

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1982 Nr. 91

A. TITEL

*Memorandum van overeenstemming tussen het Koninkrijk der Nederlanden en de Verenigde Staten van Amerika over samenwerking inzake defensiematerieel;
Washington/'s-Gravenhage, 25 juli/24 augustus 1978*

B. TEKST

De tekst van het Memorandum van overeenstemming is geplaatst in *Trb.* 1978, 121.

D. PARLEMENT

Zie *Trb.* 1979, 72.

De in rubriek J van *Trb.* 1979, 72 afgedrukte en op 21 december 1978 te Washington tot stand gekomen Bijlagen I, II en III zijn in overeenstemming met artikel 60, tweede lid, van de Grondwet medegegeeld aan de Eerste en de Tweede Kamer der Staten-Generaal bij brieven van 15 juni 1979.

De in rubriek J hieronder afgedrukte en op 9 april 1982 te Washington tot stand gekomen Bijlage IV behoeft ingevolge artikel 62, eerste lid, letter b, van de Grondwet niet de goedkeuring der Staten-Generaal.

G. INWERKINGTREDING

Zie *Trb.* 1978, 121.

J. GEGEVENS

Zie *Trb.* 1978, 121 en *Trb.* 1979, 72.

In overeenstemming met artikel VI van het Memorandum van overeenstemming is op 9 april 1982 te Washington tot stand gekomen Bijlage IV behorende bij het onderhavige Memorandum van overeenstemming.

De tekst van deze Bijlage luidt als volgt:

Annex IV to Memorandum of Understanding between the Government of the Kingdom of the Netherlands and the Government of the United States of America concerning the Principles Governing Mutual Cooperation in the Research and Development, Production and Procurement of Defense Equipment, signed at The Hague on 24 August 1978

PRINCIPLES GOVERNING CONTRACT ADMINISTRATION SERVICES

I. Introduction

This annex sets forth the terms, conditions, and procedures under which the governments will provide each other with selected contract administration services and related information in support of defense contracts and subcontracts contemplated or executed under the Memorandum of Understanding (MOU). It is recognized that in the event conflicts arise between any aspect of this annex and the laws of either government, the laws shall prevail.

II. Major principles

The objective of this annex is to insure each government is able to employ the most effective and efficient contract administration support possible when acting under the MOU. Nothing is to be construed as impairing a purchasing government's access to its contractors and their records as may be contractually authorized.

For the purpose of this annex, contract administration shall include all those necessary actions, other than contract pricing and audit, to be accomplished at, or in proximity to, a firm's place of business to assist the purchasing office in evaluating a prospective contractor's capabilities and in monitoring and enforcing awarded contracts. This annex supplements NATO Standardization Agreement (STANAG) 4107¹⁾, hereby incorporated by reference in regard to reciprocal quality assurance.

III. General

The purchasing government may request specific services and information selected from those listed in appendix 1 to this annex which it considers appropriate to the circumstances. The purchasing government may elect to obtain additional support through its own

¹⁾ Dit document ligt ter inzage bij het Ministerie van Defensie, Directoraat-Generaal Materieel.

on-site representatives provided there is no duplication of work performed by the host government. In addition, the host government will use its best efforts to supply information requested by the purchasing government but not listed in this annex when necessary to support contract award, enforcement, or termination. The purchasing government may modify a request for support during contract performance after consultation with the host government.

The host government shall accept requests for services to the extent resources are available and carry them out according to the procedures that government uses for its own contracts.

Contracts shall contain suitable provisions for the host government to act for and on behalf of the purchasing government and shall authorize access to contractor facilities and records and use of contractor assets as necessary for the performance of contract administration services.

Where representatives of either government deal with a contractor at the same location in support of the same contract or separate contracts, they shall act in full concert according to terms of reference mutually agreed or to be agreed upon.

Each government shall designate a single office to receive requests for contract administration services. In addition, each government may elect to designate an office in or near the other's country to act as a focal point through which requests for support will be forwarded. The host government will endeavor to keep the purchasing government's focal point apprised of current contract administration practices and resources to help insure requests for services are reasonable and prudent. The focal point shall advise the host government concerning contract requirements and clarify requests for services as necessary.

