

*NATIONAL OCEANIC AND  
ATMOSPHERIC ADMINISTRATION*

*ACQUISITION  
HANDBOOK*

*Version 3.1*

*October 31, 2004*

## FOREWORD

As defined in the Services Acquisition Reform Act, acquisition is “the process of acquiring, with appropriated funds, by contract for purchase or lease, property or services (including construction) that support the missions and goals of an executive agency, from the point at which the requirements of the executive agency are established in consultation with the chief acquisition officer of the executive agency; and includes:

The process of acquiring property or services that are already in existence, or that must be created, developed, demonstrated, and evaluated;  
The description of requirements to satisfy agency needs;  
Solicitation and selection of sources;  
Award of contracts;  
Contract performance;  
Contract financing;  
Management and measurement of contract performance through final delivery and payment; and  
Technical and management functions directly related to the process of fulfilling agency requirements by contract.”<sup>1</sup>

I would add that acquisition also includes planning for and identifying the best method to acquire goods and services including the cost to acquire those goods and services and the lead time it takes to conduct the acquisition.

Thus, acquisition begins long before an acquisition request is generated by an individual/office requiring the purchase of a good or service. It begins with the strategic planning process and carries through final assessment of whether what was acquired achieved or helped to achieve the mission which the acquisition supported. It has been said, “...the most important aspects of acquisition are (1) the mission-based planning that is required before soliciting the marketplace for solutions, and (2) the contract performance management that takes place after contract award.”<sup>2</sup>

This Handbook is not intended to duplicate or limit the application of the Federal Acquisition Regulations, the Commerce Acquisition Regulations or the Commerce Acquisition Manual. Rather, it is intended to supplement those documents and to provide NOAA-specific process guidance. The primary desired outcomes from the establishment of this Handbook are (1) to clearly identify acquisition process in NOAA and (2) to ensure consistency of acquisition process across NOAA.

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<sup>1</sup>National Defense Authorization Act for Fiscal Year 2004 (P.L. 108-136)

<sup>2</sup>“What is a Chief Acquisition Officer and What Does It Mean To Me,” *Acquisition Directions Advisory, January 2004, pp.5-6*

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## LIST OF ACRONYMS

AA	Assistant Administrator
AAP	Advance Acquisition Plan
AAPC	Agency Acquisition Planning Coordinator
AcA	Acquisition Alert
ACOR	Alternate or Assistant Contracting Officer's Representative
AD	Acquisition Division
ADR	Alternative Disputes Resolution
A/E	Architect/Engineer
AGO	Acquisition and Grants Office
AMR	Acquisition Management Review
APD	Acquisition Planning Document
AR	Acquisition Request
ARB	Acquisition Review Board
ASA/CFO	Assistant Secretary for Administration/Chief Financial Officer
AT	Acquisition Team
BPA	Blanket Purchase Agreement
CAAC	Civilian Agency Acquisition Council
CAM	Commerce Acquisition Manual
CAP	Component Acquisition Plan
CAR	Commerce Acquisition Regulations
CBA	Collective Bargaining Agreement
CBPI	Contractor Bid or Proposal Information
CC	Convenience Check
CIO	Chief Information Officer
CITRB	Commerce Information Technology Review Board
CLD	Contract Law Division
COR	Contracting Officer's Representative
COTR	Contracting Officer's Technical Representative
CO	Contracting Officer
COC	Certificate of Competency
COWP	Contracting Officer Warrant Program
CR	Continuing Resolution
CRAD	Central Region Acquisition Division
CRB	Contract Review Board
CS	Contract Specialist
DAA	Deputy Assistant Administrator
DAO	Department Administrative Order
D&F	Determination and Findings
DO	Delivery Order
DO/TO	Delivery Order/Task Order
DOC	Department of Commerce
DOD	Department of Defense

DOL	Department of Labor
DPA	Delegation of Procurement Authority
DUS	Deputy Under Secretary
ERAD	Eastern Region Acquisition Division
EEO	Equal Employment Opportunity
EO	Executive Officer
FAR	Federal Acquisition Regulations
FN	Flash Notice
FOIA	Freedom of Information Act
FSS	Federal Supply Schedule
FY	Fiscal Year
GAO	General Accounting Office
GBL	Government Bill of Lading
GPO	Government Printing Office
GSA	General Services Administration
GSBCA	General Services Board of Contract Appeals
GTA	Government Trial Attorney
HCA	Head of the Contracting Activity
HCAD	Head of the Contracting Activity Designee
HCO	Head of the Contracting Office
IDIQ	Indefinite Delivery Indefinite Quantity (a type of contract)
IFB	Invitation for Bid
IOSA	Interagency or Other Special Agreement
IPT	Integrated Project Team
JOFOC	Justification for Other Than Full and Open Competition
LO	Line Office
LO/SO	Line Office/Staff Office
MRAD	Mountain Region Acquisition Division
MP	Milestone Plan
NAHB	NOAA Acquisition Handbook
NAICS	North American Industry Classification System
NAO	NOAA Administrative Order
NDBC	National Data Buoy Center
OAMFA	Office of Acquisition Management and Financial Assistance
OF	Office of Finance
OFCCP	Office of Federal Contract Compliance Programs
OFPP	Office of Federal Procurement Policy
OGC	Office of General Counsel
OIG	Office of the Inspector General
OLA	Office of Legislative Affairs
OMB	Office of Management and Budget
OSDBU	Office of Small and Disadvantaged Business Utilization
OSy	DOC Office of Security
PA	Privacy Act
PC	Program Coordinator

PCO	Protest Control Officer
PE	Procurement Executive
PMO	Property Management Officer
PO	Purchase Order
P/OC	Point of Contact/Order Contact
PPIRS	Past Performance Information Retrieval System
PR	Purchase Request
RAD	Regional Acquisition Division
RCN	Regulation Change Notice
RFP	Request for Proposal
RFQ	Request for Quotation
SADBUS	Small and Disadvantaged Business Utilization Specialist
SAP	Simplified Acquisition Procedures
SAT	Simplified Acquisition Threshold
SBA	Small Business Administration
SBA PCR	Small Business Administration Procurement Center Representative
SBPO	Senior Bureau Procurement Official
SBTA	Small Business Technical Advisor
SO	Staff Office
SOO	Statement of Objective
SOW	Statement of Work
SSO	Source Selection Official
TAA	Type of Acquisition Action
TO	Task Order
TOr	Transportation Officer
WRAD	Western Region Acquisition Division
WD	Wage Determination

## PART 1

### NOAA ACQUISITION PROCESS SYSTEM

#### 1.1 Purpose, Authority, Issuance

**Who** All individuals involved in the acquisition process

**What** Establishes the identify of the primary individuals involved in the acquisition process

**When** Applies throughout the acquisition process

**Discussion** The Acquisition Team (AT) consists of all participants in Government acquisition including representatives from the technical/program, supply, and procurement communities, the customers and after award, the Contractors who provide the products and services. The role of each member of the AT is to define the need in a manner that is consistent with Agency mission and program goals and to exercise personal initiative and sound business judgment to acquire the best value product or service to achieve mission objectives.

At the bare minimum, on a low dollar value, non-complex acquisition, the AT will consist solely of the Program Office representative and the Contract(ing) Specialist/ Officer. As the dollar value and complexity of the acquisition increases the AT will expand to include others. A description of the possible AT representatives follows:

- (a) *Program Office*. The Program Office is usually represented by the person designated as the Contracting Officer's Representative (COR). CORs include Contracting Officer Technical Representative (COTR), Alternate COTRs, and Point of Contact/Order Contact (P/OC).
- (b) *End Users*. These individuals usually are the actual users of the service or item being acquired. Usually the end user drafted or contributed to the Statement of Work (SOW), specifications or other requirements document, and participates on the proposal evaluation team.
- (c) *Contract Specialist*. The Contract Specialist (CS) is responsible for processing the acquisition which includes obtaining the necessary approval of the Contracting Officer (CO). The CS may or may not be the CO. If the assigned CS does not have delegated CO authority, the CS is not able to commit the Government or to obligate funds for the agency. The CS must obtain approval of the assigned CO for any proposed agreement, commitment or obligation to be binding on the agency.
- (d) *Contracting Officer*. The CO is the individual assigned to the specific acquisition that has the authority to obligate the Government. The CO must have a specific CO warrant that sets forth the limits of that delegated authority. CO responsibilities are included in the FAR and in agency-specific guidance.
- (e) *Program Coordinator*. The Program Coordinator (PC) is the individual from the program office assigned to oversee and manage all aspects of a single acquisition or a single program involving multiple acquisitions  $\geq$ \$10M in value, from requirement development through receipt, acceptance and closeout of contract. The PC must meet the training requirements of the COR detailed in the Commerce Acquisition Manual (CAM).

The PC will lead the Integrated Project Team (IPT), which consists of all individuals involved in the acquisition, and is responsible for making programmatic decisions regarding the acquisition(s) and keeping NOAA management informed of progress, developments and problems throughout the life cycle of the acquisition. Each IPT shall have a charter that identifies their purpose, composition, roles, responsibilities and authorities, scope and deliverables.

- (f) *Budget/Finance Office*. The Line Office/Staff Office (LO/SO) Budget Office and the Office of Finance (OF) manage funds and attest to proper use of funds in accordance with Federal appropriations law.

Depending on the nature of the acquisition, other members of the AT may include:

- (a) Someone with an analyst background, such as an auditor or cost and price analyst.
- (b) Representatives from other NOAA Line and Staff Offices.
- (c) The NOAA Small and Disadvantaged Business Utilization Specialist.
- (d) A representative of the Department of Commerce (DOC) Office of General Counsel (OGC), Contract Law Division (CLD). If you determine that a legal review is necessary, contact the DOC OGC CLD by telephone at (202) 482-5391, or by fax (202) 482-5858. The OGC will assign an attorney to perform the review. It is up to the Contract Specialist and the attorney to decide which documents are necessary to perform the review.
- (e) Others as appropriate for the specific acquisition.

**References** FAR Part 1, CAR Part 1, CAM 1301.67, DAO 208-5, DOC OGC CLD website

## 1.2 Roles and Responsibilities

Regardless of its representation, the AT is responsible for ensuring that the acquisition results in a product or service that (1) represents a sound value that is clearly linked to and advances the Agency mission and one or more program goals; (2) satisfies legal and regulatory requirements including bona fide need, appropriate purpose and funds availability restrictions; (3) achieves performance and investment objectives; (4) meets the Agency's needs and intended results successfully; and (5) remains on schedule and within budget.

**Who** All individuals involved in the acquisition process

**What** Establishes the identify of the primary individuals involved in the acquisition process

**When** Applies throughout the acquisition process

### **Discussion**

- (a) *COR responsibilities*. An individual designated as a COR for an acquisition is generally involved in all aspects of the acquisition process. For purposes of continuity, the COR should be identified as early in the process as possible and, preferably, during the acquisition planning phase. The COR must have the technical knowledge to support their requirement, knowledge of the marketplace for the product/service which is to be acquired, and should have an understanding of the federal acquisition process. In some

cases the COR will be supported by Alternate or Assistant CORs (ACOR) from the same or other organizations. The COR, however, has primary responsibility for all technical aspects of the acquisition. This includes planning, proposal evaluation, source selection, technical direction, contract administration and contract closeout. Depending on what phase of the acquisition you are in, the COR may have the lead, or may provide you support. See Table 1-1 which outlines the roles and responsibilities of a COR throughout the various stages of an acquisition.

- (b) *CS responsibilities.* The CS has responsibility for the actual execution of the Acquisition. However, the CS should be involved at the initial planning stages to assist the COR with market research, development of appropriate acquisition strategy, development of the Acquisition Plan (and milestone schedule), and identifying and securing required clearances and approvals for the specific requirement. After receipt in the acquisition office, the CS is responsible for conducting the acquisition, involving other appropriate members of the AT at appropriate points in the process and preparing the award for review, approval and execution by the CO. The CS may be the acquisition CO as well. After award, the CS is involved in the acquisition throughout its life including contract closeout. The CS receives performance information from the COR and takes appropriate actions to ensure the contractor's compliance with all terms and conditions of the contract. The CS will prepare for CO approval and signature any necessary contract modifications and contract actions such as changes to any terms (including delivery dates) of the contract, cure or show cause notices, novation agreements, changes to key personnel or CORs, application of liquidated damages or Quality Assurance Surveillance Plans, award fees, and assurance of receipt and acceptability of all deliverables (both contractual and administrative) in the contract.
- (c) *CO responsibilities.* The CO is the individual authorized to bind the Government to any changes required during the life of the contract. The CO is the only agency official who can agree to any changes to any of the terms and conditions stated in the contract. The CO may or may not also be the CS. The CO must operate within the limits of his/her delegation of authority and is responsible for ensuring the adequacy of file documentation to support the award and any actions taken following award through closeout.

The CO is also responsible for the selection and appointment of Contracting Officer representatives in accordance with CAM 1313.670. Each COR shall be designated by the Contracting Officer's issuance of a COR delegation and appointment memorandum as found on the AGO website under Acquisition Policy.

- (d) *IPT Responsibilities.* IPTs, led by the PC, will be established for any acquisition exceeding \$10 million and/or whenever CONOPS procedures are used (total value = base plus options; maximum quantity for base and all options for indefinite delivery indefinite quantity (IDIQ) contracts; expected maximum in IDIQ-Requirements type contracts). The IPT will be established during the planning phase of the acquisition. The IPT will include representatives of all appropriate expertise's including, at a minimum, the CS, CO, COR, OGC, SADBUS, and the Senior Bureau Procurement Official (SBPO). The IPT will work together as a team to expedite acquisitions through parallel processing of approvals.

**References** FAR Part 1, CAR Part 1 and Part 13, CAM 1301.67

### 1.3 COR Training Requirements

**Who** CORs, ACORs, PCs, P/OCs

**What** Identifies the training requirements for CORs, ACORs, PCs, and P/OCs

**When** Mandatory training requirements must be met prior to involvement in the acquisition process and currency must be maintained throughout the life of the acquisition

**Discussion** (For purposes of this discussion COR will be used generically for COR, ACOR, PC and P/OC)

Regardless of the dollar value of an acquisition, or the acquisition procedures used, if the designated COR will be involved in all phases of the acquisition, such as planning, proposal evaluation, source selection, technical direction, contract administration, and other duties as outlined Table 1-1, he/she must successfully complete the training requirements set forth in the CAM Chapter 1301.67, Contracting Officer Representative (COR) Certification Program.

CORs are encouraged to review AGO's Project Officer's Web Page (*under development*), and to take additional specialized courses related to writing statements of work, performance-based contracting, commercial item contracting, and research and development or information technology acquisition, etc. COs may require CORs to complete additional specialized courses depending on the contract action at hand. The determination to require additional specialized training by the COR shall be made during the acquisition planning phase of the acquisition.

- (a) *Verification and Documentation of Training.* Pending development and implementation of the DOC Workforce Assessment Database, every individual completing any of the required or additional project officer or acquisition-related training shall provide a copy of the certificate received upon completion of the training to the Training Coordinator in the Office of the Director, AGO. The certificate should show the course name, presenter, employee's name, dates of attendance, and the number of hours of training completed. If needed to determine equivalency to a required course when the course provider is not amongst the identified acceptable training courses in the CAM, the AGO CO will require the trainee to provide additional information about course content and topics covered in order to determine whether or not the course covers the required topics set forth in the CAM Chapter 1301.67. If the AGO review determines that the course does cover the required topics, the AGO will coordinate the determination of equivalency with the DOC Office of Acquisition Management and Financial Assistance (OAMFA) to have the course title and vendor added to the list of acceptable training courses in CAM Chapter 1301.67.

The AGO will update the existing COTR Registry. Annual copies of the database will be provided to NOAA Line and Staff Offices for purposes of identifying future COR training needs. Upon implementation of the DOC Workforce Assessment Database, maintenance of COR records will be directed by DOC policy. Copies of training certificates and COR delegations shall be maintained by the issuing acquisition office

from the issuance date of the delegation through the final date of the required record retention date of the most recently issued award on which the COR is delegated.

As part of the acquisition planning process, the assigned CS will determine whether the proposed COR has completed the required training by reviewing the COTR Registry on the AGO's Project Officer's Web Page (*under construction*). If the proposed COR is shown as having current required training and/or certification, regardless of the Agency issuing the certification, the contract file shall be documented by providing a statement in the contract "Summary of Award" or other file documentation, such as a memorandum to the file, that verification was obtained. If the COR does not currently meet the required training and/or certification or specialized training is determined to be required for the specific individual or the specific acquisition, the CS shall identify the needed training and the COR is responsible for successfully completing the required training prior to submittal of the acquisition to the cognizant acquisition office.

If the proposed COR is not listed in the COTR registry, a request shall be made of that individual for a copy of appropriate course certificate(s). Upon receipt of the certificate(s), the CS will forward the certificate(s) to the AGO with a request to update the COTR Registry. Upon addition to the Registry, the Specialist will be notified of the update to the registry and the contract file shall be documented accordingly.

- (b) *Course Equivalency*. If the individual has not taken the required course(s) from the identified acceptable sources (see CAM Chapter 1301.67), but has taken a course that may be considered an equivalent, the AGO Contracting Officer can approve the course as equivalent after reviewing supporting documentation provided by the prospective COR and after determining that the course covers the topics outlined in the CAM Chapter 1301.67. Once the determination has been made by the AGO you can proceed with the acquisition. A copy of the CO's approval will be filed in the award file and a copy shall be provided to DOC OAMFA and the AGO Training Coordinator.
- (c) *Waiver of Training Requirements for Specific Topics*. A waiver of training requirements for specific topics may be granted only by the Director, OAMFA. Any request for waiver of a specific topic must be recommended by the Head of the Contracting Office (HCO), setting forth the rationale for the request, the specific training which is to be waived and evidence that all other required training has been completed. The SBPO must concur in the recommended waiver.
- (d) *Waiver of Training Requirement*. If the individual has not completed the required training/refreshers training or an approved equivalent or other required training (see CAM Chapter 1301.670), the appropriate HCO may waive the training requirement and authorize the individual to perform the COR duties. ***No waivers shall be granted for procurement integrity/ethics training, which must be completed prior to appointment.*** Waivers will only be granted in cases of urgent need and will be valid only for a period of 180 days. Waivers will only be granted where there is a commitment by the program office to obtain the required training within the period of the 180 day temporary waiver

period. A copy of any waiver granted shall be provided to the Director, OAMFA. Exceptions for appointment of CORs for major system procurement actions (those over \$10M life-cycle/total value) must have the concurrence of the SBPO and the approval of the Head of the Contracting Activity (HCA). Failure of the individual to complete and provide the CS with certification of completion of the required training will result in immediate termination of the temporary waiver and the program office will be required to appoint another individual, who has the required training, to perform COR duties.

If the training requirement is waived, the CO shall meet with the individual and their first line supervisor to review the “Contracting Officer Representative’s Contracting Guide” (*under development*) and discuss the aspects of the contracting/program office relationship. The CO shall give the individual a copy of the Guide, or tell him/her to review it on the AGO’s COR web page. The CO will inform the individual that he or she must obtain the appropriate training as soon as possible but that it must be completed within the 180-day period of the waiver.

Documentation of the waiver shall be filed in the award file. The CO shall provide the AGO Training Coordinator with an e-mail documenting the granted waiver.

**References** CAM 1301.67

#### **1.4 Handbook Publication and Arrangement**

This Handbook is designed to supplement the Federal Acquisition Regulations (FAR), the Commerce Acquisition Regulations (CAR) and the CAM. Although the NOAA Acquisition Handbook (NAHB) requirements are not regulatory, the requirements are mandatory for NOAA personnel. These requirements reflect agency policy which must be followed to ensure uniformity or for other reasons.

The NAHB is organized to mirror the subparts of the FAR and CAR. Specifically, Part 1 of the NAHB supplements Subpart 1 of the FAR and CAR.

*NOAA-Specific Guidance.* Any Part having a designation of “70” are NOAA specific guidance that provides coverage that is not addressed in the FAR.

*Copies.* Copies of the NAHB from the homepage of AGO’s Intranet site (<http://www.ofa.noaa.gov/~amd>).

#### **1.5 Agency Acquisition Process Guidance**

*Policy.* NOAA’s acquisition and contracting policies and procedures are contained in this Handbook. The NAHB implements and supplements the FAR in areas where there is no FAR coverage or additional coverage is needed. All policy and procedural guidance shall be issued

and controlled by the Acquisition and Grants Office. There will be on-going maintenance of all policy/procedural guidance with routine updates (no less frequently than semi-annually).

