



DoD INSTRUCTION 4151.21

PUBLIC-PRIVATE PARTNERSHIPS FOR PRODUCT SUPPORT

Originating Component:	Office of the Under Secretary of Defense for Acquisition and Sustainment
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Reissues and Cancels:	DoD Instruction 4151.21, "Public-Private Partnerships for Depot-Level Maintenance," April 25, 2007
Approved by:	Frank Kendall, Under Secretary of Defense for Acquisition, Technology, and Logistics
Change 3 Approved by:	Karen Saunders, Chief of Staff

Purpose: In accordance with the authority in DoD Directive 5134.01, this issuance:

- Implements policy to execute effectively public-private partnerships (PPPs), as authorized by Title 10, United States Code (U.S.C.).
- Assigns responsibilities and provides procedures for the Military Departments for the implementation of PPPs pursuant to DoD Directive 4151.18 and DoD Directive 5000.01.

TABLE OF CONTENTS

SECTION 1: GENERAL ISSUANCE INFORMATION	3
1.1. Applicability.	3
1.2. Policy.	3
1.3. Summary of Change 3.	3
SECTION 2: RESPONSIBILITIES	4
2.1. Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)).	4
2.2. Assistant Secretary of Defense for Logistics and Materiel Readiness.	4
2.3. Secretaries of the Military Departments.	4
SECTION 3: PROCEDURES	5
3.1. General.	5
3.2. PPP Analysis.	5
a. Analysis Scope and Detail.	5
b. Analysis Reviews.	5
3.3. Types of PPPs.	5
a. Direct Sales PPP.	5
b. Workshare PPP.	5
c. Lease.	5
3.4. PPPs and Core Logistics Capabilities.	6
3.5. Section 2466 of Title 10, U.S.C.	6
3.6. Alignment of PPP Planning to the Product Support Life Cycle.	6
3.7. Financial Reporting.	7
3.8. Agility and Responsiveness.	7
3.9. Innovation through Partnerships.	7
3.10. Sale of Articles and Services to Persons Outside the DoD.	7
GLOSSARY	8
G.1. Acronyms.	8
G.2. Definitions.	8
REFERENCES	9

SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD.

1.2. POLICY. The use of PPPs by DoD Components is encouraged to facilitate innovation and creative thinking. Accordingly, PPPs will be considered to enable the best use of public and private sector capabilities, and to improve product support provided by the Centers of Industrial and Technical Excellence (CITEs).

1.3. SUMMARY OF CHANGE 3. This change reassigns the office of primary responsibility for this issuance to the Under Secretary of Defense for Acquisition and Sustainment in accordance with the July 13, 2018 Deputy Secretary of Defense Memorandum.

SECTION 2: RESPONSIBILITIES

2.1. UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS (USD(AT&L)). The USD(AT&L) provides oversight and establishes DoD policies governing the execution of PPPs.

2.2. ASSISTANT SECRETARY OF DEFENSE FOR LOGISTICS AND MATERIEL READINESS. Under the authority, direction, and control of the USD(AT&L), the Assistant Secretary of Defense for Logistics and Materiel Readiness:

a. Maintains this issuance and provides policy guidance to the Secretaries of the Military Departments with respect to product support PPPs.

b. Monitors and reviews the performance of product support PPPs throughout the DoD in accordance and consistent with applicable statutes.

2.3. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments:

a. Ensure PPPs are authorized by Title 10, U.S.C., and are executed in accordance with the procedures in Section 3 of this issuance.

b. Designate CITEs and execute PPPs whenever they are feasible and beneficial to the DoD in accordance with and consistent with applicable statutes.

c. Ensure execution of the appropriate analysis to determine that PPPs are structured to maximize benefits to DoD and strengthen the national industrial base.

d. Establish Military Department-level policies governing the execution of PPPs.

SECTION 3: PROCEDURES

3.1. GENERAL. The DoD has the inherent responsibility to conduct its business in an effective and efficient manner; accordingly, PPPs that facilitate achievement of these desired product support outcomes are encouraged and are to employ outcome-oriented metrics in the governance of product support PPPs. When PPPs are employed, the parties to the partnership will ensure that the requisite terms and conditions are consistent and mutually supportive.

