



CHAIRMAN OF THE JOINT CHIEFS OF STAFF NOTICE

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CJCS Notice 5783
11 June 2014

PRESERVATION OF RECORDS (LITIGATION HOLD) RELATED TO L-3
COMMUNICATIONS CORP., COMMUNICATIONS SYSTEMS WEST-UTAH

1. Purpose. To provide guidance for preserving and maintaining records related to the subject litigation.
2. Superseded/Cancellation. None.
3. Applicability. This notice applies to the U.S. Special Operations Command.
4. Background. The Department of Justice, through the Civil Division and the Office of the U.S. Attorney for the District of Utah, has been investigating the performance of various Government contracts awarded to L-3 Communications Corp. The Civil Division anticipates the investigation will result in litigation and has therefore issued a hold on records that may be sought by parties involved.
 - a. The Office of the General Counsel of the Department of Defense has directed the preservation of records related to payments or deliveries made from 2007 to the present under the following L-3 contracts:
 - (1) H92222-08-D-0002
 - (2) H92222-08-C-0033
 - (3) H98230-09-D-0200
 - (4) H92222-10-D-0003
 - b. For e-mail, creation of electronic folders into which pertinent e-mails can be easily moved may be one method for preserving them in their native format. However, you will need to determine the capabilities of your information technology system.

c. The litigation hold does not apply to inaccessible disaster recovery tapes unless they are the only source of information for the key employees who are subject to the hold.

d. Addressees are directed to identify and provide a list of all key employees (both current and former Service members and DoD direct-hire personnel) who could reasonably be expected to have these potentially relevant categories of materials, explain the preservation obligations (e.g., personal computers, e-mail accounts, etc.) to them, and provide these individuals with a copy of this notice.

5. Statutory Requirement

a. Upon receipt of this preservation notice, applicable entities are advised of their legal obligation to preserve and retain any material referenced below in their possession, custody, or control.

b. Destruction of documents, information, records, and other material described, including destruction that would otherwise take place in the normal course of the disposition of official information or records, is prohibited and may result in disciplinary action.

c. The Federal Rules of Civil Procedure require the Department of Defense to preserve or produce the material in whatever form it is generated and maintained.

d. This preservation requirement applies to documents responsive to the stated requests regardless of any applicable privileges.

e. Additional instructions will be provided under separate cover for the production of records.

6. Action or Procedure. Search for and preserve *all* information, including electronically stored information, hard-copy materials, and tangible evidence pertaining to this event.

a. The search should be calculated to locate all records, documents, and material in your organization's possession, custody, or control, including any files, holdings, documents, reports, recordings, databases, audio recordings, radio dispatches, cell phone logs, pages, text messages, e-mails, transcripts, or other communications or documents related to the planning and construction of assets mentioned above.

b. Document any search terms/procedures used in electronic and hard-copy searches and steps taken within your organization to preserve relevant material in the event of future inquiry by the court and/or plaintiffs.

Coordinate with your information technology personnel to ensure relevant material is not destroyed during the pendency of this investigation, including overriding normal document destruction policies.


7. Releasability. UNRESTRICTED. This directive is approved for public release; distribution is unlimited on NIPRNET. DOD Components (to include the combatant commands), other Federal agencies, and the public, may obtain copies of this directive through the Internet from the CJCS Directives Electronic Library at http://www.dtic.mil/cjcs_directives JS activities may also obtain access via the SIPR directives Electronic Library websites.

8. Effective Date

a. The Joint Staff point of contact is Ms. Teresa Black, Joint Secretariat/ Information Management Division, Teresa.l.black6.civ@mail.smil.mil, 703-697-8862.

b. Please disseminate this notice immediately throughout your organization. It will remain in effect until formally canceled.

For the Chairman of the Joint Chiefs of Staff:


FREDERICK S. RUDESHEIM
Major General, USA
Vice Director, Joint Staff

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DISTRIBUTION

Distribution JEL plus the following:*

Copies

Chief of Staff, U.S. Special Operations Command 1

*The office of primary responsibility for the subject directive has chosen electronic distribution to the above organizations via e-mail. The Joint Staff Information Management Division has responsibility for publishing the subject directive to the SIPRNET and NIPRNET Joint Electronic Library Web sites.

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