*Limitations.* AGO develops, issues and maintains NOAA's acquisition policy and procedures as follows:

- (a) *Regulation change notices (RCN).* An RCN reports the publishing of or existence of documents containing relevant policy. E-mails shall be used to send RCNs to NOAA acquisition offices and to other individuals with certain delegated acquisition authority in NOAA offices. RCNs contain the following Internet links:
  - (1) Federal Register announcements of FAR changes; and
  - (2) Other publications that affect acquisition procedures. These include the Department of Labor (DOL) and General Services Administration (GSA) directives, Office of Management and Budget Circulars and Bulletins, the Federal Property Management Regulation, and amendments to the Blind and Severely Handicapped List.
- (b) *Flash Notice (FN).* An FN is a policy statement that needs immediate implementation. It may result from a review of contract files, or an inquiry that discloses a regulation or policy that is misunderstood and needs clarification. An FN is temporary. FNs shall be issued via e-mail to all acquisition offices.
- (c) *Handbook.* We use the NAHB to issue major, permanent acquisition policies/procedures. It may explain or clarify a new FAR requirement or implement an agency procedure. NAHB instructions are at the AGO Intranet web site.
- (d) *Acquisition Alert (AcA).* An AA provides guidance and reminders of acquisition policy and procedures/new information needed to perform acquisition duties. AcAs shall be issued electronically to all acquisition offices. Certain AcAs will be sent to agency senior executive staff.
- (e) *Policy issuances developed outside of AGO.* NOAA's Administrative Orders (NAOs) contain procedural guidance for the agency.

## **1.6 Career Development, Contracting Authority and Responsibilities**

**Who** Contracting Officials

**What** Identifies requirements applicable to individuals identified as Contract Specialists and Contracting Officers

**When** Requirements apply upon appointment to the position

### **Discussion**

- (a) The HCA is a CO by virtue of their position. Other COs are appointed under FAR 1.603 and in accordance with DOC's Acquisition Career Management Program and CO's

Warrant Program.

- (b) *Contracting Officer Warrant Program (COWP)*. DOC's COWP (CAM 1301-6) establishes criteria for the selection, appointment, and termination of appointment of NOAA contracting officers. Factors considered in determining the number of contracting officers appropriate for a given organization include volume of actions, work complexity and organizational structure.
- (c) *Training and Education*. The COWP establishes acquisition training requirements for all personnel who exercise CO authority consistent with the intent of the Clinger-Cohen Act of 1996 and Government-wide training requirements. COWP incorporates the Government-wide core curriculum and requires that personnel warranted above the simplified acquisition level meet the same educational standards that apply to personnel in the 1102 contracting series.
- (d) *Deviations*. The Director, OAMFA must approve, in writing, any deviation for the policies, procedures and requirements of the COWP.
- (e) *Appointment*. Under DOC Delegations (Departmental Administrative Order (DAO), the HCA, with authority to redelegate no lower than the HCO, are authorized to select and appoint contracting officers and terminate their appointment.
- (f) *Termination*. An appointing official may terminate a CO appointment at any time. The terminated warrant document shall be returned to the appointing official upon termination.

If an individual with a warrant leaves (through reassignment, resigning, transfer to another agency or retirement) a NOAA acquisition office or are reassigned to a position that does not require a warrant, that warrant becomes null and void and the warrant document must be returned to the appointing official.

**References** FAR Subpart 1, CAR Subpart 1, DAO 208-2, CAM 1301.6

## **1.7 Unauthorized Commitments/Ratifications**

**Who** CORs, COs

**What** Identifies procedures for processing unauthorized commitments

**When** Applies whenever an individual without CO authority commits the Government without the proper authority and/or whenever an individual with CO authority exceeds their delegated acquisition authority

### **Discussion**

- (a) DOC policy requires that acquisitions be made only by Government officials having authority to enter into such acquisitions. Acquisitions made by other than authorized personnel are contrary to Departmental policy and may be considered matters of serious misconduct on the part of an employee making an unauthorized commitment, and may result in disciplinary action being taken against an employee who makes an unauthorized commitment. Note that an unauthorized commitment also includes any commitment that exceeds any delegated acquisition authority.

Generally, the Government is not bound by commitments made by persons with no acquisition authority or which exceeds that individual's delegated acquisition authority. Unauthorized commitments may violate laws or regulations. If unauthorized commitments involve any type of misconduct that might be punishable as a criminal offense, the matter must be reported immediately to the Office of the Inspector General (OIG) with a request for a complete investigation.

Each NOAA Acquisition Office will maintain a log of all ratification actions which will show the originator of the ratification action, the originator's organization, a description of what was acquired, the date, the amount, and current status. A copy of the log shall be provided to the Director, AGO, no later than the 15<sup>th</sup> of the month on a quarterly basis in January, April, July, and October. Notice of instances of repetitive ratification actions by an individual or within an organizational component, will be provided to the Associate Administrator (AA), and/or Deputy Associate Administrator (DAA) of NOAA Line Offices (LOs) or Staff Office (SO) Directors.

Examples of unauthorized commitments, if they were legal at the time of purchase, include:

- (1) Receipt of a CD-435 in the contracting office after the product or service has been delivered or performed.
- (2) Receipt of an invoice that:
  - (i) cites an erroneous, expired, or non-existent contract or order number;
  - (ii) lacks a contract or order number;
  - (iii) is for a product or service not covered by a current FY contractual document, but the supply or service continued unabated (e.g., failure to renew FY maintenance or lease agreements or subscriptions); or
  - (iv) that exceeds the cost or quantity authorized by the contract or order.
- (3) Documentation (e.g., an acquisition number or invoice) that shows the contracting or ordering officer exceeded his or her delegated acquisition authority.
- (4) Evidence that an unauthorized individual (e.g., an invoice with the individual's name, or a work order with his or her signature) committed or obligated the Government.
- (5) All unauthorized commitments must be reviewed by DOC OGC CLD.

(b) *Nonratifiable commitments.* You cannot ratify items that are illegal to acquire.

**References** FAR Subpart 1,

**Table 1-1  
Contracting Officer Representative (COR)/Contracting Officer (CO)  
Responsibilities**

<b><u>PRESOLICITATION PHASE</u></b>	<b><u>LEAD</u></b>	<b><u>SUPPORT</u></b>
Market Research	COR	CO
Identify Requirements	COR	CO
Planning Schedule	CO	COR
Statement of Work (SOW)/Specifications/ Statement of Objectives (SOO)	COR	CO
Technical Evaluation Criteria	COR	CO
Preparation of JOFOC	COR	CO
Approval of JOFOC	CO	COR
Special Approvals	COR	CO
Prepare CD-435	COR	CO
<b><u>SOLICITATION PHASE</u></b>	<b><u>LEAD</u></b>	<b><u>SUPPORT</u></b>
Synopsis	CO	COR
Prepare Solicitation	CO	COR
Receipt of Offers	CO	COR
<b><u>EVALUATION AND AWARD PHASE</u></b>	<b><u>LEAD</u></b>	<b><u>SUPPORT</u></b>
Technical Evaluation	COR	CO
Business Evaluation	CO	COR
Discussions (if required)	CO	COR
Contract Preparation and Award	CO	COR
Debriefing	CO	COR
<b><u>POSTAWARD PHASE</u></b>	<b><u>LEAD</u></b>	<b><u>SUPPORT</u></b>
Monitoring Technical Performance	COR	CO
Reviewing Progress Reports	COR	CO
Inspection and Acceptance	COR	CO
Contract Administration	CO	COR

## PART 2

### DEFINITIONS OF WORDS AND TERMS

#### 2.1 Definitions

“Acquisition Management System” is C-Stars.

“Agency head” or “head of the agency” is the Secretary of Commerce. The Secretary has delegated to the Assistant Secretary for Administration/Chief Financial Officer(ASA/CFO) the authority, as permitted by law and regulation, to perform all duties assigned in the FAR to the “agency head” and the “head of the agency.”

“Competition advocate” is the Head of the Contracting Activity Delegee (HCAD) which, in NOAA, is the Director, AGO. This position cannot be redelegated.

“Contracting activity” is the AGO. AGO is the component that has been delegated the full range of legal authority pertaining to acquisition functions. It is responsible for the overall management and direction of NOAA’s acquisition program.

“Contracting office” means:

National Weather Service Acquisition Division  
National Environmental Science, Data and Information Service Acquisition Division  
National Ocean Service/National Marine Fisheries Service/Office of Oceanic and  
Atmospheric Research Acquisition Division  
Staff Office/External Customer Acquisition Division  
Eastern Region Acquisition Division  
Central Region Acquisition Division  
Mountain Region Acquisition Division  
Western Region Acquisition Division  
National Data Buoy Center Acquisition Division

“Contracting Officer” means an individual authorized by virtue of position or by appointment to perform the functions assigned by the FAR and the CAR.

“Head of the contracting activity” (HCA) is the Deputy Under Secretary (DUS) for Oceans and Atmosphere.

“Head of the Contracting Office” is the Director of one of the Divisions cited above under Contracting office.

“Legal counsel” means the DOC, OGC CLD providing legal services to the contracting organization.

“Legal review” means review by legal counsel.

“Ombudsman” means the Team Leader, Performance Assessment and Improvement Team, OAMFA, to consider appeals on Delivery Orders/Task Orders placed under multiple award Indefinite Delivery/Indefinite Quantity type contracts.

“Protest Control Officer” (PCO) is the senior Policy Analyst in the office of the Director, AGO.

“Senior Bureau Procurement Official” is the Director, AGO.

“Senior Procurement Executive” is the Department of Commerce, Director of the Office of Acquisition Management and Financial Assistance. This position cannot be re-delegated.

## PART 3

### IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

**Who** Applies to any individual involved in the acquisition process

**What** Identifies policy/process associated with improper business practices and personal conflicts of interest

**When** Applies throughout the acquisition process

**Discussion**

(a) NOAA follows the “Standards of Ethical Conduct for Employees of the Executive Branch.”

(b) *Disclosure, protection and marking of Contractor Bid or Proposal Information (CBPI) and Source Selection Information.* The following persons may access CBPI and source selection information to accomplish their responsibilities in a procurement action:

- (1) Requirements generators, including client agency representatives, and program and technical experts who develop statements of work, specifications or similar documents;
- (2) Contracting personnel processing the acquisition;
- (3) Personnel serving on technical evaluation boards or source selection evaluation boards;
- (4) Secretarial, clerical and administrative personnel of the contracting activity responsible for the procurement;
- (5) Small business technical advisors;
- (6) Small Business Administration (SBA) personnel who review determinations not to set-aside acquisitions, determine the small business status of offerors under FAR 19.302, process applications for Certificates of Competency under FAR 19.6, review subcontracting plans, or award contracts under the 8(a) program;
- (7) OIG personnel;
- (8) DOL personnel who process preaward Equal Employment Opportunity clearances under FAR 22.805;
- (9) Attorneys in DOC OGC-CLD; and
- (10) Personnel involved in contract approval.

The CO may authorize access to CBPI or source selection information if necessary to conduct the procurement. This includes release of information to outside evaluators. Limit access to only that information the person needs to do his or her job. Include in the contract file, names and functions of any other individuals who have access to CBPI or source selection information.

Any individual who prepares, makes, or controls CBPI or source selection information, or derivative documents must:

- (1) Ensure documents are marked as prescribed for “CBPI” in FAR 52.215-12 or “source selection information” in FAR 3.104-4(c);
- (2) Provide physical security for documents in the office environment during and after

duty hours; and  
(3) Ensure security of interoffice mailings.

- (c) *Violations or Possible Violations.* In this subsection, “HCA or designee” means the HCA. FAR 3.104-7(g) does not allow delegation of the duties in FAR 3.104-7(a)(1)(ii) and (2), (b), (c), (d), (e), and (f) below the Senior Executive Service level. If CBPI or source selection information is provided to other than an authorized individual, a determination must be made of the impact of that release of information on the acquisition.

If it is determined that the release of information has no impact, that determination must be submitted to the HCO, for concurrence before award may be made.

- (d) Submit the notice to the HCA through the SBPO before making an award against which you have a report of a possible violation.
- (e) *Reporting Suspected Violations of the Gratuities Clause.* Report suspected violations to the OIG’s Office of Investigations immediately upon discovery with an informational copy to the Director, AGO. Refer to the standards referenced in paragraph (a) above for an explanation regarding what is prohibited and what is permitted.
- (f) *Reports of Suspected Antitrust Violations.* Report suspected antitrust violations to the DOC OGC OGL and the OIG’s Office of Investigations immediately upon discovery.
- (g) *Contingent Fees.* Forward the report on the suspected misrepresentation or violation of the covenant against contingent fees to the HCO and to the OIG’s Office of Investigations immediately upon discovery, as prescribed in FAR 3.405(a). Prepare the report of suspected fraudulent or criminal matters to the Department of Justice in letter format. Forward it through acquisition channels to the HCA for signature. Include in the letter all pertinent facts and background information.
- (h) *Voiding and Rescinding Contracts.* The Agency decision to void or rescind a contract must be coordinated with a DOC OGC CLD attorney.
- (i) *Limitation on the Payment of Funds to Influence Federal Transactions.* Forward two copies of any disclosures to the Policy Analyst, AGO, by the 20<sup>th</sup> of April and October for the previous 6-month period. AGO will coordinate with OIG as part of the semiannual reporting requirement.  
Report suspected violations of the Act immediately to the Policy Analyst, AGO. AGO will coordinate with OIG immediately upon receipt.
- (j) *Whistleblower Protections for Contractor Employees.* AGO shall coordinate any actions taken with DOC OGC CLD.
- (k) *Conflicts of Interest.* All individuals involved with the acquisition process must certify that he/she has no real or apparent conflict of interest. Part 4 of this Handbook provides a sample Conflict of Interest Form that must be executed by all individuals involved with the acquisition and maintained in the official contract file. This Conflict of Interest Form must be executed prior to any individual being provided access to CBPI or source selection information (e.g., prior to convening a review of offers received in response to an agency solicitation). Upon their assignment as CS, CO or COR, the Conflict of Interest Form must be executed and maintained in the official contract award file.
- (l) *Contractor Access to Procurement/Business Sensitive Information.* It is not uncommon for contractor employees working on-site in Agency offices to have access to either procurement sensitive or business sensitive information. All such Contractor employees

shall be required to execute the Confidentiality Agreement Form (see Exhibit 1 to this Part) immediately upon beginning work on-site. Program offices need to be mindful of contractor access to acquisition information that may be available to contractor employees in the performance of their contract requirements throughout the entire acquisition process including the earliest budget formulation or acquisition planning process. Contractor access to NOAA/DOC systems and facilities is addressed in Part 70 of this Handbook.

**References** FAR Part 3, CAR Part 3, 5 Code of Federal Regulations Part 2635

**Exhibit 1**

**CONFIDENTIALITY AGREEMENT**

The parties to this Confidentiality Agreement (“Agreement”) are (*Named party*) and the National Oceanic and Atmospheric Administration (NOAA). This Agreement is applicable to all work provided under NOAA Contract/Order No. \_\_\_\_\_.

Anyone identified as an employee of the Contract, subcontractors, consultants, experts, and any other person retained for any tasks under the above referenced contract/order shall execute this Agreement prior to performing any work for NOAA.

For the purposes of this Agreement the term “information” includes, but is not limited to, planning documents, strategies, research proposals, data results, preliminary conclusions, field notes, computer files or data, designs, equipment, photographic or video media, or conversations related to any work performed for NOAA. The term “information” also includes internal Government memoranda, draft and final documents, procurement sensitive information including information on other contractors, cost or pricing information, financial information, as well as information marked “Confidential Business Information” or information not specifically marked, but falling within the meaning of “Confidential Business Information,” and “Attorney-Client Work Products.”

(*Named party*) hereby acknowledges that any information viewed, received, obtained, developed or generated pursuant to the tasks assigned or work performed under agreement(s) with NOAA is sensitive. Some information may carry additional sensitivities and restrictions relative to its use/disclosure including “Confidential Business Information” and “Proprietary Information.”

It is hereby agreed that (*Named party*) shall keep any such information confidential and to otherwise use discretion and exercise reasonable care and caution to prevent the potential compromise of any restrictive markings or ongoing or future litigation. (*Named party*) shall not use, make reference to or reveal to any person or entity not working under the direction of the Contractor in support of NOAA any information, whether that information is provided to the (*named party*) by NOAA, provided to the (*Named party*) by another party at NOAA’s direction, or developed or generated by the (*Named party*) pursuant to a work assignment, without the prior written approval of the Contracting Officer.

The (*Named party*) hereby agrees that 90 days after the completion of all work or at the end of the term of the above referenced contract/order the (*Named party*) will deliver to NOAA any original or copied information furnished by NOAA or from another party at NOAA’s direction and any information developed or generated.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Written/Typed Name

\_\_\_\_\_  
Corporate Title/Job Title

## PART 4

### ADMINISTRATIVE MATTERS

#### 4.1 General Review Guidelines

**Who** Acquisition Personnel

**What** Provides policy/process guidance on required acquisition reviews and Acquisition Management Reviews

**When** Applies throughout the acquisition process

**Discussion**

- (a) *Review and Approval of Proposed Solicitations and Contract Awards.* The CO must review all documents, regardless of dollar value. For a quick reference guide, see Exhibit 1, “Review and Approval Levels for Solicitations and Contract Awards” of this Part.

Note: In this Part, Blanket Purchase Agreements (BPA) are treated the same as contract awards. For a BPA, the estimated value is defined as the maximum of all orders that are anticipated to be placed against it. If awarding multiple BPAs for a single requirement, the estimated value is the maximum of all orders that you anticipate will be placed against all of the BPAs combined.

To determine the value of other awards, see FAR 1.108(c).

- (1) Resolve all issues before award. If necessary, documentation may be produced after award, but must indicate the issues were resolved before award. Obtain written approvals on a “Source Selection Decision” document.
  - (2) Give a copy of the contract to the COR for review and comments before issuance if time permits.
  - (3) HCOs may make the pre-award review of work under his or her jurisdiction more restrictive if the situation warrants.
  - (4) Each person who reviews and approves a contract file of any amount that is over the simplified acquisition threshold (SAT) must sign a Conflict of Interest Certification (see Exhibit 2 of this Part). Include the certification in the contract file at the tab, Pre-Award Review and Approval.
- (b) *Review of solicitations, contracts, contract modifications, and delivery orders Over the Simplified Acquisition Threshold (SAT).*
- (1) All reviews are to be documented, in writing, with all comments identified as substantive, non-substantive, or clerical. A copy of all reviews conducted and resolution of all comments made shall be maintained in the award file documentation under the appropriately identified tab.
  - (2) *Synopsis.* All synopsis, whether for industry comment, sources sought, announcement of solicitation or award, must be reviewed by the cognizant CO prior

to submission of the synopsis to FedBizOps. The CO is responsible for ensuring the clarity and accuracy of each synopsis published.

- (3) *Solicitations.* All solicitations must be reviewed by the cognizant CO prior to release (in hard copy or electronically) of the solicitation. If the CS is also the CO, the solicitation shall be reviewed at a level above the CO. See Exhibit 1 of this Part for identification of additional reviews necessary for specific acquisitions or types of acquisitions.
  - (4) *Contract Award.* The CO must review and approve these before award. The person who is one level above the CO must perform a review if the CO is also the CS. See Exhibit 1 of this Part for identification of additional reviews necessary for specific acquisitions or types of acquisitions.
- (c) *Acquisition Management Review.* It is NOAA acquisition policy that there will be an internal post-award Acquisition Management Review (AMR) program involving all acquisitions including those under the micropurchase threshold processed by an Acquisition Management Division (AMD). This program does not eliminate the requirement for pre-award reviews.

This program's intent is not to find fault on an individual basis. The desired results are twofold: to identify problem areas or trends that require corrective action and take the necessary steps to implement such action; and, to identify best practices that should be shared.

The AMR consists of a review of selected contracts, contract modifications, awards following simplified acquisition procedures (SAP), and FAR part 8 awards. The reviews will be performed by the Director, AGO, or senior acquisition specialists appointed by the Director, AGO. In order to identify best practices, from time to time, a manager (or team leader) from a different division/office from that being reviewed may be requested to assist with the review. In addition, the Director, AGO will occasionally solicit comments from operating staff as to those areas which require more discussion/training and recommendations from staff as to practices they consider should be shared with the other ADs in NOAA.

Reviews will be performed periodically on a rotational basis among the nine ADs. Preliminary results will be shared with the applicable AD Director. The Director, AGO, will send each HCO the final AMR report and request a response based on the review comments. The HCO will provide a response that will indicate any corrective action, training, etc. that has been taken.

The objectives of the AMR and procedures to be followed are attached (see Exhibit 3).

- (d) *Contract Distribution.* A copy of the award document (showing an original CO signature) shall be filed in the official contract file. Duplicate originals shall be provided to the Contractor and to the Finance Office.

Copies of the award document shall be provided to the COR and, as appropriate, to the Personal Property Office (if the acquisition requires delivery of accountable property) and the NOAA Small and Disadvantaged Business Utilization Specialist (SADBUS) (for any contract requiring submission of Small/Disadvantaged Business Subcontracting reports).

- (e) *Contract Files.* Note: It is NOAA policy that each contract file provide a stand-alone summary of the background and history of each contract action. The file documentation should provide sufficient documentation to support the decisions made regarding the contractual action.

*Note: Refer to FAR 2.101 for the definition of a contract.*

- (f) *Contents of Agency Contract Files.* This subsection applies to all acquisitions except for those conducted under FAR parts 8 and 13 (file set-up and documentation for acquisitions processed under FAR Parts 8 and 13 are detailed in Parts 8 and 13 of this Handbook), including:

- (1) All noncommercial item/service acquisitions conducted under FAR part 14 or part 15; and
- (2) Commercial item/service acquisitions conducted under FAR part 12 in conjunction with FAR part 14 or part 15.