3.2. PPP ANALYSIS. The decision to enter into a partnership must be in compliance with applicable statutory requirements and must be supported by an independent analysis that considers costs, benefits, opportunities, risks, investments, resource needs, constraints, and best use of public and private sector capabilities. This analysis should determine the structures and management controls to ensure best value of the PPP to the U.S. Government.

a. Analysis Scope and Detail. PPP analysis may vary in detail, size, and scope, depending on the nature of the product or program supported. When foreign entities are involved, the PPP analysis must take into account that DoD and the parties will comply with U.S. export control and intellectual property laws and regulations and DoD policies on international transfers.

b. Analysis Reviews. The program manager will review the PPP along with the product support strategy every 5 years or when there is a change to the product support strategy.

3.3. TYPES OF PPPs. The DoD uses three types of PPPs: direct sales PPP, workshare PPPs, and leases.

a. Direct Sales PPP. When a private partner, who is accountable to a buying activity under contract, directly acquires articles or services from a public partner, they may enter a direct sales PPP in accordance with Sections 2208, 2474, 2563, 4543, or 4544 of Title 10, U. S. C., as applicable. A direct sales PPP is most appropriate when the supported product or process is immature or unstable, and when the buying activity intends to transfer risks related to product or process immaturity, or instability to the private partner.

b. Workshare PPP. When the buying activity engages both public and private partners directly through allocation of workload, in a manner that leverages each partner's best capabilities, they may enter a workshare PPP in accordance with Section 2474 of Title 10, U.S.C. A workshare PPP is most appropriate when the supported product is relatively stable and mature, and when the buying activity does not intend to transfer risk to the private partner.

c. Lease. A commercial entity may enter into a lease to have access to and beneficial use of facilities or equipment that are government-owned property in accordance with Section 2667 of Title 10, U.S.C., for non-excess and Section 2474 of Title 10, U.S.C., for under-utilized facilities.

3.4. PPPs AND CORE LOGISTICS CAPABILITIES. Section 2464 of Title 10, U.S.C., requires the DoD to maintain a core logistics capability that is government-owned and -operated. The stated purpose of the requirement is to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements. Core logistics capabilities include these capabilities that are necessary to maintain and repair the weapon systems and other military equipment determined as necessary to enable the Military Services to fulfill the strategic and contingency plans prepared by the Chairman of the Joint Chiefs of Staff. The involvement of a contractor pursuant to a PPP with a designated core logistics activity will not preclude satisfaction of Section 2464 of Title 10, U.S.C. Work completed by a government-owned and -operated industrial facility under a PPP agreement will satisfy core requirements.

3.5. SECTION 2466 OF TITLE 10, U.S.C.

a. Section 2466 of Title 10, U.S.C., provides that not more than 50 percent of the funds made available in a fiscal year to a Military Department or a Defense Agency for depot-level maintenance and repair may be used to contract for the performance of that work by non-Federal Government personnel. Labor and materials provided by a contractor pursuant to a PPP may be excluded from the percentage calculations and associated statutory limitation set forth at Section 2466 of Title 10, U.S.C. This exclusion is applicable when the work is:

- (1) Pursuant to a PPP for depot maintenance and repair,
- (2) Performed at a CITE by personnel provided by private industry or other entities outside the DoD, and
- (3) Within the core competency for which the CITE is designated.

b. Not all contracts are partnerships. When a contractor substantially provides only a workforce and the Federal Government provides facilities and controls the production process, the Federal Government is contracting for labor and is not engaging in a partnering arrangement.

3.6. ALIGNMENT OF PPP PLANNING TO THE PRODUCT SUPPORT LIFE CYCLE.

The DoD Component concerned will require program managers to assess the use of PPPs in the development of their sustainment strategy and address partnering in the Acquisition Strategy and Life Cycle Sustainment Plan. These documents will be periodically updated as the system progresses through its life cycle.

a. Program offices are required to execute PPP planning early in the product life cycle, with a focus on collaboration on system design and supportability. The results of this planning shall be made available to a program's Milestone Decision Authority in sufficient time in advance of Milestone A and B decisions to allow the Milestone Decision Authority to consider the input in the context of Sections 2366a and 2366b of Title 10, U.S.C.

b. After the system's core logistics determination is made, the program office will use this information to refine its initial analysis and determination of partnership opportunities (initiated

before Milestone B), including those for small business, that are planned for both core and non-core workloads. The program office will incorporate this information in the updated product support strategy. This assessment should be used to inform subsequent depot source of repair decisions and contract strategies.

c. After the system is fielded, the program office will be required to oversee sustainment activities in accordance with the Acquisition Strategy and Life Cycle Sustainment Plan and established partnership agreements, and continue to pursue feasible and beneficial PPP opportunities consistent with the best interests of the U.S. Government.

