



# DCMA Instruction 2401

## Negotiation Intelligence

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<b>Office of Primary Responsibility</b>	Negotiation Intelligence Capability
<b>Effective:</b>	September 6, 2017
<b>Releasability:</b>	Cleared for public release
<b>Incorporates</b>	DCMA-INST 120, "Pricing and Negotiation" DCMA-INST 209, "Pre-award Surveys" DCMA-INST 213, "Technical Pricing Support" DCMA-ANX 213-01, "Technical Support to Negotiations"
<b>Internal Control:</b>	Not Applicable
<b>Labor Codes:</b>	Located on the Resource Page
<b>Resource Page Link:</b>	<a href="https://360.dcm.mil/sites/policy/NI/SitePages/2401r.aspx">https://360.dcm.mil/sites/policy/NI/SitePages/2401r.aspx</a>
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**Purpose:** This issuance, in accordance with the authority in DoD Directive 5105.64, establishes policy and assigns responsibility for:

- General provisions associated with the Negotiation Intelligence (NI) Capability
- Fulfilling Agency responsibilities pursuant to the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) listed below:
  - FAR 9.105, "PreAward Surveys"
  - FAR Part 12 and DFARS Part 212, "Acquisition of Commercial Items"
  - FAR Part 15 and DFARS Part 215, "Contracting by Negotiation"
  - FAR 42.302 and DFARS 242.302, "Contract Administration Functions"
  - DFARS Subpart 217.74, "Undefinitized Contract Actions"

- Provides the authority to write DCMA Manuals for implanting the requirements under this Issuance

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## SECTION 1: GENERAL ISSUANCE INFORMATION

**1.1. APPLICABILITY.** This Instruction applies to all DCMA activities unless higher-level regulations, policy, guidance, or agreements take precedence.

**1.2. POLICY.** It is DCMA policy to:

a. Provide quality and timely field pricing, negotiation, pre-award survey, and early acquisition engagement support to the DoD and non-DoD Federal agencies and departments, and other DCMA activities in order to ensure fair and reasonable contract prices.

b. Provide quality and timely pricing and negotiating support for the definitization of unpriced contract actions (e.g., Undefined Contract Action (UCA), unpriced change order, unpriced purchase order).

c. Provide quality and timely Technical Pricing Support (TPS), to include Technical Support to Negotiations (TSN) and support for Commercial Item Determination (CID). TPS provides recommendations used to help determine and obtain fair and reasonable contract prices. TPS is an on demand activity; as such, it is performed on an as required basis.

d. Equip the buying commands with actionable acquisition insight that leads to and supports best value decisions on current contracts and in consideration of future acquisition outcomes. Determine and track Return on Investment (ROI) related to such efforts.

e. Execute DCMA activities in an efficient, effective, safe, and ethical manner.

## **SECTION 2: RESPONSIBILITIES**

**2.1. DIRECTOR, DCMA.** The DCMA Director will:

- a. Provide strategic guidance on Agency Negotiation Intelligence (NI).
- b. Appoint a capability manager(s) for NI and charter a supporting cross-functional capability board.

**2.2. NI CAPABILITY MANAGER.** The NI Capability Manager will:

- a. Serve as Chairperson of the NI Board as Chartered.
- b. Serve as the Agency proponent for NI and conduit to the DCMA Executive Council.
- c. Develop, revise, coordinate, and maintain NI manuals, processes, and procedures to allow for consistent, standard, and repeatable work across the enterprise.
- d. Identify and develop measures, metrics, and tools to monitor NI compliance, performance, and DCMA value to mission.
- e. Ensure continuous improvement and identify training needs to ensure uniform product and processes.
- f. Support and coordinate delivery of all Agency Capability Model framework capabilities.
- g. Assign an action officer(s) to serve as the subject matter expert (SME) and primary focal point for NI issuances and associated resource pages.

**2.3. COMPONENT HEADS.** The Component Heads will:

- a. Ensure their assigned areas of operation carry out the applicable NI processes as published in DCMA Manual (DCMA-MAN) 2401 series of manuals.
- b. Evaluate Agency operational compliance and performance related to the NI.
- c. Seek and support NI continuous improvements.
- d. Staff the capability working group with SMEs.

**2.4. CONTRACT MANAGEMENT OFFICE (CMO) COMMANDERS/DIRECTORS AND CENTER DIRECTORS.** The CMO Commanders/Directors and Center Directors will:

- a. Execute and oversee their organizations' day-to-day NI processes as published in DCMA-MAN 2401 series of manuals.