- (g) *Policies and procedures.* When the contract file is assembled, the format in the “Arrangement of Contract Files” (Exhibit 4 of this Part) shall be followed. Using this format will help to ensure that documentation is sufficient to give a complete history of the acquisition for purposes of:

- (1) Providing a complete background that will serve as a basis for informed decisions each step of the acquisition process;
- (2) Supporting actions taken;
- (3) Providing information for reviews and investigations; and
- (4) Furnishing essential facts in case of litigation or congressional inquiries.

File assembly begins with the receipt of the acquisition in the AD from the program office. If significant planning activity occurs prior to receipt of the acquisition in the servicing AD, file assembly should begin prior to receipt of the acquisition.

No NOAA acquisition files, whether assembled under this instruction or under parts 8 or 13, will contain extra or duplicate copies of award or other documents.

Following are generally applicable guidelines for all acquisition files:

- (1) Tab the contract file.
- (2) File items in reverse order starting with Tab (1) on the bottom of the file and the

- highest applicable tab number on top.
- (3) File documents within a tab chronologically with the most recent document on top.
  - (4) Place documents too voluminous for an individual tab in a separate file. Annotate the tab with the location of the file.
  - (5) Omit any tab not required for the contract.

(h) Exhibit 4 is made up of three parts:

- (1) Arrangement of Contract Files, Part I, Basic Contract Award Support Documentation;
- (2) Arrangement of Contract Files, Part II, Contract and Contract Modification Documents; and
- (3) Arrangement of Contract Files, Part III, Contract Administration Documentation.

In order to ensure consistency of assembly and content, the guidance in Exhibit 4 is mandatory. The following notes will assist in assembling a contract file.

(i) *Part I -- Basic Contract Award Support Documentation.*

(1) The Contract File Index has been completed to serve as an example only. Not all of the tabs/activities listed in the example apply to every acquisition. When preparing the Index, number the tabs sequentially and number only those tabs relating to activities that are applicable to the instant acquisition. If a particular tab/activity is not applicable to a specific acquisition, DO NOT INCLUDE THEM IN THE CONTRACT FILE. Mark the tab "N/A" on the index.

(2) Not all of the items listed under each tab will apply to every acquisition. However, the list of items under each tab can serve as a "checklist" for purposes of file assembly and review.

(3) The index and the items listed under each individual tab provide guidance of where documents/correspondence should be filed.

(4) Although the examples were established primarily for the basic contract file, use the same arrangement for contract modifications.

(5) If it is anticipated that the acquisition file will be sizable, consider using separate contract file folders (see the Contract File Folder Cross Reference Index in Attachment 4).

(ii) *Part II – Contract and Contract Modification Documents.* Part II establishes the sequence for assembling the signed contract, any modifications, and the Contract Summary Sheet. For reference, a separate file folder(s) may be established if it is expected the basic contract document and subsequent contract modifications

will be sizable. Assemble Part II in the following descending order (top to bottom):

- (1) Tab A – Contract Summary Sheet;
- (2) Tab B – Contract Modifications (separately tabbed/numbered--Highest number on top); and
- (3) Tab C – Original signed basic contract document.

- (ii) *Part III – Contract Administration Documentation.* Part III addresses the establishment and content of the files necessary for good contract administration. Separate file folders may need to be established if it is expected that the contract administration documentation will be sizable.

**References** FAR Subpart 4, CAR Subpart 4

#### **4.2 Closeout by the Office Administering the Contract**

Consider contracts that follow Simplified Acquisition Procedures (SAP) and do not exceed the SAT closed when you receive evidence of receipt of property and final payment. Follow the procedures at FAR 4.804-5 and 4.804-5(a) when submitting a contract you awarded under FAR subpart 13.5.

#### **4.3 Uniform Procurement Instrument Identification**

**Who** Acquisition personnel (including those with delegated procurement authority)

**What** Provides guidance on content of acquisition numbering processes

**When** Throughout the acquisition process

**Discussion**

- (a) Use the uniform procurement instrument identification system detailed herein for procurement instruments (contracts, orders, BPAs, etc.). Do not use if for imprest fund/convenience check purchases or purchases made with the Government-wide commercial purchase card.
- (b) *Basic procurement instrument identification number.* The basic procurement instrument identification stays the same throughout the life of the procurement instrument. It consists of 14 alphanumeric characters as follows:
  - (1) Activity Code – The activity code is 6-digit alpha-numeric, and includes a combination of the contracting office code and the activity code of the requiring bureau or agency:

DG	Headquarters' Acquisition Divisions
AB	Western Region Acquisition Division
RA	Mountain Region Acquisition Division
WC	Central Region Acquisition Division

EA	Eastern Region Acquisition Division
QA	National Data Buoy Center
1330	NOAA
133C	NOAA National Ocean Service
133E	NOAA National Environmental Satellite and Data
133F	NOAA National Marine Fisheries
133R	NOAA Oceanic and Atmospheric Research
133W	NOAA National Weather Service
1321	Bureau of Economic Analysis
1352	Minority Business Development Agency
1314	Economic Affairs
1325	Economic Development Administration
1351	Export Administration
1341	National Institute of Standards and Technology
1342	National Technical Information Service
1335	National Telecommunications and Information Administration
1350	International Trade Administration

- (2) Fiscal Year: The Fiscal Year is designated by 2 digits and indicates the last two positions of the fiscal year of the base transaction (e.g., 01, 02) Counter Code: The counter code is 2-digit alphabetic and identifies the type of action. Counter codes identify the type of acquisition transaction being processed. The first letter of the counter code designates whether the action is a simplified acquisition, advance pay acquisition, unpriced order, contract, or agreements, and are designated with the codes S, A, U, C, and B respectively. See complete list below:

<u>Document Type</u>	<u>Counter Code Designation</u>
Priced Purchase Order – Services	SE
Priced Purchase Order – Supplies	SU
Priced Purchase Order – Utilities	ST
Priced Purchase Order – Prepay Services	AE
Priced Purchase Order – Prepay Supplies	AU
Unpriced Purchase Order – Services	UE
Unpriced Purchase Order – Supplies	UU
Blanket Purchase Agreements	
Unrestricted	BU
Restricted	BR
Basic Ordering Agreements	BA
Contracts	CN
Indefinite Delivery Type Contracts	CQ
Orders Against Other Agency Contracts:	
COMMITTS	CT
Other Commerce	CC

Other Agencies	NC
Solicitations—Request for Quotes	RQ
Solicitations—Request for Proposals	RP
Solicitations—Sealed Bids	RB

- (4) **Serial Number:** The serial number is a sequential 4 digit numeric field. The automated procurement system generates the serial number based upon the selected counter code. This means that more than one document may be numbered 0001 during the current fiscal year. Close attention must be paid to the counter code indicator.

**References:** FAR Subpart 4; CAR Subpart 4; CAM Chapter 1304.6

#### 4.4 Safeguarding Classified and Sensitive Information Within Industry

**Who** CS and COR

**What** Requirements for safeguarding classified/sensitive information and security requirements for contractor personnel working on-site at NOAA facilities

**When** Throughout the acquisition process

**Discussion:**

- (a) *Definitions.* “Contractor personnel” includes subcontractor personnel. “Perform(ing) under the contract” is either working on-site at a NOAA facility (including visiting a NOAA site for any reason) or having access to agency programmatic or sensitive information.
- (b) *Security and suitability.* There are three main elements of security at NOAA. They include protective, personnel and information systems security. The first two are involved with determining the suitability of contractor personnel.

In the acquisition planning phase of the acquisition, the COR and CS should discuss the need for contractor/subcontractor personnel to visit or work on-site at NOAA facilities and ensure that adequate start-up time is allowed in the process for securing necessary clearances.

- (c) *Protective and personnel security.* The DOC Office of Security (OSy) is responsible for physical and personnel security requirements at NOAA facilities. The appropriate OSy should be contacted to determine appropriate procedures and clearance requirements for permitting contractor/subcontractor personnel to have physical access to NOAA facilities. Also see Part 70.2 of this handbook.

The contract shall include the appropriate CAR clause(s) (CAR 1352.237-71 in high-risk contracts and CAR 1352.237-72 in low and moderate-risk contracts) in Section C of the contract.

The COR and CS should ensure that the contract allows adequate start-up time to obtain the necessary clearances.

(d) *Information security.* The Information Systems Security officer is located in the Office of the Chief Information Officer. The contract shall include the appropriate CAR Clauses (CAR 1352.239-73 and CAR 1352.239-74).

**References:** FAR Part 4, CAR Part 4, DOC IT Security Program Policy and Minimum Implementation Standards, NOAA IT security policies and IT security manual

**Exhibits:**

- 1 Review and Approval Levels for Solicitations and Contractual Awards
- 2 Conflict of Interest Certification
- 3 Acquisition Management Review
- 4 Arrangement of Contract Files

REVIEW AND APPROVAL LEVELS FOR SOLICITATIONS  
AND CONTRACTUAL AWARDS

WHAT	CONTRACTING OFFICER	CONTRACT REVIEW BOARD	LEVEL ABOVE THE CO	NOAA PROCUREMENT OFFICIAL	LEGAL
IFBs	All	Any requiring higher level approval to award	- Whenever CO is also the Contract Specialist - $\geq \$1,000,000$	$\geq \$2,500,000$	$> \$500,000$
RFPs	All	- Any requiring higher level approval to award - $\geq \$500,000$ - whenever allowing use of progress payments based on % or stage of completion (excluding construction or ship repair)	- Whenever CO is also the Contract Specialist - $\geq \$1,000,000$	$\geq \$2,500,000$	$> \$250,000$
RFQs	All				
Contract Award	All	- Any requiring higher level approval to award - $\geq \$500,000$	- Whenever CO is also the Contract Specialist - $\geq \$1,000,000$	$\geq \$2,500,000$	- Only when award is made to other than low offeror on sealed bid acquisitions - $\geq \$250,000$ on negotiated acquisitions
Non-competitive acquisitions	All	$\geq \$250,000$	- Whenever CO is also the Contract Specialist	$\geq \$500,000$	$> \$100,000$ excluding options; including 8(a)
				<b>NOAA</b>	

<b>WHAT</b>	<b>CONTRACTING OFFICER</b>	<b>CRB</b>	<b>LEVEL ABOVE THE CO</b>	<b>PROCUREMENT OFFICIAL</b>	<b>LEGAL</b>
Letter Contracts	All	≥ \$100,000	-Whenever CO is also the Contract Specialist - ≥\$1,00,000	≥\$1,000,000	>\$100,000
Contract Modifications	All	≥\$500,000 (excludes options, incremental funding actions)	- Whenever CO is also the Contract Specialist - ≥\$1,000,000	≥\$2,500,000 (excludes options, incremental funding actions)	Thresholds established in this matrix apply for acquisitions accomplished as modifications to an existing contract (e.g., amending the scope of a contract that increases value of the contract)
Settlement Agreements	All	>\$100,000	-Whenever CO is also the Contract Specialist - ≥\$100,000	≥\$2,500,000	≥\$100,000
Claims	All	N/A	-Whenever CO is also the Contract Specialist	≥\$2,500,000	All
Terminations	All	N/A	- Whenever CO is also the Contract Specialist	≥\$2,500,000	All
Protests – Responses To/Determinations	All	All	- Whenever CO is also the Contract Specialist	≥\$2,500,000	All
Stop Work Orders	All	All	- Whenever CO is also the Contract Specialist	N/A	N/A

For purposes of determining dollar value: in acquisitions including options, include the value of the base period/quantity/amount plus all options; in acquisitions with incremental funding, it is the total value regardless of amount funded; in acquisitions to be awarded as indefinite delivery/indefinite quantity, value is the maximum value of the quantity available for ordering under the contract (when options are included it is the value of the base period maximum quantity plus the value of the option maximum quantities); in acquisitions to be awarded as requirements-type contracts it is the total estimated value (when options are included it is the base period estimated value plus the option period estimated value(s)). Orders placed against Federal Supply Schedules and requirements contracts are exempt from the requirements of this matrix. Separate guidance is provided.

**CONFLICT OF INTEREST CERTIFICATION**

In order that I may participate in the review and approval process for (contract number) to (name of contractor), I have signed and dated this form where indicated. My signature will be considered a confirmation that the Certification Statement is accurate and true on my behalf. If such certification cannot be made, I am prohibited from participating in the review and approval of the contract.

**CERTIFICATION STATEMENT**

I certify that I do not have any personal, financial, or other interest in, or relationship to, the Contractor. I also certify that I am not biased for or against the contractor for any other reason.

\_\_\_\_\_  
Signature

**National Oceanic and Atmospheric Administration**

**Acquisition Management Review**

***Acquisition Management Review (AMR) Strategic Objectives:***

Identify strengths and problems within each office;

Reduce the number of systemic and isolated problems; and

Review and report on legislative, regulatory and policy compliance.

***Critical Outcomes:***

HCOs may submit responses informally and via e-mail to the Director, AGO, after receipt of the formal reports detailing the results of the AMR review. These responses will address each significant material weakness identified by the review team;

Best practices will be identified and shared with other operational divisions; and

Areas requiring additional policy guidance will be identified.

***Areas to be reviewed:***

Reviews will include contracts and contract modifications, awards following simplified acquisition procedures (SAP) including commercial items purchased under the test program, and Federal Acquisition Regulation (FAR) part 8 awards. Micropurchases will be included.

For each file examined, the reviewer will complete a detailed review checklist (Tab A) that includes (as appropriate) a narrative description of the strengths and weaknesses identified by the reviewer.

***NOTE:*** At the reviewer's discretion, the file review checklist in Tab B will be used for non-complex modifications.

***Contracts and Contract Modifications (not following SAP):***

Review will cover the following areas:

- Advance Acquisition Planning
- Acquisition Request/Request for Contract
- Solicitation;

- Proposal Evaluation;
- Discussions/Negotiations;
- Award; and
- Contract administration (including resolution of developing and current problems under the contract, checking for annual report card requirements and quarterly contract administration reports).

In addition to the general areas described above, the reviewer will check the file for compliance with the FAR, Agency requirements, NAOs and DAOs, and this Handbook.

***Awards Following SAP and FAR Part 8 Awards:***

Reviews will examine the following areas:

- File completeness;
- Compliance with competition requirements;
- Regulatory compliance;
- FAR, agency policies, and sound business practices; and
- Appropriate approvals

***Sampling Methodology and File Evaluation Methodology:***

*Sampling Methodology:*

The sampling methodology applied will include random sampling as well as non-random sampling. The sample will be selected from the 3 months preceding the review for the Division being reviewed. The sample can be expanded and the three month timeframe disregarded if the initial review of the selected contract action identifies problems.

Non-random reviews will be conducted on any acquisition that has received management or public scrutiny, or by special request of the operating office/division. After the file selection is completed, an analysis will be conducted to ensure that a disproportionate number of files from one contract specialist or contracting officer are not selected.

*File Evaluation Methodology:*

The file reviews conducted will cover those areas previously identified. Within these general areas reviewers will be looking for specific information contained (or not contained) in each file reviewed.

See Tabs A and B for the specific items to be reviewed.

Tabs:

Tab A – File Review Checklist

Tab B – Noncomplex Contract Modification File review Checklist

**FILE REVIEW CHECKLIST**

**AWARD NO.** \_\_\_\_\_

**AWARD DATE:** \_\_\_\_\_ **EFFECTIVE DATE:** \_\_\_\_\_

**CONTRACT SPECIALIST:** \_\_\_\_\_

**CONTRACTING OFFICER:** \_\_\_\_\_

**CONTRACTOR:** \_\_\_\_\_

**AWARD AMOUNT:** \_\_\_\_\_ **SYSTEMS LIFE AMOUNT:** \_\_\_\_\_

**CONTRACT TYPE:** \_\_\_\_\_

**PERIOD OF PERFORMANCE (INCLUDING OPTIONS)** \_\_\_\_\_

**BRIEF DESCRIPTION OF ITEM BEING ACQUIRED:** \_\_\_\_\_

\_\_\_\_\_

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**OVERALL FILE CONTENTS (CHECK APPLICABLE BOXES):**

- |  |   |
|--|---|
| <input type="checkbox"/> <b>Advance Acquisition Planning</b>             | <input type="checkbox"/> <b>Discussions/Negotiations</b>      |
| <input type="checkbox"/> <b>Acquisition Request/Request for Contract</b> | <input type="checkbox"/> <b>Award</b>                         |
| <input type="checkbox"/> <b>Proposal Evaluation</b>                      | <input type="checkbox"/> <b>Contract Administration</b>       |
| <input type="checkbox"/> <b>Past Performance Evaluation</b>              | <input type="checkbox"/> <b>Tradeoff Analysis</b>             |
|  | <input type="checkbox"/> <b>Performance-Based Contracting</b> |

**BEST PRACTICES IDENTIFIED: (DISCUSS AS APPROPRIATE)**

**COMMENT(S):**

**NOTES AND OBSERVATIONS:**

## ADVANCE ACQUISITION PLANNING

	<b>YES</b>	<b>NO</b>	<b>N/A</b>
Acquisition Milestone Plan Required	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Acquisition Milestone Plan Prepared	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Narrative Acquisition Plan Required	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Narrative Acquisition Plan Prepared	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Acquisition Plan Content Meets Agency Requirements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Acquisition Plan signed by COR, CO and Approving Official	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Market Research Accomplished	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appropriate Acquisition Strategy Selected/Justified	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

## ACQUISITION REQUEST(AR)/REQUEST FOR CONTRACT (RFC)

	<b>YES</b>	<b>NO</b>	<b>N/A</b>
Adequate and properly approved JOFOC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Budget/Funds Approval	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent Government Cost Estimate (IGCE)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SADBUS Review in File	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Justification for Providing Government Property	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Evaluation Criteria Included	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Formal Source Selection Process or Waiver	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

## SOLICITATION

	YES	NO	N/A
<input type="checkbox"/> Competitive			
<input type="checkbox"/> Noncompetitive			
<input type="checkbox"/> Small Business Set-Aside			
<input type="checkbox"/> 8(a) Competitive			
<input type="checkbox"/> 8(a) Noncompetitive			
<input type="checkbox"/> Construction			
<input type="checkbox"/> Architect/Engineering			
Adequate Specifications/SOW	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does COR have required training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Synopsis published	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Presolicitation Conference	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Solicitation period consistent with regulations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proper contract type	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wage determination required/incorporated into solicitation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appropriate clauses and provisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representations and certifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cost/pricing data requested (justification)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appropriate evaluation criteria	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Award selection methodology clearly stated	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Justification for use of options	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Option Evaluation clearly stated	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If IDIQ, min/max for contract clearly stated	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If IDIQ, min/max per order clearly stated	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Order provisions included	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Liquidated damages rate substantiated & not a penalty	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requirement for bid, performance/payment bonds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requirements for insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Security background checks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

## PROPOSAL EVALUATION

	<b>YES</b>	<b>NO</b>	<b>N/A</b>
Late proposals handled properly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Abstract of offers prepared properly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the Technical Evaluation Team been briefed on review process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Technical evaluation report in the file	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Evaluation consistent with stated criteria	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Composite evaluation rating sheet in file	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Narrative discussion of proposals including strengths/weaknesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Competitive range determination made	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Offerors in range notified for proposal deficiencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Offerors outside range notified promptly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

## DISCUSSIONS/NEGOTIATIONS COST/PRICING DATA

	<b>YES</b>	<b>NO</b>	<b>N/A</b>
Cost or Pricing Analysis in File	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Negotiations/Exchanges conducted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Summary of Award	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

## AWARD

	YES	NO	N/A
List of Parties Excluded from Procurement Programs checked	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
On-site preaward survey conducted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Written affirmative determination of responsibility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Determination of price reasonableness	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Award decision documented	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Preaward notification to unsuccessful offerors under small business set aside	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
EEO clearance required and obtained (over \$10M)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Organizational conflict of interest certification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Award input into C-Stars/FPDS-NG	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FedBizOps contract award announcement published	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
File documented concerning VETS-100 reporting requirement as required	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Congressional notification of award over \$3M	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unsuccessful offerors notified promptly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disposition of protests	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Debriefings conducted and documented	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Evidence that DOL Wage Notice Poster was furnished to Kr.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disclosure of lobbying activities (OMB Form LLL)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Review of Subcontracting Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was proposed award reviewed by appropriate approving official(s)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were all issues identified in pre-award review resolved appropriately?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

**TIMELINESS FACTORS**

	<b>YES</b>	<b>NO</b>	<b>N/A</b>
Type of Acquisition Action Milestone(s) met	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, check item(s) below that applies:			
<input type="checkbox"/> Poor statement of work/purchase description			
<input type="checkbox"/> Lack of clear understanding of what was being agreed to by the parties			
<input type="checkbox"/> Other			

Comments:

**CONTRACT ADMINISTRATION**

	<b>YES</b>	<b>NO</b>	<b>N/A</b>
Annual Report Card in contract	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monthly Contract Administration Report in file	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**NONCOMPLEX CONTRACT MODIFICATION**

**FILE REVIEW CHECKLIST**

	<b>YES</b>	<b>NO</b>	<b>N/A</b>
Funding citation identified and certified	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proper authority cited for modification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Memorandum in file explaining the basis for actions taken	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Required approvals obtained and contained in file	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
For options:			
- D&F to justify exercising	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
- Price determination that option still best deal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
- Required notice provided	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
- Awarded consistent with contract terms and conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Modification proper in every way	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Type of Acquisition Action milestone(s) met?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, check item(s) below that applies:			
<input type="checkbox"/> Poor SOW/purchase description			
<input type="checkbox"/> Lack of clear understanding of what was being agreed to			
<input type="checkbox"/> Other			

Comments:

## ARRANGEMENT OF CONTRACT FILES

### File Format Using Multi-Tab Folders

Inside Front Cover	Basic Contract Pre-Award Documentation (tabbed with completed Contract File Index on top)
Front – 1 <sup>st</sup> Tab	Basic Contract and Modifications (individually tabbed, basic contract on bottom; modifications filed in inverse order (highest number on top); completed Contract Summary Sheet on top)
Back – 1 <sup>st</sup> Tab	Modification back-up documentation tabbed using Contract File Index and topped by a tab with appropriate Mod. No. inserted (backup should be filed by modification in inverse order—highest number on top)
Front – 2 <sup>nd</sup> Tab	Contract deliverables/administration documentation
Back – 2 <sup>nd</sup> Tab	Invoices
Inside Back Cover	Reports; miscellaneous correspondence

ID/IQ Contracts: Task/Delivery Orders and their supporting documentation need to be filed in separate files utilizing the same filing and tabs instructions ((e.g., back-up documentation tabbed and complete on the left inside cover; award document on the right hand side). There should be in the administration documentation in the contract file an index of delivery/task orders issued against the contract that identifies what folder they can be found in (e.g., 2 of 2; 3 of 4, etc.). It would be permissible to have a separate file for task/delivery orders (and their supporting documentation) that contained multiple T/DOs as long as that file did not become too bulky and cumbersome to work with.