IV. *Procedures*

Requests for contract administration in the Netherlands shall be directed to the Ministry of Defence, Directorate-General Material, Procurement Policy Office, Kalvermarkt 32, P.O. Box 20701, 2500 ES THE HAGUE The Netherlands. Requests for contract administration in the United States shall be directed to The Department of Defense Central Control Point, DCASR New York, 60 Hudson St., New York, NY 10013.

Contract administration requests will be accompanied by the number of copies of the request for proposal or awarded contract, as appropriate, prescribed in STANAG 4107 and will specify the contract administration services desired. Every effort will be made to forward support requests simultaneously with the forwarding of awarded contracts to the contractor. The format shall be as described in Annex A to STANAG 4107, with desired services other than quality assurance

specified in Block 10. If less than comprehensive quality assurance is needed, the desired services selected from AQAP 10 shall be specified in Block 10. Requests shall reference this annex to the MOU and shall be processed according to the procedures in STANAG 4107 with due regard to section VII of this annex. In principle, acceptance or rejection shall be made within 30 calendar days of receipt by the host government.

Direct communications between the purchasing office and the assigned contract administration office in resolving contract problems are authorized and encouraged. The purchasing government shall retain final authority over contract interpretations and enforcement actions, and shall advise the contract administration office on such matters as needed.

In the event the purchasing government envisions the assignment of inplant representatives, proposed terms of reference describing an appropriate working relationship with host government representatives will be suggested to the host government as early as possible.

V. Responsibility and liability

Nothing in this annex shall relieve the contractor of any responsibilities under the contract. No liability will attach to the government, its officers or agents, acting under this annex on behalf of the other government.

VI. Protection of information

Data obtained through the implementation of this annex shall receive the same protection against unauthorized disclosure as such data would normally receive under the laws and rules of the country which possesses it.

VII. Charges

Service provided under this annex will be free of charge, subject to a joint review of the services being exchanged at not less than three year intervals. If, as a result of such a joint review, either government determines that charges will be necessary, they may be imposed after not less than one year advance notice. Should charges by the U.S. Government become necessary, Foreign Military Sales Procedures then in effect will apply.

VIII. Duration

This annex will remain in effect for a period as set forth in Article VII of the MOU, and may be terminated under the conditions as set forth in that article.

IX. Implementation

This Annex will come into effect on the date of the last signature.

*For the Government of the
Kingdom of the Netherlands,*
(sd.) J. HENSEN

*For the Government of the
United States of America,*
(sd.) RICHARD G. STILWELL

Date: 9 April 1982

Date: 9 April 1982

Appendix

1. Services to be Exchanged

Appendix 1 to Annex IV

SERVICES TO BE EXCHANGED

In accordance with the principles and procedures as set forth in this annex the following services will be performed by the host government within its national boundaries upon requests by and on behalf of the purchasing government:

1. Support evaluations of contractor capabilities prior the award.

a. Supply available information concerning design, production, and quality control capabilities as appropriate; for example, the amount of available floor space, plant equipment, skilled and unskilled workers, past production of similar items, and the NATO Allied Quality Assurance Publications (AQAP's) against which the firm has been assessed.

b. Evaluate the financial strength of the prospective contractor, estimate the likelihood that financial resources will be sufficient to accomplish the contract, and report the monetary value (in local currency) of host government capital assets furnished or made available to the contractor which may be used in the contract.

c. Provide access to available accounting system disclosure statements and assistance in determining the system's ability to meet contractual requirements.

2. Perform government quality assurance, as defined in STANAG 4107, in whole or in part as requested.

3. Report potential or actual slippages in contract delivery schedules or any other contractor difficulties which might affect contract performance.

4. Assess contract progress if needed by the purchasing office to authorize financial payments, and recommend approval or disapproval of contractor payment requests.

5. Evaluate the feasibility and practicality of contractor production plans.

6. Verify contractor management reports furnished to the purchasing office during contract performance.

7. Evaluate and monitor contractor compliance with contract requirements governing technical data, especially the propriety of any restrictive markings on data offered for delivery under the contract.

8. Monitor contractor costs under cost reimbursement contracts, and insure the purchasing office is advised of any anticipated overruns or underruns of estimated costs.

9. Advise the purchasing office if supporting contract administration is needed at subcontractor plants to verify the adequacy of prime contractor management, and assist the purchasing government obtain desired support within the host country.

Uitgegeven de zesde juli 1982.

De Minister van Buitenlandse Zaken a.i.,
J. C. TERLOUW