



UNITED STATES MARINE CORPS  
MARINE CORPS COMBAT DEVELOPMENT COMMAND  
QUANTICO, VIRGINIA 22134-5001

MCCDCO 5720.4A

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3 JUN 2002

MARINE CORPS COMBAT DEVELOPMENT COMMAND ORDER 5720.4A

From: Commanding General  
To: Distribution List

Subj: PROTECTION OF SENSITIVE ACQUISITION/CONTRACTUAL INFORMATION

Ref: (a) 18 U.S.C. Section 1905  
(b) 41 U.S.C. Section 423  
(c) 5 U.S.C. Section 552  
(d) MCCDCO 4290.2

1. Purpose. To protect sensitive acquisition/contractual information and technologies from inadvertent or unauthorized disclosure.

2. Cancellation. MCCDCO 5720.4.

3. Background. All government employees, particularly those involved in the acquisition process, have a duty to protect information essential to the integrity of the process. Contractors routinely provide sensitive information to the government for evaluation. Without the assurance that such information will be protected and used only for the purpose intended, contractors may be reluctant to provide such information. Similarly, the government develops source selection-sensitive information such as source selection plans, evaluation criteria, and cost analyses, which are an integral part of the acquisition process. Release of such information can result in a competitive advantage to the recipient and significantly damage the integrity of a procurement.

a. The references set forth the responsibilities of government employees regarding the handling of sensitive unclassified information. Reference (a) applies to all government employees, and provides criminal sanctions for the release of "trade secret" information to third parties. Trade secrets include information in which a contractor has a property right and whose ownership is a trade advantage, which would be lost or destroyed if the information were known by others. Typically, contractors provide such information to the government with an expectation that it will be

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protected and marked as such. Unlike information addressed in the Procurement Integrity Act (reference (b)), trade secrets must be protected at all times and not just during the pendency of an ongoing procurement. This information has consistently been protected by the courts from release under the Freedom of Information Act (reference (c)).

b. The Procurement Integrity Act was designed by Congress to prevent release of sensitive information that could impact the procurement process by setting forth very strict rules regarding the handling of such information. It is important that every Federal employee involved in a procurement be familiar with these rules and follows them explicitly. Reference (b) identifies two particular classes of information which must be protected during the pendency of an acquisition; these are "proprietary information," and "source selection-sensitive information." The definitions of these terms are:

(1) Proprietary Information. Information in which the owner has a protectable interest. In this case, information contained in a bid or proposal or otherwise submitted to the government by a competing contractor in response to the conduct of a particular Federal agency procurement, or in an unsolicited proposal that has been marked by the competing contractor as proprietary information per applicable law and regulation.

(2) Source Selection-Sensitive Information. Information (including information which is stored in electronic, magnetic, audio, or video formats) which is prepared or developed for use by the government to conduct or evaluate a particular procurement; and

(a) the disclosure of which to a competing contractor would jeopardize the integrity or successful completion of the procurement concerned; and

(b) is required by statute, regulation, or order to be secured in a source selection file or other facility to prevent disclosure.

(3) Source Selection-Sensitive Information includes:

(a) Bid prices.

(b) Proposed costs or prices.

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- (c) Source selection plans.
- (d) Technical evaluation plans.
- (e) Technical evaluations of proposals.
- (f) Cost or price evaluations.
- (g) Competitive range determinations.
- (h) Rankings of bids, proposals, or competitors.
- (i) Reports and evaluations of source selection panels, boards, or advisory councils.
- (j) Information so designated by the head of the contracting activity or designee, or cognizant contracting officer.

c. Planning, Programming, and Budgeting System (PPBS) documents and supporting data may not be disclosed outside the DoD and other governmental agencies directly involved in the defense planning and resource allocation process (e.g., Office of Management and Budget). Requests for exceptions to this policy may be granted on a case-by-case basis only after coordination with the Office of the Secretary of Defense (OSD) General Counsel and the cognizant OSD Program office. This includes sensitive Base closure and realignment data and proposals.

4. Policy. It is the policy of MCCDC to ensure that all sensitive unclassified information is protected from unauthorized release. It is essential to the integrity of the procurement process and the Command's dealings with commercial entities that command personnel be aware of and follow scrupulously the rules regarding the handling and release of such information. Consequently, all "trade secrets," "source selection-sensitive information," and "proprietary information" submitted to or generated by this Command in connection with procurement planning or execution will be protected and not released or conveyed outside the Command without the express written consent of the Head, Northeastern Regional Contracting Office, or the Director, Studies and Analysis Division. (See reference (d) for additional details and guidance.) Similarly, any PPBS or other sensitive planning and budgetary data generated or held by this Command will be protected and not released or conveyed outside the Command without the express written consent of the CG MCCDC. Requests for release of such information may be forwarded directly to the Office of Counsel.

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5. Concurrence. This Order was coordinated with and concurred on by the CG MCB.



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Chief of Staff

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