each transaction.

It is essential that organizations with OT authority ensure Agreements Officers (AOs) are appropriately designated by the cognizant Head of the Contracting Activity and receive training needed to be successful. These organizations shall provide appropriate oversight and have processes in place to ensure that AOs do not bind the Government in OT agreements that exceed their warrant authority.

The Assistant Secretary of Defense for Acquisition (ASD(A)) shall establish standard reporting formats, consolidate component inputs, and transmit reports to Congress to implement data collection and reporting obligations in accordance with references (b) and (c). In the interim, components are cautioned to be mindful of the obligations set forth and take steps toward compliance with reference to any OTs executed before ASD(A) procedures are issued. Senior Procurement Executives, Directors, and the relevant Commanding Officers are responsible for ensuring data required under references (b) and (c) are accurately collected and reported in the Federal Procurement Data System-Next Generation (FPDS-NG) located at <https://www.fpds.gov>.

My point of contact for this memorandum is Ms. Jill Stiglich, Office of the Assistant Secretary of Defense for Acquisition, at 703-571-9013 or jill.e.stiglich.civ@mail.mil.

A handwritten signature in black ink, appearing to read "Ellen M. Lord". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Ellen M. Lord