



Contracting with DoD: Enhanced Debriefings Are Here!

In our [February 2018 Alert](#), Jones Day explained that the 2018 National Defense Authorization Act ("NDAA") contained a requirement that the Secretary of Defense implement new rules for enhanced debriefings for certain types of acquisitions. On March 22, 2018, the Office of the Under Secretary of Defense for Acquisition and Sustainment issued a class deviation [memorandum](#) implementing the new enhanced debriefing rules for certain Department of Defense ("DoD") procurements.

The memorandum provides that, effective immediately, post-award debriefings under Federal Acquisition Regulation (FAR) 15.506(d) must contain an opportunity for offerors to submit additional questions related to the debriefing within two business days after the debriefing. The policy requires that the agency respond in writing to these questions within five business days of receiving them.

In addition, the memorandum provides that the agency "shall not" consider the post-award debriefing to be concluded until after the agency delivers its written responses to the unsuccessful offeror. The memorandum specifically instructs agencies to implement a stay of contract performance if a GAO protest is filed within five days after the government delivers its written responses to the additional questions. The memorandum states that this class deviation will remain in effect until the policies are incorporated into the Defense Federal Acquisition Regulation Supplement (DFARS) or otherwise rescinded.

The impact of this class deviation will likely be fewer—and higher quality—protests of DoD procurements. In addition, the new policy will allow companies to clarify ambiguous debriefing information and will provide additional time to analyze whether to file a protest of the award.

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