**PART I**

**BASIC CONTRACT AWARD SUPPORT  
DOCUMENTATION**

(PLACE THIS DOCUMENTATION ON THE INSIDE OF THE  
FOLDER'S LEFT-HAND SIDE. FILE **ONLY**  
ON THE LEFT-HAND SIDE OF THE FOLDER;  
USE MULTIPLE FOLDERS (e.g., 1A, 1B, 1C, etc.) IF  
THE DOCUMENTATION IS SIZABLE

## **SAMPLE CONTRACT FILE INDEX**

NOTE: We have completed this index and the corresponding tabs to serve as a guide only.

You may duplicate the Contract File Index.

**CONTRACT FILE FOLDER  
CROSS-REFERENCE INDEX**

**CONTRACT NUMBER \_\_\_\_\_**

Contract File Folder No. 1	Basic Contract Document and Modifications
Contract File Folders No. 1A and 1B	Basic Contract Award Support documentation
Contract File Folder No. 2	Contract Modification Support Documentation
Contract File Folder No. 3	Contract Deliverables, Performance Reports, Subcontracting Reports, Invoices, Correspondence And Other Contract Administration Documentation
Contract File Folder No. 4	Solicitation, Amendments, and Related Documentation
Contract File Folder No. 5	Technical Evaluation Reports for Basic Contract Award
Contract File Folder No. 6	Price/Cost Evaluation Reports for Basic Contract Award
Contract File Folders No. 7 and 7A	Successful Offeror's Bid or Proposal
Contract File Folders No. 8 thru 11	Unsuccessful Offerors' Bids or Proposals

## CONTRACT FILE INDEX

Solicitation No. \_\_\_\_\_ Contract No. \_\_\_\_\_  
 Mod. No. \_\_\_\_\_

<b>TAB    ACTIVITY</b>	<b>TAB    ACTIVITY</b>
<input type="checkbox"/> Market research	<input type="checkbox"/> Successful bid or proposal
<input type="checkbox"/> Acquisition planning	<input type="checkbox"/> Non-price/cost factors evaluation
<input type="checkbox"/> Acquisition request	<input type="checkbox"/> Price or cost analysis
<input type="checkbox"/> Presolicitation special approvals: <input type="checkbox"/> JOFOC <input type="checkbox"/> JAUP <input type="checkbox"/> FAR Part 8 Waivers <input type="checkbox"/> others	<input type="checkbox"/> Competitive range determination
<input type="checkbox"/> Presolicitation determinations: <input type="checkbox"/> GF property/facilities/telephone <input type="checkbox"/> Buy American Act <input type="checkbox"/> deviations <input type="checkbox"/> Advance payments <input type="checkbox"/> others <input type="checkbox"/> use of options	<input type="checkbox"/> Exchanges with offerors after receipt of proposals
<input type="checkbox"/> Wage determinations <input type="checkbox"/> Service Contract Act <input type="checkbox"/> Davis-Bacon Act	<input type="checkbox"/> Best value tradeoff process analysis
<input type="checkbox"/> Socioeconomic Considerations <input type="checkbox"/> Sadbus Review <input type="checkbox"/> SBA 8(a) Set-aside <input type="checkbox"/> Subcontracting plan <input type="checkbox"/> SBA Certificate of Competency	<input type="checkbox"/> Certificate of current cost or pricing data
<input type="checkbox"/> Contractor vs govt. performance	<input type="checkbox"/> Preaward eeo clearance
<input type="checkbox"/> Presolicitation synopsis/notice	<input type="checkbox"/> Disclosure of lobbying activities
<input type="checkbox"/> Solicitation document & review(s) (includes amendments to sol.)	<input type="checkbox"/> Responsibility documentation
<input type="checkbox"/> Exchanges w/industry before receipt of offers	<input type="checkbox"/> Summary of award/negotiation memorandum
<input type="checkbox"/> Recording of bids/proposals	<input type="checkbox"/> Source selection decision
	<input type="checkbox"/> Preaward review(s) and approval
	<input type="checkbox"/> Notice to unsuccessful offerors
	<input type="checkbox"/> Award synopsis/notices of award
	<input type="checkbox"/> Designation of COR
	<input type="checkbox"/> FPDS-NG printout

Prepared By: \_\_\_\_\_ Date: \_\_\_\_\_

**BASIC FILE**

TAB	CONTENTS	REFERENCE
1	<p><b><u>Market Research</u></b>            Information and documentation pertaining to the market research that was conducted for the acquisition in question should be filed under this Tab. The intent of the market research is to determine if commercial item/services or non-developmental items are available to meet the Government’s needs or could be modified to meet the Government’s needs, which then permits utilization of the policies and procedures in FAR Part 12. If market research establishes that the Government’s needs cannot be met by a type of item or service customarily available in the commercial marketplace, then <b>do not</b> use Part 12. The extent of market research will vary depending on such factors as urgency, estimated dollar value, complexity and past experience.</p> <p><b><u>NOTE:</u></b> Justifications for Other Than Full and Open Competition (JOFOC) require a description of the market research conducted (see FAR Part 10) and the results <b><u>or</u></b> a statement of the reason you did not perform market research.</p>	<p>FAR Part 10            FAR 10.002(d)(1), (2), and (e)            FAR 12.101            FAR 7.102(a)</p> <p>FAR 6.303-2(a)(8)</p>
2	<p><b><u>Acquisition Planning</u></b></p> <p>» Acquisition planning information – Milestone Plan</p> <p>» Written/narrative acquisition plan</p> <p><b><u>(NOTE:</u></b> A written/narrative acquisition plan is <b><u>required</u></b> for any <b><u>new contract.</u></b>) <b><u>(Suggestion:</u></b> To avoid writing a separate determination, include rationale for a single award indefinite quantity-indefinite delivery contract in the written/narrative acquisition plan.)</p>	<p>FAR Part 7            CAR Part 7            CAM Part 7, Chapter 1</p> <p>FAR 4.803(a)(1)</p> <p>FAR 7.105</p>
3	<p><b><u>Acquisition Request</u></b></p> <p>» Acquisition Request (AR), Form CD-435 (evidences availability of funds certification)</p> <p>» Statement of Work (SOW)/Statement of Objectives (SOO)/Specifications</p>	<p>FAR 4.803(a)(1) and (2)</p> <p>FAR 10.002(a)            FAR Part 11            FAR 35.005 (R&amp;D)</p>

	<p>» Other appropriate pre-solicitation documents necessary for the acquisition, such as:</p> <ul style="list-style-type: none"> <li>- Period of performance (including options)/desired or required delivery schedule</li> <li>- Government estimate of cost</li> <li>- Technical evaluation criteria and instructions</li> <li>- Schedule of deliverables and reporting requirements</li> <li>- Reference material(s) (if any)</li> <li>- Statement as to CORs' satisfaction of training requirements</li> <li>- List of Government-furnished property or facilities (if any)</li> <li>- Special terms and conditions (if any)</li> <li>- Recommended source list</li> <li>- Data for future acquisitions (if any)</li> <li>- Personnel security and suitability requirements</li> </ul>	<p>FAR 4.803(a)</p> <p>FAR 4.803(a)(9)</p>
4	<p><b><u>Presolicitation Special Approvals</u></b></p> <ul style="list-style-type: none"> <li>» Paid Advertising</li> <li>» Printing</li> <li>» JOFOC</li> <li>» Brand Name Purchase Descriptions</li> <li>» Justification for Acceptance of Unsolicited Proposal (JAUP)</li> <li>» Justification for Bid Samples</li> </ul>	<p>FAR 4.803(a)(2)</p> <p>FAR 5.502</p> <p>FAR 8.802</p> <p>FAR 6.303-2 FAR 6.304</p> <p>FAR 6.302-1(c) FAR 11.104</p> <p>FAR 6.3 FAR 15.607(b)(2)</p> <p>FAR 14.202-4(d)</p>

	<ul style="list-style-type: none"> <li>» Justification for Bid Descriptive Literature</li> <li>» Mandatory GSA FSS Waiver</li> <li>» Federal Prison Industries/UNICOR Waiver</li> <li>» National Industries for the Blind (NIB)/National Institutes for the Severely Handicapped (NISH) Waiver</li> </ul>	<p>FAR 14.202-5(c)</p> <p>FAR 8.404-3</p> <p>FAR 8.605(a)</p> <p>FAR 8.705-1(a)</p>
<b>5</b>	<p><b><u>Presolicitation Determinations</u></b></p> <ul style="list-style-type: none"> <li>» Providing Government-Furnished Property, Facilities, Office Space/Telephone Service</li> <li>» Advance Payments</li> <li>» Use of Letter Contract</li> <li>» Buy American Act</li> <li>» Excluding Source or Sources</li> <li>» Justification for the use of options</li> <li>» Determination to exclude options in the evaluation of options</li> <li>» Authority for deviations from FAR, statutory requirements, or other restrictions</li> <li>» Determination to use one of the following contract types: <ul style="list-style-type: none"> <li>- Fixed-price with economic price adjustment</li> <li>- Fixed-ceiling price with retroactive price re-determination</li> <li>- Firm-fixed-price, level-of-effort term</li> <li>- Time and materials or labor hour</li> <li>- Single award indefinite quantity-indefinite delivery contract. (NOTE: To avoid writing a separate determination, include rationale for a single award indefinite quantity-indefinite delivery contract in the</li> </ul> </li> </ul>	<p>FAR 4.803(a)(2)</p> <p>FAR 45.302-1</p> <p>FAR 32.402(c)</p> <p>FAR 16.603-3</p> <p>FAR 25.101 FAR 25.201</p> <p>FAR 6.202(a) and (b)</p> <p>FAR 17.205(a)</p> <p>FAR 17.206(b)</p> <p>FAR 1.4 FAR 4.803(a)(23)</p> <p>FAR 16.203-3</p> <p>FAR 16.206-3(d)</p> <p>FAR 16.207-3(d)</p> <p>FAR 16.601(c)(1)</p> <p>FAR 16.504(c)</p>

	<p>written/narrative acquisition plan under Tab 2)</p> <ul style="list-style-type: none"> <li>- Determination to exclude past performance as an evaluation factor</li> <li>- Determination to use FAR 52.215-2, “Audit and Records—Negotiation,” with its Alternate III in contracts with foreign contractors</li> <li>- Authorization to award contract or class of contracts for sanctioned European Union end products, services, construction</li> </ul>	<p>FAR 15.101-2(b)(1)</p> <p>FAR 15.209(b)(4)</p> <p>FAR 25.602(b)(1)</p>
<b>6</b>	<p><b><u>Wage Determinations</u></b></p> <p>» Service Contract Act of 1965</p> <ul style="list-style-type: none"> <li>- Request for Wage Determination</li> <li>- DOL Wage Determination</li> <li>- Inapplicability of Service Contract Act to <i>bona fide</i> executive, administrative, or professional services (as defined in Part 541 of Title 29, <i>Code of Federal Regulations</i>)</li> <li>- Exemptions from Service Contract Act</li> </ul> <p>» Davis-Bacon Act</p> <ul style="list-style-type: none"> <li>- DOL General Wage Determination</li> <li>- DOL Project Wage Determination (SF-308)</li> </ul>	<p>FAR 22.1007 FAR 37.107</p> <p>FAR 22.1101</p> <p>FAR 22.1003-3 FAR 22.1003-4</p> <p>FAR 22.403-1 FAR 22.404-2(a) FAR 37.301</p> <p>FAR 22.404-1(a)</p> <p>FAR 22.404-1(b) FAR 22.404-3(b)</p>
<b>7</b>	<p><b><u>Socioeconomic Considerations</u></b></p> <p>» Review by SADBUS/Set-Aside Determination</p> <p>» Small Business Set-Aside</p> <ul style="list-style-type: none"> <li>- Total set-aside</li> <li>- Partial set-aside</li> </ul>	<p>FAR 4.803(a)(6)</p> <p>FAR 4.803(a)(6) FAR 19.5</p> <p>FAR 19.502-2</p> <p>FAR 19.502-3</p>

	<p>» Withdrawal or modification of set-aside determination</p> <p>» Contracting with the Small Business Administration (SBA) (the 8(a) program)</p> <ul style="list-style-type: none"> <li>- agency offering letter</li> <li>- SBA Acceptance</li> </ul> <p>» Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan. Reference FAR 19.7 for current thresholds</p> <ul style="list-style-type: none"> <li>- Request for SADBUS review of subcontracting plan</li> <li>- SADBUS review of and concurrence with subcontracting plan</li> <li>- Determination that no subcontracting opportunities exist</li> </ul> <p>» Certificate of Competency (COC) from SBA</p>	<p>FAR 19.506</p> <p>FAR 19.8</p> <p>FAR 19.804-2</p> <p>FAR 19.804-3</p> <p>FAR 19.7</p> <p>FAR 19.705-4(d)(6) FAR 19.705-5(a)(3)</p> <p>FAR 19.705-4(d)(6) FAR 19.705-5(a)(3)</p> <p>FAR 19.705-2(c)</p> <p>FAR 4.803(a)(15) FAR 9.105-2(a)(2) FAR 19.6</p>
<b>8</b>	<p><b><u>Contractor vs. Government Performance (OMB Circular A-76)</u></b></p> <p>» Current threshold is new contracts in excess of the amount specified in</p> <p>» Decision to contract out a new <i>requirement</i> may be <i>partially</i> based on the use of an action awarded under a preferential acquisition program (e.g., FPI/UNICOR, NIB/NIS, GSA/FSS, SBA 8(a) Program, Small Business Set Aside) at a fair and reasonable price/cost. Decision to continue to contract out an <i>existing</i> contracted-out activity may be based on a determination that the current contract cost-price is fair and reasonable <i>and</i> that contractor performance is satisfactory. These decisions/determinations <i>shall</i> be documented in the contract file</p>	<p>OMB Circular A-76 FAR 7.3</p>

<p><b>9</b></p>	<p><b><u>Presolicitation Synopsis(es)/Notice(s)</u></b></p> <p>» Synopsis of proposed acquisition/contract action</p> <ul style="list-style-type: none"> <li>- Streamlined synopsis/solicitation for commercial item/service</li> <li>- Exception(s) to synopsis requirement</li> <li>- Determination that advance notice is not appropriate or reasonable</li> <li>- Special Situations (e.g., advance notices for research and development (R&amp;D), proposed establishment of Federally funded research and development centers (FFRDC), special notices (i.e., business fairs, long-range acquisition estimates, pre-bid/pre-proposal conferences, the availability of draft solicitations or draft specifications for industry review and comment, and meetings), architect-engineering (A&amp;E) services, effort to locate commercial sources under OMB Circular A-76 procedures, and competitive SBA 8(a) Program acquisitions).</li> <li>- Publicizing subcontracting opportunities</li> </ul> <p>» Presolicitation Notice</p> <p>» Paid Advertisements</p>	<p>FAR 4.803(a)(4)</p> <p>FAR 5.201</p> <p>FAR 12.603</p> <p>FAR 5.202(a)</p> <p>FAR 5.202(b)</p> <p>FAR 5.205</p> <p>FAR 5.206</p> <p>FAR 5.204 FAR 15.201(c)(5) FAR 36.211 FAR 36.213-2</p> <p>FAR 5.5</p>
<p><b>10</b></p>	<p><b><u>Solicitation Mailing List</u></b></p> <p>» List of firms or persons requesting copies of solicitation</p> <p>» List of firms or persons whose request for copies of the solicitation you denied, together with the reasons for denial</p>	<p>FAR 4.803(a)(5) FAR 14.204(b)</p>
<p><b>11</b></p>	<p><b><u>Solicitation Document and Review(s)</u></b></p> <p>» File the complete set of the solicitation, together with all enclosures and reference materials, under this Tab</p>	<p>FAR 4.803(a)(8) FAR 14.201</p>

	<p>» Copies of any and all amendments to the original solicitation</p> <p>» Review (comments) and approval of the solicitation document by appropriate review board/officials</p> <p>» Review (comments) of the solicitation document by the COR</p> <p>» Review (comments) of the solicitation document by the Office of General Counsel</p>	<p>FAR 15.203</p> <p>FAR 4.803(a)(8)</p> <p>FAR 14.208</p> <p>FAR 15.206</p>
12	<p><b><u>Exchanges with Industry Before Receipt of Bids or Proposals</u></b></p> <p>Records or documentation pertaining to exchanges with industry before receipt of bids or proposals should be filed under this tab. Examples of such exchanges include, but are not necessarily limited to:</p> <ul style="list-style-type: none"> <li>- Presolicitation notices</li> <li>- Draft solicitations</li> <li>- Requests for Information (RFIs)</li> <li>- Presolicitation conference</li> <li>- Pre-bid or pre-proposal conference</li> <li>- One-on-one meetings with potential offerors</li> <li>- Site visits</li> <li>- Vendor inquiries concerning a specific solicitation</li> </ul>	<p>FAR 14.207</p> <p>FAR 15.201</p>
13	<p><b><u>Record of Bids or Proposals</u></b></p> <p>» SF 1409 – Abstract of Offers (applies to sealed bids received in response to an Invitation for Bid (IFB).  <b>NOTE:</b> Also use this for recording the receipt of proposals received in response to a Request for Proposal (RFP) for negotiated acquisitions.</p>	<p>FAR 4.803(a)(10)</p> <p>FAR 14.403(a)</p> <p>FAR 53.301-1409</p>

	<p>» OF 1419 – Abstract of Offers – Construction</p> <p>» Record(s) of late bid(s)</p> <p>» Record(s) of late proposal(s), proposal modification(s), proposal revision(s), response(s) to requests for information</p> <p><b>NOTE:</b> Complete an abstract even if you received only one bid or proposal</p>	<p>FAR 14.403(a) FAR 36.701(d) FAR 53302-1419</p> <p>FAR 14.304(b)(1)</p> <p>FAR 15.208(f)</p>
<b>14</b>	<p><b><u>Unsuccessful Bids or Proposals</u></b></p> <p>Retain copies of unsuccessful bids or proposals. Make them part of the official contract file.</p> <p>At a minimum, maintain the following:</p> <ul style="list-style-type: none"> <li>- Completed solicitation Sections A, B, and K (Uniform Contract Format); <b><i>or</i></b> SF 1449, Addendum B , and FAR Clause 52.212-3 (Offeror Representations and Certifications-Commercial Items) when acquiring commercial items/services</li> <li>- Technical and management proposals</li> <li>- Cost or price proposals</li> <li>- Any other page(s) of the solicitation that the offeror(s) altered or annotated</li> </ul>	<p>FAR 4.803(a)(10) FAR 4.805(b)</p> <p>FAR 4.803(a)(10)(i)</p> <p>FAR 4.803(a)(10)(ii)</p> <p>FAR 4.803(a)(10)(iii)</p> <p>FAR 4803(a)(10)(iv)</p>
<b>15</b>	<p><b><u>Successful Bid or Proposal</u></b></p> <p>Retain a complete copy of the successful bid (including any and all modification(s) made thereto) or proposal (including any and all modification(s) made thereto).</p> <p>As appropriate, file the following under this tab:</p> <ul style="list-style-type: none"> <li>- Bid Guarantees</li> <li>- Performance and Payment Bonds (received by the</li> </ul>	<p>FAR 4.803(a)(10) and (11) FAR 4.805(b)</p> <p>FAR 15.001 FAR 15.307</p> <p>FAR 4.803(a)(30) FAR 28.101-1</p> <p>FAR 4.803(a)(30)</p>

