

Form D2-1. Contractor Disclosure Letter Concerning UAP-Related IRAD Costs (FAR 52.203-13 and FY2024 NDAA §1687(b))

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When to use. A contractor that may have charged UAP-related IRAD as an indirect cost without the disclosure §1687(b) requires. **Not for:** Contractors with no UAP-related IRAD.

Deadlines. Disclose credible evidence “timely” (FAR 52.203-13(b)(3)(i)). False Claims Act exposure runs six years, up to ten if concealed (31 U.S.C. §3731(b)).

[Company letterhead]

[Date]

Office of Inspector General, [Department of War / agency]
[Contractor Disclosure Program address]

cc: Contracting Officer, [contract numbers]; Administrative Contracting Officer; DCAA [office]

Re: Disclosure under FAR 52.203-13 [or voluntary disclosure] concerning independent research and development costs relating to unidentified anomalous phenomena

Dear [IG]:

[Company] submits this [disclosure / voluntary disclosure] concerning the treatment of certain independent research and development (“IRAD”) costs.

1. Background. Section 1687(b) of the National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31 (50 U.S.C. §3373 note), provides that “independent research and development funding relating to unidentified anomalous phenomena shall not be allowable as indirect expenses for purposes of contracts covered by [DoD Instruction 3204.01], unless such material and information is made available [to] the appropriate congressional committees and congressional leadership.”

2. Facts. [Describe, at an unclassified level, the IRAD project(s), the periods, the cost pools, the amounts included in indirect cost submissions, and whether and when material and information were made available to the committees and congressional leadership. Identify any classified addendum delivered through security channels.]

3. Assessment. [Company] has determined that [amount] in IRAD costs incurred from [date] to [date] may not have satisfied the condition in §1687(b) at the time they were included in [indirect cost rate proposals / billings]. [Company] [does / does not] believe the circumstances amount to credible evidence of a violation of the civil False Claims Act; it makes this disclosure [in compliance with FAR 52.203-13(b)(3)(i) / in the interest of transparency].

4. Corrective action. [Company] has (a) removed the costs from [pools/proposals]; (b) calculated the effect on billings at [amount] and proposes [credit/refund]; (c) [made / arranged to make] the material and information available to the appropriate committees and congressional leadership on [date]; (d) adopted procedures to identify UAP-related IRAD; and (e) preserved all related records, including records subject to FY2024 NDAA §1842.

5. Employee protections. [Company] has advised its employees of their right to make authorized disclosures to the All-domain Anomaly Resolution Office under 50 U.S.C. §3373b and of the prohibition on reprisal.

6. Contact. [Name, title, contact.]

Sincerely,
[Authorized officer]

Drafting notes

- **Scienter.** False Claims Act knowledge turns on what the company's people actually knew and believed when the claims were submitted. *United States ex rel. Schutte v. SuperValu Inc.*, 598 U.S. 739 (2023). Interview the cost accounting staff and the program personnel before deciding whether the facts are "credible evidence"; an arguable reading of §1687(b) adopted after the fact is no defense if the people who prepared the proposals knew of the program and believed it had not been disclosed.
- **Limitations.** An FCA action may be brought within six years after the violation, or within three years after the responsible official knew or should have known the facts, but no more than ten years after the violation (31 U.S.C. §3731(b)). IRAD billed in fiscal year 2024 stays exposed until at least 2030.
- **Timeliness of the disclosure.** FAR 52.203-13(b)(3)(i) requires "timely" written disclosure of credible evidence; failure to disclose is itself a ground for suspension or debarment (FAR 9.406-2(b)(1)(vi), 9.407-2(a)(8)).
- **Compartmented programs.** If the people who prepared indirect cost proposals were not read into the program, say so and describe how the company will identify UAP-related IRAD going forward (paragraph 4(d)).
- Related: [Issue D2](#), D3; [Form D1-1](#).