- b. Establish a Detection-to-Prevention (D2P) approach in performing NI, consistent with Agency initiative.
- c. Evaluate their organizations' NI compliance and performance.
- d. Seek and support NI continuous improvements.

### SECTION 3: GENERAL PROVISIONS

**3.1. CAPABILITY DESCRIPTION.** The NI Capability ensures collaborative, repeatable, and transparent processes are employed from the time a customer request is received, through negotiation, and contract award; and executed with a D2P mindset. NI provides DCMA customers with information for understanding and managing risk, determining fair and reasonable prices, and potentially reducing the cost of future acquisitions.

- a. The DCMA Capability activities and resulting Capability products produce and capture the NI information.
- b. The DCMA customer may use the NI information provided by DCMA in preparing for solicitations, making acquisition decisions, and establishing negotiation objectives to ensure best value.

**3.2. CAPABILITY ACTIVITIES.** Providing NI to DCMA and non-DCMA requestors requires the identification of activities and the development of processes to execute those activities. Below is a list of the major activities and products associated with the NI Capability.

- a. Major activities include:
  - (1) Cost Price Analysis
  - (2) Administrative Contractive Officer (ACO) Negotiations
  - (3) Technical Support to Negotiations
  - (4) Commercial Item Support
  - (5) Pre-Award Surveys
  - (6) Early Acquisition Engagement (EAE)
- b. Major products include:
  - (1) Cost/Price Analysis Reports
  - (2) Technical Support to Negotiations Reports
  - (3) Pre-Award Reports
  - (4) Pre-Negotiation Objectives Memorandum (PNOM)
  - (5) Price Negotiation Memorandum (PNM)
  - (6) Contract Modifications

(7) Commercial Item Determination Recommendations

## GLOSSARY

### G1. DEFINITIONS

**Action Officer.** A DCMA professional who serves as the SME and primary focal point for an issuance and associated resource page.

**Capability.** The ability to achieve a desired effect under specified standards and conditions through a combination of means and across doctrine, organization, training, material, leadership and education, personnel, and facilities to perform a set of tasks to execute a specified course of action.

**Capability Manager.** The individual or individuals identified by the Agency Director as the advocate for all Agency efforts under a given Capability. The Capability Manager is responsible for the doctrine, instructions, manuals, tools, and training associated with the activities that fall under the purview of the Capability.

**Capabilities Model Framework.** A structure that distinguishes a policy's what and why from the process' how to, and integrates automation in an agile business environment.

**Component Heads.** The leader of a DCMA component who reports directly to the Office of Director, DCMA.

**Contract.** A mutually binding legal relationship obligating the seller to furnish the supplies or services and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by Section 6301 of Title 31, United States Code, et seq.

**Contract Administration Service.** Post-award actions accomplished for the benefit of the government, which are necessary to the performance of a contract or in support of the buying offices, system/project managers, and other organizations. It includes quality assurance, engineering support, production surveillance, preaward surveys, mobilization planning, contract administration, property administration, industrial security, transportation, safety and other services.

**Detection-to-Prevention (D2P).** A culture that transitions DCMA acquisition oversight activities from D2P and applies to all DCMA business capabilities. D2P is a proactive surveillance and management strategy that focuses on process capability, risk assessment and mitigation, verification of contractors' systems, processes, and outputs, and data-driven actionable information.

**Undefinitized Contract Action.** Any contract action for which the contract terms, specifications, or price are not agreed upon before performance has begun under the action. The specific type of unpriced action relates to specific contract actions (e.g., UCA, unpriced purchase order, unpriced change order).

## GLOSSARY

### G.2. ACRONYMS.

CMO	Contract Management Office
D2P	Detection-to-Prevention
DCMA-INST	DCMA Instruction
DCMA-MAN	DCMA Manual
DFARS	Defense Federal Acquisition Regulation Supplement
FAR	Federal Acquisition Regulation
NI	Negotiation Intelligence
SME	Subject Matter Expert
TPS	Technical Pricing Support
UCA	Undefinitized Contract Action

## **REFERENCES**

DFARS Part 212, “Acquisition of Commercial Items”  
DFARS Part 215, “Contracting by Negotiation”  
DFARS Subpart 217.74, “Undefinitized Contract Actions”  
DFARS Subpart 242.3, “Contract Administration Office Functions”  
DoD Directive 5105.64, “Defense Contract Management Agency,” January 10, 2013  
FAR 9.105, “PreAward Surveys”  
FAR Part 12, “Acquisition of Commercial Items”  
FAR Part 15, “Contracting by Negotiation”  
FAR Subpart 42.3, “Contract Administration Office Functions”  
United States Code, Title 31, Section 6301