	<p>Government subsequent to award, but prior to performance of work under the contract)</p> <p>- Evidence of insurance coverage (received by the Government subsequent to award, but prior to performance of work under the contract)</p>	<p>FAR 28.102 FAR 28.103</p> <p>FAR 52.228-5 FAR 52.228-8 FAR 52.237-7</p>
<b>16</b>	<p><b><u>Non-Price/Cost Factors Evaluation</u></b></p> <p>» Negotiated Acquisition</p> <p>As appropriate, file the following documentation under this tab:</p> <p>- Evaluation plan</p> <p>- Evaluation Panel members</p> <p>- COR's and Evaluation Panel Members' Training</p> <p>- Conflict of Interest Certification(s)</p> <p>- Use of Outside Evaluators</p> <p>- Instructions to COR/Evaluation Panel Providing Procedures for Handling and Disclosing Proposals</p> <p>- Request for Evaluation (Transmittal memo)</p> <p>- Evaluation Report</p> <p>- Evaluation Rating Sheets</p> <p>» A&amp;E Acquisition</p> <p>- Approval of A&amp;E Pre-selection and evaluation board</p> <p>- A&amp;E Pre-selection and evaluation board members' Conflict of Interest Certification(s)</p> <p>- Request for Evaluation by A&amp;E Pre-Selection Committee</p> <p>- A&amp;E Pre-Selection Committee Report</p> <p>- Request for Evaluation by A&amp;E Evaluation Board</p>	<p>FAR 15.305(a) FAR 15.404-1(e)</p> <p>FAR 37.204</p> <p>FAR 36.602</p>

	<ul style="list-style-type: none"> <li>- A&amp;E Evaluation Board Selection Report</li> <li>- A&amp;E Evaluation Board Final Selection Listing</li> <li>- Review/Approval of Final A&amp;E Firm(s) by Selection Authority</li> </ul>	
<b>17</b>	<p><b><u>Price of Cost Analysis</u></b></p> <p>» Contract Specialist's <b><i>independent</i></b> price or cost analysis. Support this analysis by using one or more of the following:</p> <ul style="list-style-type: none"> <li>- AGO Cost Analysis and Pricing Report</li> <li>- Field Pricing Support (DCAA)</li> <li>- COR's/Technical Evaluation Panel's opinion/technical analysis relative to price/cost</li> </ul> <p>» Cost realism analysis (required for cost-reimbursement contracts in order to determine probable cost of performance for <b><i>each offeror</i></b>)</p> <p>» Buy American Act – Unreasonable Price of Domestic End Product</p>	<p>FAR 4.803(a)(19)</p> <p>FAR 14.408-2 FAR 15.404</p> <p>FAR 4.803(a)(20) FAR 15.404-1</p> <p>FAR 4.803(a)(20) FAR 15.404-2(a)</p> <p>FAR 15.404-1(e)</p> <p>FAR 15.404-1(d)</p> <p>FAR 25.105(c)</p>
<b>18</b>	<p><b><u>Competitive Range Determination</u></b> (unless making award without discussions)</p>	FAR 15.306(c)
<b>19</b>	<p><b><u>Exchanges with Offerors After Receipt of Proposals (if applicable)</u></b></p> <p>Records of/documentation pertaining to exchanges with industry after receipt of proposals should be filed under this tab. Examples of such exchanges include:</p> <ul style="list-style-type: none"> <li>» Clarifications (when award is made <b><i>without</i></b> discussions)</li> <li>» Communications with offerors <b><i>before</i></b> establishment of the competitive range</li> <li>» Exchanges with offerors <b><i>after</i></b> establishment of the competitive range</li> </ul>	<p>FAR 15.306</p> <p>FAR 15.306(a)</p> <p>FAR 15.306(b)</p> <p>FAR 15.306(d)</p>
<b>20</b>	<p><b><u>Best Value Tradeoff Process Analysis (if applicable)</u></b></p>	FAR 15.101-1

<p>21</p>	<p><b><u>Certificate of Current Cost or Pricing Data</u></b></p> <p>» Fully executed/signed Certificate of Current Cost of Pricing Data. Reference FAR 15.403 for current threshold</p> <p>» Documentation in support of exception(s) to, or waiver from, requirement for submission of Certificate of Current Cost or Pricing Data</p>	<p>FAR 4.803(a)(17)\ FAR 15.406-2</p> <p>FAR 15.403-4(a)(1) FAR 15.406-2</p> <p>FAR 15.403-1(b) FAR 15.403-1(c) FAR 15.403-1(c)(4)</p>
<p>22</p>	<p><b><u>Preaward Equal Employment Opportunity (EEO) Clearance (if applicable)</u></b></p> <p>» Request to appropriate regional DOL office for <b><u>non-construction</u></b> contracts and subcontracts at or above the current threshold.* This also includes modifications to contracts if the modification is at or above the current threshold* <b><u>or</u></b> a modification which will increase the aggregate value of a existing contract at or above the current threshold.*</p> <p>» Request to appropriate regional DOL office for <b><u>construction</u></b> contracts and subcontracts at or above the current threshold.* This also includes modifications to contracts if the modification is at or above the current threshold* <b><u>or</u></b> a modification which will increase the aggregate value of a existing contract at or above the current threshold.*</p> <p>*Reference FAR 22.804-2 and 22.805(a) for current thresholds</p> <p>» DOL EEO clearance/approval</p>	<p>FAR 4.803(a)(16) FAR 22.805</p> <p>FAR 22.805(a)(1) and (2)</p> <p>FAR 22.804-2(b)</p>
<p>23</p>	<p><b><u>Disclosure of Lobbying Activities</u></b></p> <p>» Preaward disclosure of lobbying activities</p> <p>» Original disclosure form (OMB Standard Form LLL, “Disclosure of Lobbying Activities”) submitted by the successful offeror</p>	<p>FAR 3.803(a) FAR 3.804 FAR 52.203-11 FAR 52.203-12</p>
<p>24</p>	<p><b><u>Responsibility Documentation (if applicable)</u></b></p> <p>» Contracting Officer’s Determination of</p>	<p>FAR 4.803(a)(12) and (14)</p> <p>FAR 9.105-2(a) and (b)</p>

	<p>Nonresponsibility</p> <p>» Preaward Survey Report</p> <p>» Determination – Mistake before award</p> <p>» Sealed Bids – documentation of award, responsibility determination, reasonableness of price, fewer than three bids, equal low bids drawing</p>	<p>FAR 4.803(a)(12) FAR 9.105-2(b) FAR 9.106-4</p> <p>FAR 14.407-3</p> <p>FAR 14.408-1 FAR 14.408-2 FAR 14.408-7 FAR 14.408-6(b)</p>
<b>25</b>	<p><b><u>Summary of Award/Negotiation Memorandum</u></b></p> <p>» Summary of Award (without discussion)</p> <p>» Summary of Award (with discussions/negotiations; therefore, a negotiation memorandum is required by FAR 15.406-3)</p>	<p>FAR 4.803(a)(14) FAR 9.105-2(a) and (b)</p> <p>FAR 4.803(a)(14) FAR 4.803(a)(21) FAR 9.105-2(a) and (b) FAR 15.406-3</p>
<b>26</b>	<p><b><u>Source Selection Decision</u></b></p> <p>» Source selection decision when Contracting Officer is the Source Selection Authority</p> <p>» Formal source selection procedures (FSSP) documentation or decision not to use FSSP</p>	<p>FAR 4.803(a)(13)</p> <p>FAR 15.303(a) FAR 15.308</p> <p>FAR 15.303(a) FAR 15.308</p>
<b>27</b>	<p><b><u>Preaward Review and Approval</u></b></p> <p>» Review and approval of contracts</p> <p>» Review and approval of contract modifications</p> <p>» Review of contracts and modifications by the Office of General Counsel</p>	<p>FAR 4.803(a)(24)</p>
<b>28</b>	<p><b><u>Notice to Unsuccessful Bidders/Offerors</u></b></p> <p>» Pre-award notices</p> <p>- Pre-award notices of exclusion from competitive range</p> <p>- Pre-award notice for small business set-asides</p>	<p>FAR 4.803(a)(28) FAR 14.409 FAR 15.503</p> <p>FAR 15.503(a)(1)</p> <p>FAR 15.503(a)(3)</p>

	» Post-award notices	FAR 14.409-1 FAR 15.503(b)
<b>29</b>	<p><b><u>Award Synopsis/Notice of Award</u></b></p> <p>» FedBizOpps Synopsis</p> <p>» Public announcements</p> <p>» Notice of Award – Construction</p> <p>» Miscellaneous Award Information</p> <p>- Office of Legislative and Constituent Affairs/Congressional Relations Staff – Basic contract awards (exclusive of options), contract modifications/delivery orders exceeding the threshold stated in FAR 5.303</p> <p>- Notice to Senior Staff – Contracts awarded as determined by the Director, AGO</p>	<p>FAR 4.803(a)(27)</p> <p>FAR 5.301(a) FAR 5.302</p> <p>FAR 5.303(a)</p> <p>FAR 36.213-4</p> <p>FAR 5.303(a)</p>
<b>30</b>	<p><b><u>Designation of COR</u></b></p> <p>» Copies of appointment memoranda to COR and signed acknowledgement of receipt of appointment memoranda</p> <p>» Copy of letter to successful offeror advising of responsibilities and limitations of Government personnel</p> <p>» Notice of Award – Construction</p>	<p>FAR 36.213-4</p>
<b>31</b>	<p><b><u>Miscellaneous Correspondence</u></b></p> <p>» Any miscellaneous correspondence not applicable under other tabs</p> <p>» Pre-award Protest(s) documentation</p> <p>- Contracting Officer/Agency Protest</p> <p>- Protest to General Accounting Office (GAO)</p>	<p>FAR 33.1</p> <p>FAR 33.103</p> <p>FAR 33.104</p>
<b>32</b>	<p><b><u>Pre-award/Post-award Debriefing(s)</u></b></p> <p>» Summary of any pre-award debriefing(s) together with all memos, letters, and other documentation related to the debriefing(s)</p>	<p>FAR 4.803(a)(28)</p> <p>FAR 15.505 FAR 36.607(b)</p>

	» Summary of any post-award debriefing(s) together with all memos, letters, and other documentation related to the debriefing(s)	FAR 15.506
<b>33</b>	<b><u>Contract File Folder Cross-Reference Index</u></b>  This tab shall contain a contract file folder cross-reference index when more than one contract file folder is used	FAR 4.803(a)(39)

## ARRANGEMENT OF CONTRACT FILES

### PART II

#### CONTRACT AND CONTRACT MODIFICATION DOCUMENTS

(PLACE THIS DOCUMENTATION ON THE INSIDE OF THE FOLDER'S RIGHT-HAND SIDE. IF YOU USE A SEPARATE FOLDER FOR THIS DOCUMENTATION, PLACE FILE TAB A ON THE LEFT-HAND SIDE, AND TABS B AND C ON THE RIGHT-HAND SIDE)

- TAB A: Contract Summary Sheet (see attached sample) and backup documentation (separately tabbed and numbered, e.g., Mod. #1, Mod. #2, Mod. #3, etc)
- TAB B: Contract Modifications (separately tabbed and numbered, e.g., Mod. #1, Mod. #2, Mod. #3, etc.)
- TAB C: Original Signed Basic Contract Document

NOTE: The Original Signed Basic Contract Document is filed on the bottom with each sequentially numbered modification, separately tabbed and numbered, on top. Thus, the most recent modification is on top.

You may place Part II/contract modification support documentation in a separate file folder(s) and cross-reference it if it is voluminous.



## **ARRANGEMENT OF CONTRACT FILES**

### **PART III**

#### **CONTRACT ADMINISTRATION DOCUMENTATION**

**(NOTE:** If voluminous, this Part III may be placed in separate file folders and cross-referenced.)

## Contract Administration

### I. Overview

Contract administration is an essential function in the acquisition process. It is to be performed jointly by the COR and the contract specialist/CO. After the contract is signed, the mutual obligations of the Government and the contractor are established by, and limited to, the written stipulations in the contract. The CO is the only person authorized to make changes in the contract. Although the COR is normally designated as the CO's Technical Representative, the legal responsibility for the contract remains with the CO.

### II. Contract Monitoring

A. These are examples of monitoring functions performed during contract administration:

1. **Receive and review copies of all correspondence between the Protective Security Suitability Program Officer and contractor** (Crime Control Act of 1990 (P.L. 101-647))

**Receive and review all copies of suitability determinations and recommendations for removal from duty from the Personnel Security and Suitability Program Officer** (CFR 731)

2. **Post-award disclosure of lobbying activities** (FAR 3.803 and 52.203-12(c)(2)).

Any contractor that requests or receives a Federal contract exceeding \$100,000 must submit the certification and disclosures required at solicitation provision 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, with its offer. After contract award, the successful contractor must comply with clause 52.203-12, Limitation on Payments to Influence Certain Federal Transactions. Subparagraph (c)(2) of the clause requires that the contractor file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form (OMB Standard Form LLL) previously filed. Also, see FAR 3.803(b)(1), (2) and (3) and FAR 52.203-12(c)(2) concerning the accuracy of the information reported.

3. **Conduct post-award/preconstruction conferences** (FAR 42.503 and FAR 36.212).
4. **Prepare post-award/preconstruction conference reports** (FAR 42.503-3).
5. **Issuance of post-award letters** (FAR 42.504).
6. **Process post-award protests** (FAR 33.1).
7. **Receive and Review COR's Quarterly Report and Contractor Performance Evaluations** (FAR 42.1502)
8. **Receive and Review COR's written approval/disapproval of contract**

**deliverables and completion of tasks or phases. Take appropriate action.**

9. **Process disputes under the “Disputes” clause and any resultant appeal** (FAR 33.2).
10. **Process contractor’s request for advance payments** (FAR 32.4).
11. **Process contractor’s request for progress payments** (FAR 32.5).
12. **Process contractor’s request for assignment under the Assignment of Claims Act** (FAR 32.8).
13. **Review and approve/disapprove contractor invoices** (FAR 32.9).
14. **Issue show cause/cure notices** (FAR 49.4).
15. **Process cost overruns** (FAR 32.704).
16. **Issue/process contract modifications** (FAR 43).
17. **Issue/process change orders** (FAR 43.2)
18. **Process and execute novation and change of name agreements** (FAR 42.12)
19. **Coordinate property administration** (FAR 45).
20. **Exercise options** (FAR 17.2).
21. **Process Freedom of Information Act (FOIA) requests** (FAR 24.2).
22. **Review and process Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan reports** (FAR 19.17)
23. **Process incremental funding** (FAR 32.7).
24. **Provide notice to the contractor concerning availability of funds** (FAR 32.703-2)
25. **Authorize contractor use of Government supply sources** (FAR 51).
26. **Provide consent to subcontract** (FAR 44.2)
27. **Notification of successful completion of first article testing (accept/reject/conditional)** (FAR 9.3)
28. **Acceptance testing** (FR 46.5).

29. **Termination for convenience/default** (FAR 49).
30. **Design changes (A&E)** (FAR 36.609)
31. **Redesign (A&E)** (FAR 36.609)
32. **Performance evaluation reports (Construction)** (FAR 36.201)
33. **Performance evaluation reports (A&E)** (FAR 36.606)
34. **Value engineering proposals** (FAR 48.1)

- B. You must perform the contract monitoring functions listed above and any others that are applicable to your particular Contract. You may need to establish a “suspense” file as a reminder that a progress report is due or that a small business/small disadvantaged business subcontracting plan is due. Look at your contract, especially the deliverables and their due dates. It is suggested that Section F of solicitations/contracts provide a comprehensive list of all deliverables (including administrative reporting requirements) and due dates to assist in the administration of contracts. Knowing when a deliverable or report is due will help you administer the contract and make sure that all contract requirements are met.

### **III. Establishing Contract Administration Files**

- A. No two acquisitions are alike. Base the amount of administration and monitoring on such things as type of contract (reference FAR Part 16), commodity or service being acquired.
- B. Small dollar value contracts of short duration may require only one file. You may wish to separate the sections to include file invoices, project officer reports, acceptance reports, or financial reports. In larger dollar value contracts of longer duration, you may need several files.
- C. If you need extra/separate file folders, make *sure* that you mark the file folders with the contract number, Contractor’s name, and file folder number. Enter this information onto the contract file folder cross-reference Index.

## PART 5

### PUBLICIZING CONTRACTING ACTIONS

#### 5.1 Dissemination of Information

**Who** CS (with input from COR)

**What** Provides guidance on disseminating information on planned acquisitions and awards

**When** Throughout the acquisition process

**Discussion:**

- (a) *Preparation of Notice.* The CS is responsible for preparing the synopsis based on input from the COR and/or IPT. The synopsis shall be reviewed for clarity and accuracy by the CO prior to submission to FedBizOps.
- (b) *Market Research.* The CS can assist in the conduct of market research by drafting a synopsis designed to gather information on the availability of supplies or services in the marketplace that will meet the needs of the Government. Language needs to be included in the synopsis that makes it clear that the intent of the synopsis is market research and that no solicitation of offers is made by the synopsis or that a formal solicitation of offers will be released in the future.
- (c) *Acquisitions >\$10,000 but <\$25,000.* These acquisitions are required to be displayed on the AGO website at <http://www.ofa.noaa.gov/~amd>. All documents shall be posted as .pdf files.
- (d) *Availability of Solicitations.* GSA's FedBizOps website shall be used for posting announcements of solicitation availability and solicitations.

When utilizing the streamlining process of using a combined solicitation/synopsis as permitted in FAR 12.603, no hard copies of the solicitation are to be made available to any requestor. The intent of this tool is to eliminate the mailing of copies of solicitations and, as a result, to shorten the acquisition processing time by enabling offers to be received without the delays inherent with mailing of solicitations to potential offerors.

- (e) *Announcement of Contract Awards.* Base the \$3 million threshold for Announcing contract awards on the amount of the contract inclusive of options and/or the estimated total quantity for a requirements contract and/or the guaranteed minimum quantity for an indefinite quantity contract. Try to make the award before 4:00 p.m. This allows you to provide information to the Office of Legislative Affairs (OLA) by 4:00 p.m. (ES/DT) on the date of award. If you can't make an award by 4:00 p.m. (ES/DT), send the information to OLA so that it will arrive by 9:00 a.m. (ES/DT) the next morning. Do not provide any information to OLA before making the award.
- (f) *Documentation to provide to OLA.* Submit the face page of the award document to OLA. Include the contractor's name and address; contract number/modification number; description of the supplies/services; and other pertinent information such as information on a direct congressional inquiry regarding that acquisition, an award based on an interagency agreement where funds were received from another agency, or other information specification requested by OLA. Prepare a separate sheet giving the requested information and attach it to the face page of the contract. Fax the information

to: \_\_\_\_\_ *(to be determined)*

(g) *Reporting Contract Awards to Agency Senior Staff.* Report contracts awarded using formal source selection procedures and any other sensitive requirements identified by AGO management, to NOAA's senior staff. Prepare an e-mail memorandum, for transmission by the Director, AGO to the NOAA senior staff mailing list within 24 hours following award. Include the following information in the memorandum:

- Award date;
- Contract type;
- Contractor's name;
- Contract title;
- Performance period, including options;
- Total estimated contract value, including options; and
- A brief description of the work. Make this description detailed enough so that the reader will understand the purpose of the contract.

(h) *White House Report Requirements.* AGO management will identify acquisitions that should be included in the White House Report. Each narrative must have a title, in bold and underlined above the narrative. Prepare the report using the Times Roman font in 12 pitch. Forward the report to the Director, AGO, no later than 10:00 a.m. on the Thursday following award. Prepare a short narrative containing the following information for submission to the Director, AGO:

- Contractor's name and address;
- Contract number/modification number;
- Contract dollar value;
- Brief description of the supplies/services;
- Identification of the strategic plan goal/program supported by the contract; and other pertinent information.

**References:** FAR Subpart 5; CAR Subpart 5

## 5.2 Release of Information

**Who** Acquisition personnel (with input from COR)

**What** Guidance on responding to inquiries from members of Congress, State and Local Government Legislative Officials and Auditors

**When** Throughout the life of the acquisition

**Discussion:**

(a) *Requests from Members of Congress.* Upon their request, give detailed information regarding any particular contract to Members of Congress. If you do this, complete the attached Report of Direct Contact, and send it to AGO's Executive Officer (EO) in the Office of the Director.

If you receive a request from a Member of Congress for information on a contract and you feel that providing such information would result in disclosure of agency sensitive information, business confidential information, or information prejudicial to competitive acquisition, prepare a proposed reply and forward it through the EO to the DUS. Use the attached Report of Direct Contact (Exhibit 1 to this Part). Do not release any information until you receive the EO's approval. Notify OLA of all congressional inquiries.