3.7. FINANCIAL REPORTING. Activities participating in partnerships will separately track and report financial results by establishing and maintaining separate cost accounting job orders or cost or revenue pools and operating results, consistent with DoD 7000.14-R.

a. When authorized by law, reimbursements from private sector entities related to PPPs will accrue directly to the activity involved in the partnership or providing the support in accordance with the authorizing statute.

b. When authorized by law, compensation for the use of U.S. Government property may take the form of rental payments, adjustments to prices in related Defense contracts, or in-kind considerations.

3.8. AGILITY AND RESPONSIVENESS. The PPP should include processes and procedures that facilitate the partnership's ability to react to the unforeseen changes in cost and scope of work during the execution of the PPP workload. Legal, financial, and contracting subject matter experts should assist in developing the PPP to ensure the applicable "reaction to change" is accomplished to the satisfaction of the partnership, in compliance with statute and regulation. This must be documented in the governing contract and partnership agreement.

3.9. INNOVATION THROUGH PARTNERSHIPS. In addition to original equipment manufacturers and other commercial sources, there are many other organizations with which a partnership may be made to generate best value to the U.S. Government. These entities provide unique sources of innovation, new processes, and technologies that can lead to more effective and efficient programs. DoD Components should consider partnerships that foster innovation through deliberately focused terms and conditions with organizations whose basic nature and mission include innovation.

3.10. SALE OF ARTICLES AND SERVICES TO PERSONS OUTSIDE THE DOD. A potential benefit of a PPP is the opportunity to enhance the efficient operation of a government activity through the sale of articles and services outside the DoD. Articles and services not available from any U.S. commercial source that are manufactured or performed under a PPP may be sold to persons outside the DoD in accordance with Sections 2208, 2474, 2563, 4543, or 4544 of Title 10, U. S. C., as applicable, and U.S. export control laws and regulations.

GLOSSARY

G.1. ACRONYMS.

CITE	Centers of Industrial and Technical Excellence
PPP	public-private partnership
U.S.C.	United States Code
USD(AT&L)	Under Secretary of Defense for Acquisition, Technology, and Logistics

G.2. DEFINITIONS. These terms are for the purposes of this issuance. Additional terms related to PPPs are defined in the Defense Acquisition University Online Glossary.

CITE. Each depot-level activity or military arsenal facility of the Military Departments and the Defense Agencies where the recognized core competencies reside as designated by the Secretary of the Military Department concerned, or the Secretary of Defense in the case of a Defense Agency.

in-kind consideration. A benefit other than money received by the DoD as part of a total compensation package. The value of non-monetary consideration should approximate the total of the variable costs and the fixed costs that are directly related to the production of the articles or the provision of the services. Use of in-kind considerations from a private partner to a public partner may be considered a legitimate method of reimbursement.

Life Cycle Sustainment Plan. The document that contains the results of life cycle sustainment planning accomplished during the Materiel Solution Analysis phase and the Technology Maturation and Risk Reduction phase and spans the system's entire life cycle from Milestone A to disposal.

PPP. A cooperative arrangement between an organic product support provider and one or more private sector entities to perform defense-related work, use DoD facilities and equipment, or both. Other government organizations, such as program offices, inventory control points, and sustainment commands, may be parties to such agreements. PPPs are further defined in the DoD PPP for Sustainment Guidebook.

product support. The package of support functions required to field and maintain the readiness and operational capability of major weapon systems, subsystems, and components, including all functions related to weapon system readiness.

REFERENCES

- DoD 7000.14-R, “DoD Financial Management Regulations (FMRs),” dates vary by volume
- DoD Directive 4151.18, “Maintenance of Military Materiel,” March 31, 2004
- DoD Directive 5000.01, “The Defense Acquisition System,” May 12, 2003
- DoD Directive 5134.01, “Under Secretary of Defense for Acquisition, Technology, and Logistics (USD (AT&L)),” December 9, 2005, as amended
- Defense Acquisition University, “Public-Private Partnering for Sustainment – A DoD Guidebook,” February 22, 2012
- Defense Acquisition University Online Glossary (<https://dap.dau.mil/glossary>)
- Deputy Secretary of Defense Memorandum, “Establishment of the Office of the Under Secretary of Defense for Research and Engineering and the Office of the Under Secretary of Defense for Acquisition and Sustainment,” July 13, 2018
- United States Code, Title 10