



U.S. GENERAL SERVICES ADMINISTRATION
Office of Governmentwide Policy

OCT 9 1998

CIVILIAN AGENCY ACQUISITION COUNCIL LETTER 98-5

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM:

Edward C. Loeb
EDWARD C. LOEB

CHAIRMAN

CIVILIAN AGENCY ACQUISITION COUNCIL

Subject:

Contracting Restrictions with Department of State Sanctioned
Entities

On July 30, 1998, the Department of State's Bureau of Political-Military Affairs sanctioned seven Russian entities pursuant to Executive Order 12938 dated November 14, 1994, as amended by Executive Order 13094 dated July 28, 1998. These Executive orders authorize the Department of State to sanction entities that have engaged in proliferation activities relating to missiles and/or weapons of mass destruction. The sanctions imposed by the Executive orders require that Federal agencies may not award new contracts to or approve subcontracts with any of these seven sanctioned entities and must terminate existing contracts with any of these entities. A copy of the *Federal Register* notice that identifies the seven sanctioned entities is enclosed.

The General Services Administration (GSA) has worked with the Department of State to clarify procedures for terminating existing contracts with these sanctioned entities and to develop other procedures that ensure that contracting officers do not award new contracts to these and other entities that the Department of State may sanction in the future. The Department of State has provided these procedures for terminating existing prime contracts that a Federal agency may have with any of the seven sanctioned entities. All terminations should be coordinated with the Department of State's Office of the Procurement Executive. The Office of the Procurement Executive will coordinate with the Department of State's Bureau of Political-Military Affairs and provide assistance to the Federal agency so that it can determine whether the basis for the contract termination should be for default or for the convenience of the Government. The Federal agency's decision will consider the actual terms of the contract and the facts underlying the determination to take the sanction measures.

1800 F Street, NW, Washington, DC 20405-0002

Agencies with existing contracts with any of the seven sanctioned entities should contact Gladys Gines, Procurement Analyst, Department of State, Office of the Procurement Executive. Ms. Gines may be reached at (703) 516-1691 or by fax at (703) 875-6155.

Contracts, other than prime contracts with the seven sanctioned entities, may be affected by the August 6, 1998, *Federal Register* notice. For example, Government contractors that have subcontracts with any of these sanctioned entities may be affected. The notice requires the Secretary of the Treasury to prohibit the importation into the United States of any supplies, technology, or services produced or provided by these entities. Information or informational materials within the meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)) are excepted from this prohibition. Actions relating to contracts that may be affected by this import ban should be coordinated with the Department of Treasury contact point identified in the *Federal Register* notice under the paragraph heading, "For Further Information Contact."

Future published notices of sanctions imposed by the Department of State of this type will contain a contact point from the Department of State's Office of the Procurement Executive, as well as language in the heading of the notice so that Federal agencies can easily determine that the notice has contracting implications. In addition, the Department of State will provide the General Services Administration (GSA) with new Cause and Treatment codes so that entities sanctioned by the Department of State can be placed on GSA's List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

Enclosure

clocks to one time source. At the same time, the Commission also approved new NASD Rule 3110(h), which requires members to record and maintain certain information that is relevant to the OATS data reporting requirement.

The NASDR proposes to amend the OATS Rules and the books and records requirements that apply specifically to OATS data. The proposal would revise OATS Rule 6954(c) by adding a new paragraph (6). Rule 6954(c) sets forth the order information that must be recorded under the OATS rules when an order is transmitted, either from one department to another within a member firm or to another member. Rule 6954(c) does not, however, presently contain a requirement regarding the transmission of an order to a non-member such as a foreign broker-dealer or a foreign exchange. The NASDR proposes to add new paragraph (6) to Rule 6954(c) to require members to record certain information when an order is transmitted to a non-member, including the fact that it was so transmitted. NASD members will be required to report this information to OATS pursuant to NASD Rule 6955. This additional information will enable the NASDR to track an order that a member has received and reported to OATS that is then routed to a non-member.

The NASDR also proposes to revise both OATS Rule 6954(a)(4) and Rule 3110(h) to set forth specific record-keeping requirements. OATS Rules 6954(a)(1) and (a)(4) require members to record specified information and to retain records of that information; Rule 3110(h) requires members to record and maintain information required by OATS. However, these rules presently do not specify how long the records must be maintained or the requirements that apply when members wish to utilize micrographic media or electronic storage media to maintain such records. The NASDR proposes to add new language to both Rule 6954(a)(4) and Rule 3110(h) to make explicit the record-keeping requirements related to OATS data. The rules have been revised to specifically reference the record retention period specified in SEC Rule 17a-4(b) and the conditions set forth in SEC Rule 17a-4(f) for reproducing records on micrographic media or by means of electronic storage media.