- (b) Requests from State and Local Government Legislative Officials. Upon their request, you may release certain contract information to State and Local Government Legislative officials. Only release information that you can release to the general public in accordance with FAR 5.402. If you do this, complete the attached Report of Direct Contact and send it to the EO.

If you receive a request from a State or Local Government Legislative official for information on a contract and you feel that providing such information would result in disclosure of agency sensitive information, business confidential information, or information prejudicial to competitive acquisition, prepare a proposed reply and forward it through the EO to the Director, AGO. Use the attached Report of Direct Contact. Do not release any information until you receive the EO's approval.

(c) *Reporting Agency Audit Requests and Release of Material to Auditors.*

- (1) **OIG.** If OIG requests to audit a contract file, complete the attached Report of Direct Contact and forward it through the EO to the Director, AGO. Release the file as requested and advise that this action has been taken in the Report of Direct Contact. Upon the request of OIG, you may release other contract information not related to an audit. If you do this, complete the attached Report of Direct Contact and send it to the EO.
- (2) **Outside agencies.** If another government agency, such as the General Accounting Office requests to conduct an audit on an NOAA contract file, or requests the release of material related to an audit, complete the attached Report of Direct Contact and forward it through the EO to the Director, AGO. Do not release any information until you receive the EO's approval.

**References:** FAR Subpart 5; CAR Subpart 5

### **5.3 Reporting the Status of Acquisitions, Disputes, Claims and Pending Protests to the AGO**

**Who** Acquisition personnel

**What** Guidance on keeping the SBPO informed of significant events

**When** Throughout the acquisition process and contract life

**Discussion:**

- (a) *Reports on In-Process Acquisitions.* AGO managers may periodically request a report on acquisitions they consider to be significant. The Information Management Team generates these reports using the data contained in C-Stars and in Acquisition Planning

documents. For this reason, it is essential the information in all Acquisition Planning Documents (APD) is kept up-to-date and that C-Stars is utilized.

Contracting Officers are responsible for submitting notification (including a copy of the dispute, claim and/or protest) upon receipt of a protest under any acquisition/contract to the Director, AGO. Until resolved, a monthly update of the status shall be provided to the Director, AGO. Initial notification is to be provided within 24 hours of receipt; updates are due by the 5<sup>th</sup> of the month for the preceding month (e.g., by June 5 for the May report).

The status of these major/sensitive acquisitions is combined with the AGO protest control log and reported to NOAA senior staff each month.

- (b) *Notice of Critical Development (post-award)*. When a significant development occurs (i.e., protest activity, a major system fails to meet the acceptance testing, failure to perform or perform acceptably, potential termination activities, equal employment opportunity issues, or Union concerns) in connection with a particular acquisition or contract, notify the Director, AGO, immediately. Prepare a report as soon as a significant development becomes known. Forward the report by e-mail, through the HCO to the Director, AGO. Monthly updates of the status of the reported issue shall be provided by the 5<sup>th</sup> of the month for the preceding month.

Use the following format for the Notice of Critical Development:

- Contract/Solicitation/Acquisition Request Number
- Description of Services/Supplies
- Contracting Officer and Contract Specialist
- Discussion of problem/issue (concisely define the problem and its potential impact on the Agency)
- Planned resolution (explain how you plan to deal with the problem, if that decision has been made. If it is undecided at the time, discuss the possibilities being considered.)
- Interested parties (i.e., members of Congress, media, Contractor, subcontractors, etc.)
- Current status

**References:** FAR Subpart 5; CAR Subpart 5

#### **5.4 Paid Advertisements**

**Who** Acquisition Personnel and those with delegated procurement authority

**What** Guidance on acquisitions for paid advertisements

**When** At inception of acquisition

**Discussion:** *Authority.* Acquisition personnel and those with delegated acquisition

authority (within the limits of that authority) may publish paid advertisements in newspapers, when processed in accordance with applicable regulations and policy, without prior approval. Reference this authority in your file documentation. You do not need advance written authorization to place advertisements in any other media.

**References:** FAR Subpart 5.5

**Exhibit 1** - Report of Direct Contact

**REPORT OF DIRECT CONTACT**

INITIATOR:

ORGANIZATION:

TIME:

---

RECORD OF:

OFFICE VISIT

CONFERENCE

PHONE CALL

---

LOCATION:

TITLE OF AUDIT (IF APPLICABLE):

---

SUBJECT/PURPOSE:

---

PARTICIPANTS:

---

PERSON CONTACTED:

ORGANIZATION:

PHONE NO.:

---

SUMMARY OF DISCUSSION AND/OR MATERIAL RELEASED:

---

ACTION TAKEN OR REQUIRED (USE REVERSE IF NECESSARY):

---

PERSON CONTACTED (SIGNATURE):

DATE:

## PART 6

### COMPETITION REQUIREMENTS

#### 6.1 Acquisitions Utilizing Other Than Full and Open Competition

**Who** Acquisition Personnel with input and documentation from COR/PC/IPT

**What** Provides guidance on preparation and approval of acquisitions utilizing other than full and open competition

**When** Acquisition planning and development phase

**Discussion:**

- (a) *Preparation.* The Justification for Other than Full and Open Competition (JOFOC) is initially prepared by the COR following discussions in the Planning phase with the CS. Every JOFOC must be based on factual information, not opinion or unverified statements. It is insufficient to state that a specific source is the sole source capable of providing the required product or service without providing a discussion of factual information on which the conclusion is based. For example, there should be evidence of market research to support determinations that only one source exists. Most JOFOCs will require the posting of a sources sought synopsis in FedBizOps for a minimum of 45 days and a consideration of any responses to that announcement to determine the validity of the other than full and open competition acquisition before discussions can be held with the proposed source.
- (b) *Approval of the Justification.* Every acquisition proposed to be solicited on other than a full and open competition basis that exceeds \$2,500 must provide a JOFOC. If the value is less than \$100,000 the JOFOC may be included on the CD-435 or be an attachment to the CD-435. For all acquisitions valued at or above \$100,000, Form CD-492, Justification for Other Than Full and Open Competition, must be completed and approved as indicated on the form (see below). All acquisitions valued at more than \$25,000 require the concurrence of the appropriate SES/Flag Officer level official as delegated by the LO AA/DAA or SO Director. This approval authority conveys to any individual in an “acting” capacity in a position with this delegated authority. Approval authorities:

<i>Acquisitions</i>	<i>Approval</i>
>\$2,500 <\$500,000.	Must be approved by the CO.
>\$500,000 <\$10,000,000	Must be approved by the Contracting Activity Competition Advocate who is the SBPO.
>\$10,000,000 <\$50,000,000.	Must be approved by the HCA or HCAD.
<i>Acquisitions</i> >\$50,000,000.	Must be approved by the DOC <u>Competition</u> Advocate and the DOC Procurement Executive.

The following concurrences are necessary for JOFOCs:

OGC CLD	All JOFOCs $\geq$ \$100,000
Contract Review Board (CRB)	All JOFOCs $\geq$ \$250,000
Contracting Officer	All JOFOCs $\geq$ \$500,000
Contracting Activity Competition Advocate	All JOFOCs $\geq$ \$50,000,000

**References:** FAR Subpart 6; CAR Subpart 6; DAO 208-2

## PART 7

### ACQUISITION PLANNING

#### 7.1 Acquisition Plans

##### (a) Definitions

“Acquisition Narrative” means AGO’s version of the written acquisition plan described in FAR 7.105.

“Advance Acquisition Plan (AAP)” means an individual line item in an Agency component’s fiscal year budget, representing either a single, large projected acquisition (Large Plan) or an aggregate grouping of various small projected acquisitions (Small Plan).

“Advanced Discussion” means a discussion between the CS and the COR before the receipt of the actual acquisition or purchase request (PR) in order to make plans and develop acquisition strategy in advance.

“Component Acquisition Plan (CAP)” means the consolidated list of a LO/SO’s projected AAPs for a particular fiscal year.

“Deficient Purchase Request” or “Deficient PR” (also referred to as “deficient acquisition request (AR)”) means any requisition received by a NOAA AD (whether in Headquarters or in an Administrative Support Center) from a component that is not identified with an AAP line item number or in any way does not adhere to Agency acquisition procedures/requirements.

“Large Plan” means a single, planned acquisition estimated to (1) exceed \$100,000, or (2) be at or below \$100,000 that will result in an initial contract award to be conducted pursuant to FAR Part 12, 14, or 15 or a modification to exercise an option to a contract.

“Milestone Plan” (MP) means a schedule of planned target dates for key milestones to be met during the acquisition. The MP is initiated and formalized by the CS, is concurred in by the COR and approved by the HCO.

“AGO Annual Planning Instructions” means the set of instructions issued by AGO each year to all other NOAA components on how and when to submit information on their projected acquisitions for the upcoming fiscal year. It helps prepare AGO for the acquisition workload. It is available on AGO’s web page under “Acquisition Planning” or <http://www.ofa.noaa.gov/~amd> [currently under development]

“Procurement Request/purchase request (PR)” means the formal, funded request by an

Agency component to acquire a particular item/service(s) from outside, commercial sources. The PR contains the item specifications, statement of objective (SOO), or statement of work (SOW) and availability of funds certification. It also contains any required clearances, justifications, and other pertinent information about the item/services to be acquired. A somewhat outdated term, it has been used interchangeably with “acquisition request” (AR), the favored term. The CD-435 is the currently used paper form of requisitioning document.

“Small Plan” means a component’s plan representing an aggregate group of acquisitions each anticipated to be \$100,000 or less. Submitted quarterly, it includes all acquisitions, each anticipated, for a designated quarter, to fall within this threshold, except for new contract awards or modifications to exercise an option to a NOAA-awarded contract.

“TAA” or “Type of Acquisition Action” means the AGO-established number or code representing the standard framework within which a particular acquisition can be planned, scheduled, and tracked. The appropriate AD assigns a specific TAA code to each planned and actual acquisition and, as a result, has established a variety of TAAs to accommodate the wide range of acquisition types AD’s may encounter. Each TAA includes both the activities (milestones) that are performed during the acquisition process and the total number of calendar days to complete the acquisition (the TAA code reflects the complexity of the acquisition, which itself depends on the dollar value and acquisition method of the requirement).

(b) Policy

**Who** Acquisition Personnel

**What** Provides policy on responsibility for advance acquisition planning

**When** 2<sup>nd</sup> quarter each Fiscal Year

**Discussion:**

- (1) *Administrative Support Center/National Data Buoy Center Acquisition Planning.* The ADs in the Administrative Support Centers (ASCs) and at the National Data Buoy Center (NDBC) are required to follow the acquisition planning procedures prescribed in this subpart.
- (2) The AGO will provide for advance acquisition planning every fiscal year at the Agency level in order to manage and meet the acquisition workload.
- (3) All ADs, whether in Headquarters, the ASCs, or at the NDBC, will provide acquisition planning for each individual, projected acquisition.

**References:** FAR Subpart 7.1;

(c) General Procedures

**Who** Line Offices/Staff Offices; Acquisition Offices  
**What** Provides procedures for assembling annual Component Acquisition Plan (CAP)  
**When** 2<sup>nd</sup> and 3<sup>rd</sup> Quarter for initial assembly; throughout FY for updates

**Discussion:**

- (1) Each year, each major office-level component (Line or Staff Office) is responsible for submitting its advance CAP. With the CAP information from all agency components, AGO will be better able to project and manage the acquisition workload for the upcoming fiscal year.
- (2) In its CAP, each of these components will identify each AAP with an AAP line item number, which generally corresponds to an expense line item in the component's budget.
- (3) Each CAP will provide basic information on each AAP line item in terms of estimated amount and project title. It will also identify the designated COR name and phone number for AAPs. From this information, an HCO will assign specific Large Plans to an appropriate CS to initiate individual acquisition planning for that AAP.
- (4) Components may update (add, delete, or revise) their AAPs as necessary throughout the fiscal year, in accordance with the AGO annual planning instructions. For instance, per the Instructions, they may submit to AGO new, individual AAPs as they arise.
- (5) For more detailed information on advance agency acquisition planning, see the AGO Annual Planning Instructions (addressed to non-AGO components).
- (6) *Processing of CAPs/AAPs.* (i) The Agency Acquisition Planning Coordinator (AAPC), who is part of the AGO Director's staff, will act as the focal point in AGO for receiving, disseminating, and overall coordinating and managing of the CAP/AAP information.
- (7) *Assignment of AAPs.* The AAPC will receive the components' CAPs during specific times in the year, as well as individual AAPs as they are submitted by components throughout the year. The AAPC will then assign the Small and Large Plans to the appropriate HCO, depending on the item/service(s) to be acquired and the specific customer. Each HCO will then assign each Large Plan to an appropriate Contract Specialist for individual planning activities.

**Reference:**

(d) Individual Acquisition Planning—Preliminary Activities

**Who** COR and CS  
**What** Provides procedures for developing & updating plan for an individual acquisition  
**When** 2<sup>nd</sup> and 3<sup>rd</sup> Quarter for CAP; throughout the FY for updates

**Discussion:**

- (1) *COR Role.* Components should begin acquisition planning as soon as they identify a need that must be satisfied by the acquisition process. Especially for large/complex,

projected acquisitions (generally Large Plans resulting in new contracts), the cognizant COR should obtain HCO/acquisition staff guidance early in the initial planning stages. In providing guidance, the HCO/acquisition staff should emphasize market research for commercial sources and competition requirements, as well as any pre-acquisition clearance requirements. As the acquisition progresses, the COR must coordinate with the assigned CS to work out the details of the acquisition plan if required. The COR should include the NOAA Property Management Officer and/or the LO/SO Property Manager in the planning process for purchases or leases of major (>\$200,000) systems.

- (2) *CS Role.* As soon as possible after being assigned an AAP, contact the designated COR to obtain or confirm basic information as to the general description of the requirement, dollar value and type of acquisition action (TAA).

The following planning actions or documents are required for each assigned Large Plan expected to result in a new contract:

- Advance Discussions
- Milestone Plan
- Written Acquisition Plan (Acquisition Narrative)

For delivery orders or modifications to existing contracts, the responsible HCO may choose to require these actions or documents, either at large or on a case-by-case basis.

The CS must prepare an MP for simplified acquisitions awarded under FAR Subpart 13.5, Test Program for Certain Commercial Items. The responsible HCO, either on a case-by-case basis or through a uniform ruling, may require advance discussion and a written acquisition plan for such awards.

initiate and complete the planning actions/documents required as soon as possible. CS's do not have to wait for their HCO to formally assign an acquisition to them. Early involvement of a contract specialist will help the COR submit a timely PR that has all the required information, including clearances and justifications.

- (3) *Advance Discussion.* The purpose of the advance discussion is to enable the COR to plan effectively to accomplish an acquisition during a specified timeframe by identifying and resolving potential problem areas early in the acquisition process.

The CS should discuss important aspects of the acquisition planning process, with the COR such as:

- Market research (with emphasis on the preference for commercial items/services) and competition requirements;
- The work statement/statement of objectives/specifications and appropriate evaluation criteria;

- Scheduling;
- Responsibilities;
- Special project clearances and approvals, including programmatic and physical security clearances;
- Buy-Green requirements;
- Accessibility concerns (such as Section 508) compliance);
- Maintenance and supplies on major equipment acquisitions; and
- Impact on office space and environment.

The CS and COR should attempt to identify any potential problems during this advance discussion. Draft an MP to come up with a targeted award date and track the overall acquisition in progress. Also, discuss/draft an Acquisition Planning Checklist for the acquisition.

- (4) *Acquisition Planning Checklist.* An Acquisition Planning Checklist (“the Checklist,” see Exhibit 1 of this Part) is a helpful tool in the planning process. During the advanced discussion, the Checklist should be reviewed by the COR and the CS in order to identify the reviews/approvals needed for the proposed acquisition. The MP should be developed on the basis of this discussion.
- (5) *Written Acquisition Plan (Acquisition Narrative).* The CS should work with the COR to develop an Acquisition Narrative.
- (6) *MP.* The MP is a tool utilized by AGO and NOAA management to keep track of the acquisition process and provide for a timely award. It assesses whether the prescribed milestones in processing a particular PR/acquisition are being met on time and, in the final analysis, whether the award itself is on time. It does this by comparing the milestone accomplishment dates in the “Actual” column with the planned dates included in the “Org Date” (i.e., the originally planned date) column. The following provides supplemental procedural guidance and policy on the MP:

Factors in Determining the Milestone/Award Dates in the MP. The most influential factors include the projected arrival date of the PR, the desired or required award date, and the TAA code or number. In addition, consider the individual workload of the COR and the CS when establishing milestone dates in the MP.

TAA Code or Number. Combined with the expected PR arrival or start date, the TAA code or number in the MP module will determine the award due date for each PR.

Each TAA code is based on two factors, the type of acquisition procedure that will be used and the estimated dollar value of the acquisition. Examples of types of acquisition procedure include: a new requirement to be awarded under commercial item acquisition procedures under FAR Part 12; a new requirement to be awarded against a Federal Supply Schedule; and a modification to an existing contract. A comprehensive listing all TAA codes is found at Exhibit 2 of this Part.

Every PR, regardless of dollar value, must have an MP associated with it. Generally,

for smaller dollar value actions, there is no requirement to set up an MP; for these, the CO must create the MP and assign the TAA number/code. Be sure to assign the appropriate TAA number for any MP that must be created. NOTE: The instructions below on MP concurrence/approvals, renegotiating the MP and editing/updating/annotating the MP apply only to those MPs which are required MPs.

The TAA number for a particular PR may change during the acquisition process as necessary, as approved by the HCO. Reasons for changing the TAA may include reassignment of the PR or re-negotiation of the MP.

Obtaining MP Concurrence and Approval. After drafting the MP, but before setting the baseline, the CS should route the MP to the COR for concurrence. Once the CS receives the COR's concurrence, the CS shall route it to the appropriate approving official, as shown below:

<u>Value of Contract Action</u>	<u>Approval Official</u>
\$100,000 or less	Team Leader
\$100,001 through \$2,500,000	HCO
\$2,500,001 and above	Director, AGO

- (7) Renegotiating the MP. Renegotiating an MP means changing its originally planned milestone dates (the dates in the "Org Dates" column).

If an advance MP has been established, you may find that you need to re-negotiate it, either before or after the PR arrives. Most likely, the PR arrived either earlier or later than originally planned, or the TAA code needs to be changed because of a change in acquisition strategy/estimated dollar value. If the MP must be renegotiated, this should be done by the CS (with the concurrence of the COR) before setting the baseline.

Late PRs. If an advance MP has been established, and the PR for it arrives in the AD after the originally planned PR-to-acquisition milestone in the MP, a new MP must be negotiated. Specifically, the CS must:

- Make sure the PR-to-acquisition milestone date in the "Revised Dates" column reflects the actual PR receipt date;
- Recalculate all the other milestone dates, resulting in a new projected award date;
- Obtain COR concurrence and approval official approval; and
- Set the baseline, which firmly establishes the dates by which the PR will be tracked for timeliness.

"Too Early" PRs. If the PR comes in before the originally planned due date, the CS should not return it. For PRs that come in substantially early (such as a month or more), the HCO should re-establish (or have the cognizant CS re-establish) the

appropriate “Start Date,” based on workload and the actual desired award date.

Whenever the MP is re-negotiated (for whatever reason), concurrence of the COR and the appropriate approving official is required.

- (8) *Editing/Updating/Annotating the MP.* After setting the MP baseline, the CS is required to edit and update/annotate the MP to reflect the progress of the acquisition. The CS must insert the actual accomplishment date (in the “Act Dates” column) as they occur. If there are any delays in reaching a particular milestone, the CS must annotate the MP to indicate the reason(s) for delay, any remedial plans of action, and/or revised, target accomplishment dates. MPs will be monitored by HCOs and the Director, AGO, and utilized for tracking AGO performance against annual goals

## References:

- (e) Initiating the PR (Submitting the PR)

**Who** COR and CS

**What** Provides guidance on the preparation and submittal of PRs

**When** In accordance with AAP for the instant acquisition

**Discussion:** *COR’s Role.* The culmination of any planned acquisition (either Large or Small Plan) is the component’s submission of the PR. Requisitioning components must formally request the cognizant AD to initiate and complete acquisition action via the PR.

The COR prepares the PR document by completing the Form CD-435 or submitting the PR electronically. The PR must contain budgetary and management approvals, along with evidence of funding. The funds certifying and approving officials are affirmatively indicating by their signature the availability of funds for the acquisition and the bona fide need for the product or service to be acquired. In addition, it should contain any necessary justifications/clearances and all appropriate supporting documentation for the specific acquisition (e.g., SOW, evaluation criteria, etc.)

For large/complex planned acquisitions (leading to contract award, for example), there will not be enough room on the PR itself for all the required information. Thus, in these cases the COR will need to submit a complete package including the PR and all other material or documents necessary for acquisition processing. These may address topics such as: purpose of contract, background/history, period of performance, estimated cost, reference material, Government property/facilities requirements, evaluation criteria, potential sources, and so forth. NAO 208-108 requires PRs and Interagency Agreements using Object Class Code series 23xx, 25xx, 26xx, or 31xx to be sent to the NOAA Personal Property Team for approval. All PRs for personal property must include the identification of the Property Custodian in Block 9 and the property contact name and phone number in block 31.

Following are specific guidelines and resources to assist the COR in developing and

submitting the acquisition request package:

- Use Microsoft WORD;
- Use Courier New 10 font;
- Do not include a Table of Contents in the SOW/SOO/Specifications unless the document exceeds 10 pages; and
- COR's Web Page, at <http://www.ofa.noaa.gov/~amd> (currently under construction). The most important part of the PR may be the description of the requirement, generally the SOW, as it will directly communicate what is to be purchased. Samples of SOWs, as well as general guidance on writing performance-based SOWs are available on this web-page.

The CS should assist the COR in preparing the CD-435 by providing direction and guidance on the clarity and acceptability of the CD-435 and supporting documents and identifying required approvals and clearances.

**References:**

(f) Processing of PRs in AD.

**Who** CS and Acquisition Office  
**What** Processes for handling of PRs in the Acquisition Office  
**When** Upon receipt from the COR

**Discussion:**

- (1) Upon receipt of the PR and any supporting documents in the servicing Acquisition Management Division, the requisition will be quickly reviewed by the HCO or Team Leader and assigned to the appropriate CS through C-Stars (this step will become unnecessary upon implementation of the CAMS C-Stars interface).
- (2) Deficient PRs. Once received in the cognizant AD, the PR may be deemed deficient at any point in time for any of a variety of reasons. The PR is deficient if it is missing required information, funding, justification, or clearance, or otherwise does not adhere to Agency acquisition planning procedures or requirements, so as to prevent the AD from completing the acquisition.

After receiving the PR, the CS may find, in the course of the acquisition, that it is deficient. For example, there is a validation error (a calculation error; a missing accounting field; missing or incorrect APP number); the PR is missing required clearances, justifications, or SOW; the SOW, purchase description, or specification is insufficient and needs to be clarified; the PR has insufficient funding and, therefore, requires additional funding for completion of the acquisition. Early and comprehensive discussions in the planning phase can reduce the likelihood of a PR being deficient upon receipt.

- (3) Generally, the COR should be given the opportunity to correct the deficiency (or deficiencies), in accordance with Division Director/team leader guidance. While

doing so, the PR may be put “on hold,” allowing it 14 days for the correction. If the deficiency is still unresolved after this period, the PR may be returned. The COR will be notified in writing (e-mail is an acceptable means) when it is being put on hold. The reason(s) and the (possible) consequence of having the PR returned if the deficiency is not resolved within the 14-day period should be included. Note any delays in the MP. A PR may be returned for being deficient. An HCO must approve canceling and returning the PR.

- (4) Late PRs. A PR submitted in connection with an MP may arrive in the appropriate AD up to 5 working days past the planned due date in the MP before it is considered late. Refer to the AGO annual Planning Instructions for policy and procedure on handling late PRs, including those that miss a fourth quarter PR receipt cutoff date.

**References:**

(g) Contents of Written Acquisition Plans

**Who** COR and CS  
**What** Guidance on preparation of written acquisition plan  
**When** Process begins prior to submittal of the acquisition to the cognizant AD

**Discussion:**

- (1) The written acquisition plan is termed “acquisition narrative,” or simply “narrative.” Narratives must be prepared in accordance with the FAR Part 7, CAM Subpart 7.1, Acquisition Plans, and DAO 208-15, Procurement Planning System. At a minimum, the narrative must address the areas or points included in the CAM and FAR.

It is not sufficient to present only conclusionary statements in the narrative. The plan shall include a discussion of alternatives considered and the basis for the decision made (e.g. terminate contract for default vs. change of specification vs. cancel part of the contract & reprocure, etc). This discussion can be pulled from the market research narrative. Be sure the Plan includes a summary of all alternates considered. All conclusions or decisions must present convincing, factual documentation to support the conclusion or decision.

- (2) The narrative is a joint effort between the COR and the CS.
  - a. Specifications. Because specifications become legal requirements when they are incorporated into contracts, all requirements must be necessary and expressed in a way that will allow them to withstand contractual and legal challenges. Thus, it is essential that technical, contractual, and legal personnel provide an integrated review of specifications and statements of work that comprehensively addresses all technical, contractual, and legal concerns before a solicitation is issued, particularly for the acquisition of complex items.

Specification and statement of work reviews should ensure that these documents

incorporate only validated requirements and that requirements are clear, appropriately stated, and expressed in performance terms whenever feasible. When complex items are to be acquired, a draft solicitation, including the specifications and statement of work may be one useful method for obtaining industry comments and will also help identify issues and needed changes before the final solicitation is released

- b. Evaluation criteria. The Acquisition Plan shall include detailed technical evaluation criteria to include how trade offs are evaluated; how the technical evaluation is to be conducted and documented, and the presentation of technical performance schedule and risk.
- (3) The plan must be approved by the COR, the COR's supervisor, the CS, the CO, the HCO, DOC OGC GLD, the Director, AGO and the HCA. For acquisitions >\$10 million, the DOC Procurement Executive is required to approve the acquisition plan.
  - (4) All acquisitions (except for A/E services, unsolicited proposals, and regulated utility services available from only 1 source) valued at \$5 million or more (new acquisition or modification to an existing contract) require a written plan. For IT acquisitions which require a Delegation of Procurement Authority (DPA) from the DOC Chief Information Officer (CIO), a Capital Asset Plan and Business Case, Exhibit 300 to OMB Circular A-11 and Attachment A must be prepared. The Attachment A provides acquisition planning information and is to be prepared for all IT acquisitions over \$1 million in support of the project covered by the Exhibit 300. the Exhibit 300 and Attachment A substitute for the written narrative and must be approved at the acquisition plan thresholds in CAM Subpart 7.1.
  - (5) The acquisition team may have to brief a Departmental review board (i.e., Commerce Information Technology Review Board (CITRB) or Acquisition Review Board (ARB) prior to obtaining a DPA and/or acquisition plan approval. A briefing is required for all acquisitions over \$10 million. A briefing may be required at a lower threshold depending on the agency component's DPA.

**References:** FAR Subpart 7; CAM Subpart 7.1; DAO 208-15

## **7.2 Planning for the Purchase of Supplies in Economic Quantities**

**Who** CO

**What** Procedures for offers with significant savings for purchasing economic quantities

**When** Following receipt of offers

### **Discussion:**

- (a) Transmit offeror responses to the FAR solicitation provision 52.207-4 to the COR.
- (b) If a significant price variation is evident from offeror responses, and the potential for significant savings is apparent, consult with the cognizant COR

and obtain his or her written recommendation as to whether to revise the quantity required.

(c) See Part 70 of this Handbook as well.

**References:** FAR Subpart 7; FAR Clause 52.207-4

### **7.3 Contractor Versus Government Performance**

NOAA is currently revising its policies related to OMB Circular A-76. Pending release of those policies, you should coordinate with the AGO point of contact on competitive sourcing, John Abbott (301-713-0325; [John.J.Abbott@noaa.gov](mailto:John.J.Abbott@noaa.gov)).

OMB Circular No. A-76 (Revised) and the Supplement to OMB Circular No. A-76 can be found at <http://www.whitehouse.gov/omb/circulars/index.html>.

## 7.4 Equipment Lease or Purchase

**Who** COR and CS

**What** Guidance on determining lease vs. purchase

**When** At budget formulation, acquisition planning and throughout life of contract

**Discussion:** When evaluating comparative cost in our lease-versus-purchase determination, consider using present value analysis. In some cases, you must use this method of evaluation. Refer to AGO's webpage (<http://www.ofa.noaa.gov/~amd> [*also include link to A-11 requirements in the lease vs. purchase considerations currently under development*]) for guidance on leases and completing required lease determination worksheets.

For any lease estimated at over \$200,000 a determination must be made whether the lease is a capital lease or an operating lease. Early in the planning phase, the COR and CS and throughout the life of the contract, the COR and CS must work together to ensure that appropriate budget authority is available and that any lease is classified appropriately.

**References:** OMB Circular A-11; FAR Subpart 7

### **Exhibits:**

- 1 Acquisition Planning Clearance Checklist
- 2 Type of Acquisition Action (TAA) List

## ACQUISITION PLANNING CLEARANCE CHECKLIST

Plan Number: \_\_\_\_\_ Project Name: \_\_\_\_\_

Contract Specialist \_\_\_\_\_ COR \_\_\_\_\_

We (the CS and COR) have reviewed this requirement and believe it may impact the following components, as marked below.\* These components have reviewed the requirement and concurred and/or provided recommendations:

Component	Area(s) of Concern/References	Review Req'd.	Concurrence
LSO	Acquisitions which include printing requirements		
PPB	Government-furnished property		
FMD	Site Preparation – this includes acquisitions impacting NOAA space, environment, or energy. Consider acquisitions for any item(s) that create special space-related requirements such as cooling, humidification, special ventilation, special plumbing and/or dedicated electrical lines, raised flooring, and other major alterations.		
FMD	Off-site space for conferences or any other use		
ECHSSO	Purchase and/or use of hazardous or potentially hazardous materials/chemicals at NOAA; renovations or building modifications (for safety and environmental issues).		
DOC OSy	Whenever contractor personnel will need access to a NOAA facility		
LO/SO CIO	Whenever contractor personnel will need access to agency programmatic information or sensitive information systems information.		
AICIMO	OMB A-76 Cost studies		
OPCIA	Acquisitions which include publications and public affairs services		
	Acquisitions involving audio/visual		

LSO	productions, visual graphics, media and satellite communications		
LO/SO CIO	Acquisitions of information technology (IT) for purposes of compliance with Section 508 standards of the Rehabilitation Act. IT acquisitions included purchases of IT products (hardware and software) and services (such as installation, maintenance, programming, integration, networking, design and engineering, overall support); telecommunications products and services.		
LO/SO CIO	Acquisitions of modems and sniffers >\$25K.		
OCIO, SBPO	IT Acquisitions >\$2M for duplication of e-gov initiatives.		
PPB	Personal Property – Capitalized/Non-capitalized		
NMAO	Commercial Aviation Services		
NMAO	Motorboats – new, used, significant alterations/modifications		
LO/SO CIO	Acquisition of IT >\$25K		

\*VARIOUS COMPONENT ACRONYMS:

OCIO – Office of the Chief Information Officer

SBPO – Senior Bureau Procurement Officer

PPB – Personal Property Branch

NMAO – NOAA Marine and Aviation Operation

ECHSSO – Environmental Compliance, Health and Safety, and Security Office

LSO – Logistics Support Office

OPCIA – Office of Public, Constituent and Intergovernmental Affairs

FMD – Facilities Management Division

DOC OSy – Department of Commerce, Office of Security

AICIMO – Audit, Internal Control and Information Management Office

**Type of Acquisition Action (TAA) LIST**

<b>Code</b>	<b>Description</b>	<b>PALT*</b>
201	Delivery Orders & Simplified Acquisition up to \$25,000	15
202	Simplified Acquisition over \$25,000 to \$100,000	30
203	Delivery or Task Orders Over \$25,000	30
204	Complex Delivery or Task Orders	60
205	Simplified Acquisition \$2,501-\$100,000 Wage Determination Required	100
206	Test Program for Commercial Items \$100,000 to \$5,000,000	120
210	Sealed Bid \$100,000 to \$500,000	94
211	Sealed Bid, \$500,000 to Indefinite	106
212	Sealed Bid, \$100,000 to \$500,000, Wage Determination – Location Known	138
213	Sealed Bid, \$500,000 to Indefinite, Wage Determination – Location Known	150
214	Sealed Bid, \$100,000 to \$500,000, Wage Determination – Location Unknown	146
215	Sealed Bid, \$500,000 to Indefinite, Wage Determination – Location Unknown	158
220	Negotiated Competitive, \$100,000 to \$10,000,000	180
221	Negotiated Competitive, \$10,000,000 to indefinite	201
222	Negotiated Noncompetitive, \$100,000 to indefinite	174
223	Negotiated Competitive, \$100,000 - \$10,000,000, Wage Deter.-Location Known	224
224	Negotiated Competitive, \$10,000,000 to indefinite, Wage Deter. – Location Known	239
225	Negotiated Competitive, \$100,000 - \$10,000,000, Wage Deter. – Location Unknown	222
226	Negotiated Competitive, \$10,000,000 – Indefinite, Wage Deter. – Location Unknown	243
227	Negotiated Noncompetitive - \$100,000 – Indefinite, Wage Deter. – Location Unknown	222
230	Modification to Order	21
231	Misc. Modification – Administrative Change	20
232	Misc. Modification – Funding \$0 – Indefinite	30
233	Misc. Modification – Option \$0 – Indefinite	40
234	Misc. Modification – Unilateral Change Order - \$0 – Indefinite	30
235	Misc. Modification – Option \$0 – Indefinite, Wage Determination	75
240	Supplemental Agreement up to \$25,000, outside scope	67
241	Supplemental Agreement \$25,000 - \$500,000, outside scope	142
242	Supplemental Agreement, \$500,000 to Indefinite, outside scope	163
243	Supplemental Agreement up to \$25,000, outside scope, wage determination	118
244	Supplemental Agreement \$25,000 to \$500,000, outside scope, wage determination	150
250	8(a) Acquisition, \$0 - \$3,000,000 (\$0 - \$5,000,000 if manufacturing)	146
251	8(a) Acquisition \$3,000,000 – indefinite (\$0 - \$5,000,000 – Indefinite if	

	manufacturing	186
252	8(a) Supplemental Agreement \$0 – Indefinite	112
253	8(a) \$0 - \$3,000,000 (\$0 - \$5,000,000 if manufacturing) Wage Determination – Location Known	157
254	8(a) \$3,000,000 – indefinite (\$5,000,000 - indefinite if manufacturing) Wage Determination – Location Unknown	226
255	8(a) \$0 - \$3,000,000 (\$0 - \$5,000,000 if manufacturing) Wage Determination – Location Unknown	182
256	8(a) \$3,000,000 – Indefinite (\$5,000,000 – Indefinite if manufacturing) Wage Determination – Location Unknown	228
257	8(a) Supplemental Agreement \$2,501 – Indefinite, Wage Determination	154
260	A-76 Negotiated Competitive, \$100,000 - \$10,000,000, Wage Determination – Location Known	322
261	A-76 Negotiated Competitive \$10,000,000 – Indefinite; Wage Determination, Location Unknown	
262	A-76 Negotiated Competitive \$100,000 - \$10,000,000, Wage Determination, Location Unknown	
263	A-76 Negotiated Competitive \$10,000,000 – Indefinite, Wage Determination, Location Unknown	
264	A-76 Sealed Bid \$100,000 - \$500,000, Wage Determination, Location Known	
265	A-76 Sealed Bid \$500,000 – Indefinite, Wage Determination, Location Known	
266	A-76 Sealed Bid \$100,000 - \$500,000, Wage Determination, Location Unknown	
267	A-76 Sealed Bid \$500,000 – Indefinite, Wage Determination, Location Unknown	
270	NISH Contract	282
271	NISH Supplemental Agreement	222
276	A&E Negotiated Competitive \$100,000 – Indefinite	218
280	Misc. Supplemental Lease Agreement	91
999	Awards up to \$2,500 (Pilot)	5

\*Days

## PART 8

### REQUIRED SOURCES OF SUPPLIES AND SERVICES

#### 8.1 Federal Supply Schedules

**Who** CS – advisory to COR; purchase cardholders

**What** Provides guidance on use of Federal Supply Schedules

**When** During the acquisition execution phase

**Discussion:**

- (a) *Combining schedule and non-schedule items on one order.* GAO protest decisions have been clear that non-schedule items cannot be procured on a delivery order/task order (DO/TO) against a Federal Supply Schedule (FSS) contract unless open market competition requirements are followed for those items. If an agency conducts a competition amongst FSS and non-FSS vendors, the order can then include both FSS and non-FSS goods or services from a winning FSS vendor. This means that any non-FSS portion of an order that exceeds \$2,500 must be competed on the open market and a decision that the FSS vendor offers the best value to the government prior to being included on a DO/TO against the FSS contract. Those items must be clearly identified as not being covered by the FSS contract.
- (b) *Oral order procedures. Definitions.*

“Oral DO/TO” means an oral placement by the Government, using a purchase card or convenience check as a method of payment, to buy supplies or services from a type of source identified in FAR part 8. This definition does not include the requirement to furnish a written DO/TO to the contractor.

“Non-complex” means that the specifications and applicable terms and conditions are so simple that the contractor can understand and fulfill the Government’s requirement without receiving a written DO/TO.

Policy. Consistent with your delegated acquisition authority, you can use the oral DO/TO procedure to acquire non-complex supplies and services whenever practicable as follows:

- (1) up to your purchase card limitation level; or
- (2) up to the maximum amount that can be issued by a cashier for convenience checks. Convenience checks should only be used when the purchase card is not accepted. The Office of Finance establishes convenience check procedures and dollar thresholds.

You cannot use this procedure if:

- (1) The contractor will not accept an oral order;

- (2) The acquisition is too complex to do an oral DO/TO;
- (3) Security requirements apply;
- (4) The requirement contains options; or
- (5) You decide that an oral DO/TO is not the most economical or practical method to use.

Procedures. Conduct the acquisition in accordance with FAR part 8. Ask the contractor whether an oral DO/TO with a purchase card as the method of payment is acceptable, without requiring a written method of ordering. Prepare the award in C-Stars and FPDS-NG. Remember that the payment type and invoice address in C-Stars must indicate “Purchase card” or “Convenience Check”.

If you have to modify an oral DO/TO, you can:

- (1) Do the modification orally if the contractor does not require a written modification, and agrees to accept an oral modification to the oral DO/TO; or
- (2) Do the modification in writing by providing the contractor a copy of the SF 30, if the contractor requires a written modification (note this must be done by a CS).
- (3) In either case, modify the order in C-Stars. Include the following statement as applicable in the description “Oral Purchase Order.” Indicate whether this is a purchase card or convenience check.

Distribute award documents to all appropriate parties. Do not send award documents to the contractor, unless he/she requests a written modification.

If you have to cancel an oral DO/TO handle in accordance with FAR 8.405-5 or 8.405-6 as the case may require.

Prepare your file documentation as you normally would when doing a written DO/TO.

**References:** FAR Subpart 8.401(d); GAO Decisions B291105, B-293743, B-292995.2; B-292819.2

## **8.2 Acquisition from Federal Prison Industries, Inc.**

**Who** CS

**What** Impact of delinquent delivery orders

**When** During acquisition execution

### **Discussion:**

- (a) Establish delivery schedules based on the lead time required by Federal Prison Industries (FPI).
- (b) You may use delinquent orders as the reason for requesting clearance to procure from other sources until FPI can make deliveries or for using alternative sources without clearance.

**References:** FAR Subpart 8.6

### **8.3 Acquisition of Printing and Related Supplies**

**Who** CS, COR and Purchase Cardholders

**What** Guidance on the acquisition of printing and related supplies

**When** During planning and execution phases of acquisition

**Discussion:**

- (a) Requirements deemed not to be government printing are identified in paragraphs 35-3 and 35-4 of the Government Printing and Binding Regulations.
- (b) Printing services using appropriated funds may only be acquired through the Government Printing Office (GPO).
- (c) The central printing authority is the NOAA Copy Manager. The Facilities Service Division is available to provide technical assistance with respect to Joint Committee on Printing restrictions.
- (d) Refer to NAO 206-6 for additional guidance regarding the acquisition of copying equipment.
- (e) Refer to NAO 201-32F for additional; guidance regarding the acquisition of composing, platemaking, printing, binding and related equipment.

**References:** FAR Subpart 8.8; Government Printing and Binding Regulations; NAO 206-6; NAO 201-32F

### **8.4 Leasing of Motor Vehicles**

**Who** CS

**What** Guidance on acquisitions for the leasing of motor vehicles

**When** Acquisition planning and execution phases

**Discussion:**

- (a) *Presolicitation Requirements.* The “head of the requiring agency or a designee” is the DOC, Director, Office of Administrative Services. He/she executes the certification required by FAR 8.1102(a)(2).
- (b) The certification specified in paragraph (a) of this section is required for leasing of all motor vehicles regardless of the period of time involved.
- (c) *Additional Guidance.* See additional guidance on the acquisition of motor vehicles, including requirements for Alternative Fuel Vehicles and related reporting requirements on NOAA’s Personal Property webpage at <http://www.pps.noaa.gov>.