In addition, the NASDR proposes to revise Rule 3110(h)(1) to require members to record and maintain information related to an "order," as that term is defined in OATS Rule 6951(j). As stated above, new Rule 3110(h) was adopted to require members to record and maintain

information relevant to the OATS data recording and reporting requirements. The NASDR proposes to limit Rule 3110(h) to require members to record and maintain information only with respect to an "order" in Nasdaq equity securities, as defined by OATS Rule 6951(j).

Finally, the NASDR proposes to revise Rule 6957(d) to indicate the effectiveness dates for compliance with the proposed amendments to Rule 3110(h).

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁷ Specifically, the Commission believes the proposal is consistent with the requirements of Section 15A(b)(6) of the Act⁸ in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.

The Commission notes that the proposed addition of paragraph (6) to Rule 6954(c) will require member firms to record information relating to the transmission of orders to non-members, such as foreign broker-dealers and foreign exchanges. The Commission believes that this information, which will be reported to OATS pursuant to Rule 6955, should enhance the NASDR's ability to track transactions in Nasdaq equity securities. OATS was designed primarily to improve the NASDR's ability to monitor member firms' transactions in Nasdaq equity securities for possible violations of NASD rules or of the federal securities laws, a purpose that is consistent with Section 15A of the Act.⁹ Because the current proposal will enhance the NASDR's ability to gather information required by the OATS rules, it too is consistent with the Act.

The proposed amendments relating to the recordkeeping requirements applicable to OATS are designed to provide more specific information regarding the permissible maintenance of required records. Specifically, the proposal specifies the length of time required records must be maintained and the requirements applicable to the use of micrographic or electronic storage media. The proposal also specifically references the record retention period and conditions set forth in the

⁷ In approving this rule, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78o-3(b)(6).

⁹ 15 U.S.C. 78o-3.1.

Commission's Rule 17a-4. The Commission believes that the proposed amendments should help to clarify member firms' record retention requirements related to OATS data.

The Commission notes that the proposal would reference in NASD Rule 3110(h) the definition of the term "order" set forth in OATS Rule 6951(j). The Commission believes that the NASDR's efforts to achieve consistency and uniformity in the definitions used in the NASD rules are reasonable and should ease the compliance burdens of member firms.

Finally, the Commission notes that the proposal would establish effective dates for compliance with the proposed amendments to Rule 3110(h). The Commission believes that the proposed deadlines for compliance are reasonable, given the implementation schedule of the OATS rules set forth in NASD Rule 6957(a)-(c).

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-NASD-98-38) is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-20968 Filed 8-5-98; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 2866]

Bureau of Political-Military Affairs; Imposition of Nonproliferation Measures Against Entities in Russia

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Acting Secretary of State has determined that seven entities in Russia have engaged in missile technology proliferation activities that require the imposition of measures pursuant to Executive Order No. 12938 of November 14, 1994, as amended by Executive Order No. 13094 of July 28, 1998.

EFFECTIVE DATE: July 30, 1998.

FOR FURTHER INFORMATION CONTACT: On general issues: Vann H. Van Diepen, Director, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Political-Military Affairs, Department of State (202-647-1142). On import ban issues: John T. Roth, Director, Policy Planning and Program Management.

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30--3(a)(12).

Office of Foreign Assets Control, Department of Treasury (202-622-2500).

SUPPLEMENTARY INFORMATION: Pursuant to the authorities vested in the President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) ("IEEPA"), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), and section 301 of title 3, United States Code, and Executive Order No. 12938 of November 14, 1994, as amended by Executive Order No. 13094 of July 28, 1998, the Acting Secretary of State determined on July 30, 1998 that the following foreign persons have engaged in proliferation activities related to Iran's missile programs that require the imposition of measures pursuant to sections 4(b), 4(c) and 4(d) of Executive Order No. 12938:

Baltic State Technical University
(including at 1/21, 1-ya

Krasnoarmelskaya Ul., 198005 St.
Petersburg, Russia);

Europalace 2000 (including at Moscow,
Russia);

Glavkosmos (including at 9
Krasno proletarskaya St., 103030
Moscow, Russia);

Grafit (aka State Scientific Research
Institute of Graphite or NIIGRAFIT)
(including at 2 Ulitsa Elektrodnaya,
111524 Moscow, Russia);

INOR Scientific Enter (including at
Moscow, Russia);

MOSO Company (including at Moscow,
Russia) and

Polyus Scientific Production
Association (including at 3 Ulitsa
Vvedenskogo, 117342 Moscow,
Russia)

Accordingly, until further notice and pursuant to the provisions of Executive Order 12938, the following measures are imposed on these entities, their subunits and successors:

1. All departments and agencies of the United States Government shall not procure or enter into any contract for the procurement of any goods, technology or services from these entities, and shall terminate any existing contracts;

2. All departments and agencies of the United States Government shall not provide any assistance to these entities, and shall not obligate further funds for such purposes.

3. The Secretary of the Treasury shall prohibit the importation into the United States of any goods, technology, or services produced or provided by these entities, other than information or informational materials within the

meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

These measures shall be implemented by the responsible departments and agencies as provided in Executive Order 12938.

Dated: August 3, 1998.

John Barker,

*Acting Assistant Secretary of State for
Political Military Affairs.*

[FR Doc. 98-2119] Filed 8-5-98; 8:45 am]

BILLING CODE 4710-25-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Free Trade Area of the Americas

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for public comment on the Free Trade of the Americas (FTAA) Joint public-private sector Experts Committee on Electronic Commerce (Experts Committee); Identification of private sector experts in electronic commerce who may wish to participate in the work of the Experts Committee.

SUMMARY: The FTAA Experts Committee on Electronic Commerce has been established by the 34 countries in the Western Hemisphere participating in the Free Trade Area of the Americas. The Trade Policy Staff Committee (TPSC) invites public comment on the work plan of the Experts Committee. In addition, the TPSC seeks to identify U.S. private sector experts on electronic commerce who may be interested in participating in the work of the Experts Committee; Interested members of the public are invited to submit written notice of their interest and their qualifications.

DATES: Written comments on the the Experts Committee and expressions of interest in participating in the work of the Committee should be submitted no later than September 8, 1998.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, (202) 395-3475. All questions concerning the Experts Committee should be directed to Regina Vargo, Deputy Assistant Secretary for the Western Hemisphere, U.S. Department of Commerce (202) 482-5324, Rvargo@USITA.GOV.

SUPPLEMENTARY INFORMATION: On April 18-19, 1998, President Clinton and his 33 counterparts in the Western

Hemisphere Initiated negotiations to create the Free Trade Area of the Americas (FTAA) by the year 2005 and to achieve concrete progress toward that objective by the end of the century. The leaders established a general framework for the negotiations, including a Trade Negotiations Committee (TNC), composed of the 34 vice ministers responsible for trade, to oversee the negotiations. They agreed to nine initial negotiating groups, a consultative group and two committees, one of which is a joint public-private sector Experts Committee on Electronic Commerce. At its June 1998 meeting in Buenos Aires, the TNC agreed that the Experts Committee will be chaired by Mr. Dale Marshall of Barbados. It also was agreed that the initial meeting of the Experts Committee would be held before the end of October in Miami.

Experts Committee Terms of Reference: The objective of the Experts Committee is to make recommendations to trade ministers on how to increase and broaden the benefits of electronic commerce and how electronic commerce should be dealt with in the context of the FTAA negotiations. Four weeks before the October 1999 ministerial meeting, the Experts Committee is to provide recommendations to the TNC. In order to develop its recommendations, the Experts Committee will focus on

- Increasing understanding of the potential benefits of electronic commerce to countries in the hemisphere;
- Identifying the environment that will allow electronic commerce to flourish;
- Discussing infrastructure questions and
- Identifying how electronic commerce can facilitate the operation of trade obligations.

Experts Committee Private Sector Representation: The Experts Committee will consist of both public and private sector representatives. Individual governments will identify private sector participants with a view toward balanced hemispheric representation in terms of geography and electronic commerce issue expertise. Although the FTAA countries have not yet established the details on private sector representation, including composition, number and final selection process, the TPSC seeks to identify U.S. private sector experts on electronic commerce who may be interested in participating in the work of the Committee.

Public Comments

To prepare for the initial meeting of the Experts Committee in October 1998,