**References:** FAR Subpart 8.11; Personal Property webpage

### **8.5 Leasing of Commercial Air Services For the Duration of the Outsourced Aviation Safety Stand-Down**

**Who** CS, COR and Purchase Card Holders  
**What** Guidance on acquisitions for the leasing of Commercial Aviation Services  
**When** Acquisition planning and execution phases  
**Discussion:** **Procedures for Obtaining Commercial Aviation Services (CAS) using the Reimbursable Interagency Agreement between NOAA and the U.S. Department of Interior (DOI) National Business Center Aviation Management (AM) Office (formerly known as Office of Aircraft Services (OAS)) for the duration of the Outsourced Aviation Safety Stand-Down**

A copy of the agreement can be downloaded from the NMAO web site:  
<http://www.nmao.noaa.gov/fleettimereq.html>

The Reimbursable Interagency Agreement between NOAA and DOI allows NOAA to use the DOI AM Aircraft Rental Agreement (ARA) System, which is similar to a "blanket purchase agreement" list of vendors that have been evaluated by the Department of Interior for Federal agency use. The list of vendors can be viewed on their web site:  
<http://www.oas.gov/source/source.htm> Select "Aircraft Source List" where you can input various search criteria to find aircraft in your project area. The ARA system is set up for aircraft charters up to \$25,000 per mission. NOAA offices utilizing a DOI AM "Aircraft Rental Agreement" for aircraft services up to \$25,000 per mission, will be charged a DOI administrative overhead fee equal to 14% of the actual amount paid to the aircraft vendor for services rendered. The DOI AM contracting officers will also work with NOAA to facilitate aircraft charters in excess of \$25,000; and the administrative overhead fees associated with these contracts will be paid by the NOAA program requesting services at the rates below:

<u>Annual Cost per individual aircraft</u>	<u>Percentage</u>
\$0 - \$250,000	11%
\$250,001 - \$500,000	9%
\$500,001 - \$1,500,000	7%
\$1,500,001 – above	6%

In addition to the fees described above, DOI AM will charge the NOAA office requesting contracting services for reimbursement of any travel or per diem costs incurred for site visits to vendors not currently on the DOI AM Aircraft Source List, or for other travel incurred specifically on behalf of that NOAA office.

All NOAA business with DOI AM shall be coordinated through your Line Office liaison listed on the "contact information" tab of the NOAA Aviation Safety website (<http://www.aviationsafety.noaa.gov/>) for submission to LCDR Debora Barr (NOAA's liaison with DOI). Chartering with a vendor on the source list "outside the scope" of the instructions outlined below is in violation of the NOAA Safety Stand-Down.

**Procedures to request Commercial Aviation Services through DOI AM:**

### **Submit Request**

- Coordinate with your Line Office Liaison to complete and fax a NOAA Form 56-48 "Request for Aircraft Support" to NMAO's Program Services and Outsourcing Division (fax 301-713-1541). *(If you have already sent in a 56-48 for your project this fiscal year and have been assigned a NMAO clearance number you do not have to re-submit the form – just call Debora Barr at 301-713-3435 x103 to proceed.* The form can be found on NMAO's web site: <http://www.nmao.noaa.gov/fleettimereq.html>
- LCDR Barr will contact you to discuss your project needs and fax back your NOAA Form 56-48 with an "NMAO assigned clearance number" annotated to authorize the procurement. The clearance number is also required for follow-up reporting of your flight(s).

### **Acquire Billing Code from DOI AM**

- Obtain a "Billee Code" for DOI billing through LCDR Barr of NOAA. This allows DOI AM to bill NOAA for the cost of the aircraft charter, minus the overhead charges that are paid by NMAO when using the ARA.
- Some NOAA offices already have "billee codes" set up with DOI. To determine if your office already has a code in place, go to: <http://www.oas.gov/amab/billee/state.asp>
- If you do not have a billee code, you will need to send the following information to LCDR Barr of NMAO: [Debora.R.Barr@noaa.gov](mailto:Debora.R.Barr@noaa.gov) via email in order to receive one:
  1. Point of Contact (telephone and email)
  2. Office Code
  3. Address for DOI AM to send the "detail of charges" to after the flights

### **Obtain Cost Estimate**

- Once you have a billee code set up with DOI AM, and we determine that an existing ARA aircraft vendor can support your project, you can contact the vendor to request a cost estimate for your project. When you contact the vendor please tell them you are a customer of DOI AM utilizing the Aircraft Rental Agreement System so they can give you an accurate cost estimate using the ARA flight rate. Be sure to include an estimate of the DOI administrative overhead fees in your cost estimate.
- If there are currently no aircraft on the ARA source list that can support your project, LCDR Debora Barr will submit a request to DOI AM to search for additional vendors to fulfill your needs. LCDR Barr will also look at the requested flight profiles and determine if there are "special use" needs such as low-level surveillance flights or extended over-water flights, etc. These types of requests require a higher level of safety evaluation of the vendors including a flight evaluation of the pilots' flying skills, and require additional time to set up as an on-site inspection by AM is required.

### **Complete Procurement Request**

- Fill out a CD 435 (Department of Commerce Procurement Request) to submit to your Administrative Support Center along with a copy of the NOAA Form 56-48 (annotated with your “NMAO Assigned Clearance Number”) to proceed with the procurement. The “Seller” on the CD-435 will be: U.S. Department of Interior, Aviation Management, 300 E. Mallard Dr., Suite 200, Boise ID 83706-3991, Attn: Erin Horsburgh 208-433-5033.

### **Schedule Flight**

- As soon as you have an approved Purchase Order or Requisition, and the cost estimate is less than \$25,000, you may contact the DOI Aircraft Rental Agreement vendor and schedule your flight(s).
- Download and read the “Aircraft Rental Agreement” from the DOI AM website for the region in which you will need aircraft:
  - To determine region: <http://www.oas.gov/fc/>
    - Alaska Region: <http://www.oas.gov/akro/akflight/fccindex.htm>
    - East Area: <http://www.oas.gov/east/fcc/index.htm>
    - West Area: <http://www.oas.gov/west/fcc/index.htm>
- The “Aircraft Rental Agreement” has detailed information regarding the responsibilities of NOAA employees acting on behalf of the government as well as vendor responsibilities. NOAA employees flying on ARA aircraft are required to visually inspect the DOI AM-issued Aircraft Qualification Card and Pilot Qualification Card, authorizing them to perform the flight prior to embarking on the aircraft to ensure the vendor is complying with the ARA agreement, as detailed in the ARA.
- If your cost estimate is greater than \$25,000, contact your Line office liaison to communicate your needs to LCDR Barr to request assistance from the DOI AM Contracting Office to proceed with the procurement.

### **Fly With Vendor**

- When you fly with the ARA vendor, please ensure that the vendor fills out the DOI OAS-23 form using your billee code to ensure that the billing statements are directed properly. **You must enter your NOAA Purchase Order or Requisition Number and CAMS accounting codes in the “User Organization and Charge Codes” section on the OAS-23 form documenting the flight activity.** This will assist NOAA Finance in correctly billing your office for the flight activity.

### **Follow-Up Reporting**

- Download the “Aircraft Use Report – OAS 23 User Guide” from the DOI AM website: <http://www.oas.gov/library/index.htm> which describes all of the codes used on the OAS-23 form.

- After the project is flown, the vendor will ask you to validate the OAS-23 form (Aircraft Use Report) so they can submit it to DOI AM for reimbursement. Please review the OAS-23 instructions available at: <http://www.oas.gov/library/index.htm> You will not be paying the vendor directly. DOI AM pays the vendor after the vendor submits the proper paperwork. DOI AM then bills NOAA for reimbursement using the billee code assigned. **Do not pay the vendor directly!**
- NOAA requires submission of a NOAA Form 56-56 (Commercial Aviation Services Report) to NMAO as well as the monthly ship and aircraft charter form due on the last Friday of each month that you fly to document the cost and utilization data associated with all aircraft outsourcing. These forms can be found on the NMAO web site: <http://www.nmao.noaa.gov/fleettimereq.html> You will need your "NMAO Assigned Clearance Number" to complete these forms.

### **Free Aviation Safety Training**

- DOI AM offers "Interagency Aviation Training" accessible from their web site: <http://iat.nifc.gov/> You will find online courses in Aviation Safety, Aircraft Capabilities and Limitations, Aviation Life Support Equipment, Crash Survival, and others. Any NOAA employee or contractor may log in and take these safety courses online. You will receive credit for taking the training only if you complete the test at the end of each module. It is strongly recommended that employees and contractors take advantage of this opportunity to learn about aviation safety. **Aviation Safety A-101** is a basic safety course which also outlines the ARA procedures that NOAA must follow when working with the vendors on the source list. DOI AM also offers an Aviation Conference and Education (ACE) session twice a year where many of the aviation safety courses are offered in a classroom setting. NOAA employees and contractors may sign up for the ACE sessions. There is no cost for this training other than travel and lodging.

If you have any questions about the interagency agreement, need assistance obtaining a DOI Billee Code, or need additional information regarding anything above, please contact your Line Office liaison - see the contact information tab on the NOAA Aviation Safety website:

<http://www.aviationsafety.noaa.gov/>

### **References**

## PART 9

### CONTRACTOR QUALIFICATIONS

#### 9.1 Responsible Prospective Contractors

**Who** CS

**What** Obtaining past performance information

**When** During evaluation phase of acquisition

**Discussion:** *Past performance on subcontracting plan goals.* You can obtain information to evaluate an offeror's past performance on subcontracting plan goals from the following sources:

- (a) The Small Business Administration.
- (b) Information on prior contracts from contracting officers and Administrative contracting officers.
- (c) Offeror's references.
- (d) Past performance information collected under FAR 42.15.

**References:** FAR 9.104-3

#### 9.2 Qualifications Requirements

**Who** CS

**What** Guidance on waiving qualification requirements

**When** Pre-award

**Discussion:** Submit your request to not enforce a qualification requirement to the HCO. Upon approval by the HCO, the CS shall provide a concise summary of the decision and the basis for it to the SBPO.

**References:** FAR Subpart 9.206-1

#### 9.3 Debarment, Suspension and Ineligibility

**Who** CS, possibly with input from COR

**What** Process for handling proposals to debar, suspend or declare ineligible contractors

**When** At any time

**Discussion:** Submit the information specified in FAR 9.404(c)(1), (2) and (3) to GSA through your HCO and the Director, Acquisition and Grants Office.

The AGO's Director's Office, Policy Staff, maintains all documentation recommending debarment or suspension action until completion of the investigation and decision making process. If the government debars or suspends the contractor, AGO Policy Staff retains the documentation until the debarment or suspension ends.

You can find the Internet site for "The List of Parties Excluded from Federal Procurement and Nonprocurement Programs" at <http://www.epls.arnet.gov>.

**References:** FAR Subpart 9.4

## **9.4 Proposals to Debar**

**Who** CS

**What** Procedures for preparing a proposal to debar a vendor

**When** At any time

### **Discussion:**

(a) Investigation and referral. When you know of an apparent cause for debarment:

- Prepare a report in accordance with FAR Subpart 9.406;
- Incorporate the information specified in FAR Subpart 9.406 in the report; and
- Forward it with a written recommendation for further action through your HCO and the Director, AGO to the DOC PE.

(b) Decisionmaking process. The CO will coordinate the decisionmaking process for the debarring official. In conjunction with AGO management and the DOC OGC, assist the debarring official by requesting information, scheduling interviews and preparing records and notices as described in FAR 9.406-3(b), (c), (d), and (e).

**References:** FAR subpart 9.406

## **9.5 Proposals to Suspend**

**Who** CS

**What** Procedures for proposal to suspend a vendor

**When** At any time

### **Discussion:**

(a) Investigation and referral. When you know of an apparent cause for suspension:

- Prepare a report in accordance with FAR Subpart 9.407;

- Incorporate the information specified in FAR Subpart 9.407 in the report; and
  - Forward it with a written recommendation for further action through your HCO and the Director, AGO to the DOC PE.
- (b) Decisionmaking process. The CO will coordinate the decisionmaking process for the suspension official. In conjunction with AGO management and DOC OGC, assist the debarring official by requesting information, scheduling interviews, and preparing records and notices as described in FAR 9.407-3(b), (c) and (d).

**References:** FAR Subpart 9.407

## **9.6 Reporting Suspected Causes for Debarment, Suspension, or the Taking of Evasive Actions**

**Who** CS

**What** Guidance on reporting suspected causes for debarment, suspension or the taking of evasive actions

**When** At any time

### **Discussion:**

(a) The CS needs to report the following situations:

- A contractor has committed, or is suspected of having committed, any of the acts described in FAR 9.406-2 or 9.407-2; or
- You suspect that a contractor is trying to evade debarment or suspension restrictions imposed under these or comparable policies. Examples are changing addresses, using multiple addresses, or forming new companies.

(b) Include in the report the following information, if it applies:

- (1) The contractor's name and address;
- (2) The names of the principal officers, partners, owners, or managers;
- (3) A list of all affiliates, subsidiaries, or parent firms. Indicate the nature of the affiliation;
- (4) The contract number;
- (5) The amount of each contract;
- (6) The amount already paid to the contractor and the amount due;
- (7) The percentage of work completed;
- (8) The status of invoices;
- (9) The name and address of any assignee(s) and a copy of the assignment(s);
- (10) An estimate of the damages that the Government incurred as a result of the contractor's action. Include an explanation of the method used in making the estimate;
- (11) A summary of the evidence;
- (12) Your recommendations as follows:

- Recommendation for contractor suspension or debarment;
  - Recommended debarment or suspension period; and/or
  - Recommendation for continuing any current contract(s); and
- (13) Attachments, such as:
- A copy of the contract(s) or relevant contract part(s); and
  - Testimony or statements of witnesses.
- (c) Coordinate the report with an attorney in the DOC OGC.

**References:** FAR Subpart 9.4

### **Subpart 9.7 Organizational and Consultant Conflicts of Interest**

**Who** CS

**What** Guidance on planning for contracts for auditing services

**When** At Planning stage

**Discussion:** Acquisitions for auditing services may require special consideration with regard to potential conflicts of interest. Auditors must be free from any potential source of bias when conducting an audit to ensure the integrity of the results. Per the “auditor independence requirements” in *Government Auditing Standards*, a potential conflict of interest arises when the same firm providing the audit services also provides non-audit consulting services. The two main principles of the auditor independence standards are:

- Auditors should not perform management functions or make management decisions; and
- Auditors should not audit their own work or provide non-audit services in situations where the amounts or services involved are significant/material to the subject matter of the audit.

**References:** FAR Subpart 9.502

### **9.8 Contracting Officer Responsibilities**

**Who** CO

**What** Guidance on CO responsibilities for handling potential organizational conflicts of interest

**When** At any time

**Discussion:** See FAR 9.508 for examples of possible organizational conflicts of interest.

Examine each situation on the basis of its particular facts and the nature of the proposed contract. Obtain the advice of a DOC OGC CLD attorney when evaluating a potential conflict of interest and when developing and special solicitation provisions. See FAR 9.506 for the approval requirements for using an organizational conflict of interest provision or clause.

**References:** FAR Subpart 9.5

## PART 10

### MARKET RESEARCH

#### 10.1 Alternatives

**Who** COR, CS, CO

**What** Provide guidance on the analysis, evaluation, and documented of alternatives.

**When** Throughout the acquisition process

**Discussion:**

- (a) Market research is the process of collecting, organizing, maintaining, analyzing, and presenting data that enables agencies to achieve the best value acquisition of systems, commodities, components, technology, capabilities, or services to meet their needs.

It is a continuous process designed to gather data on products, market capabilities, and the business practices associated with them. Market research provides the basis for:

1. identifying opportunities for using commercial items or services to meet requirements,
  2. determining the availability of other existing items (non-developmental items) to meet agency requirements,
  3. writing product descriptions and statements of work which allow companies to offer their commercial items and services in consonance with commercial practice,
  4. crafting acquisition strategies, solicitations, contracts, and support and test plans that accommodate and take advantage of commercial business practices and encourage commercial competition, and
  5. complying with Federal mandates.
- (b) The CS can assist in the conduct of market research by drafting a synopsis designed to gather information on the availability of supplies or services in the marketplace that will meet the needs of the Government. Language needs to be included in the synopsis that makes it clear that the intent of the synopsis is market research and that no solicitation of offers is made by the synopsis or that a formal solicitation of offers will be released in the future.
- (c) Documenting the market research: Each possible alternative shall be evaluated on performance, reliability, maintainability, and life-cycle costs as appropriate. These analyses shall be thoroughly documented and included in the procurement package forwarded. Below is a suggested format which can be tailored to fit your acquisition needs.

## **Market Survey**

- **Background.** Describe the acquisition that stimulated the market research:
  - What was the purpose
  - How does the system or service fit into the agency mission, and
  - Any special features or requirements that framed the research.
- **Need.** Describe the need in performance terms:
  - Function - what the product or service must do,
  - Performance - the qualities and attributes of the product or service,
  - Any physical characteristic requirements, and
  - The required or desired delivery schedule.
- **Approach.**
  - Identify the market research team members and the roles they played,
  - Describe how the data was collected on the market, and
  - Describe how the data was analyzed, the number of vendors contacted, and provide the final list of potential suppliers.
- **Data and Analysis.**
  - Summarize the industry sources contacted and the information obtained from them,
  - Summarize the standard business provisions and conditions, e.g., terms, payment, freight, delivery, acceptance, warranties, etc., and
  - Layout the range of prices encountered, any rationale for the variance, and the probability for determining a fair price.
  - Summarize any trade studies, cost/benefit, user, or other analyses that influenced the outcome of the investigation.
- **Conclusions and Recommendations.**

Conclude the assessment with a summary of the available commercial or non-developmental items, the value or shortcomings of each, recommendations for specific contract terms and/or provisions for training, acceptance, and warranties.

## PART 11

### DESCRIBING AGENCY NEEDS

#### 11.1 Selecting and Developing Requirements Documents

**Who** COR, CS

**What** Use of brand name or equal purchase descriptions

**When** Acquisition planning/requirement development phase

**Discussion:**

- (a) A brand name or equal purchase description must avoid specifying characteristics that do not materially affect the intended end use and which unnecessarily restrict competition.
- (b) When a brand name or equal purchase description is used, best practice is to cite the known acceptable brand name products in current manufacture, rather than only a single brand name product. For example, cite the acceptable brand name products identified during market research.
- (c) You may require samples for “or equal” offers but not for “brand name” offers.
- (d) Provide for full consideration and evaluation of “or equal” offers against the salient characteristics specified in the purchase description. Do not reject offers for minor differences in design, construction, or features which do not affect the suitability of the product for its intended use.
- (e) *Solicitation provisions.* Include the following immediately after each brand name or equal item description, with instructions for the offeror to complete the information:

Offering on:

Manufacturer’s Name \_\_\_\_\_

Brand \_\_\_\_\_

Model or Part No. \_\_\_\_\_

If the solicitation does not require samples for “or equal” offers, include the following notice in the list of brand name or equal items or component parts:

Notice

If you offer other than brand name items identified in this solicitation, you must provide adequate information for the Government to determine the equality of the product(s) offered.

- (f) If you use brand name or equal purchase descriptions for some component parts of an end item, you may limit the application of the provisions at FAR 52.211-6 to the specified components.

**References:** FAR Subpart 11.104

#### 11.2 Delivery or Performance Schedules

**Who** CS

**What** Guidance on award date vs. effective date

**When** Solicitation development/contract award

**Discussion:** The “award date” (or the date of execution) is the date the CO signs the award, notice of award, acceptance of proposal, or other contract document. The “effective date” of a contract is the date on which the contractor and the CO agree that the contract goes into effect. This may be the same or later than the award date, but not earlier. The effective date is usually the date on which performance begins, or the date the contractor will begin to incur costs in preparation for performance. However, in some cases the effective date may not be known but will be contingent upon some future occurrence (e.g., Availability of Funds, Issuance of a Notice to Proceed).

**References:** FAR Subpart 11.4

### 11.3 Liquidated Damages

**Who** CS (with input from the COR)

**What** Guidance on liquidated damages

**When** Prior to release of solicitation; after award

**Discussion:**

- (a) If it is appropriate that liquidated damages be included in a contract (e.g., the Government will be harmed by the Contractor’s failure to perform or deliver in accordance with the delivery schedule included in the contract), the liquidated damages (e.g., cost per day) must be determined prior to release of the solicitation. The file shall be documented with an explanation of the basis for including liquidated damages and an explanation of how those damages have been established. Keep in mind that liquidated damages are not intended to be punitive but to “make the Government whole” for losses sustained through the Contractor’s failure to perform on time.
- (b) *Disposition of liquidated damages.* Refer to FAR subpart 32.6, Contract Debts, for information on the collection of contract debts.

**References:** FAR Subpart 11.5

## PART 12

### ACQUISITION OF COMMERCIAL ITEMS

#### 12.1 Commercial Item Acquisitions

**Who** CS (with input from COR)

**What** Use of Commercial Item Acquisition Procedures

**When** At time of requirements development and solicitation development

**Discussion:** Use of commercial item acquisition procedures can significantly streamline the acquisition process. Accordingly, CORs should seek to identify commercial item solutions to fulfill their needs. Market research is an essential part of reaching a conclusion that there are no commercial items/services available to fulfill the Government's needs.

**References:** FAR Subpart 12.1

#### 12.2 Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

**Who** CS

**What** Guidance on tailoring provisions and clauses for the acquisition of commercial items

**When** Solicitation development

**Discussion:** *Tailoring inconsistent with customary commercial practice.* If it is appropriate to tailor any clause or otherwise include any additional terms or conditions in a solicitation or contract for commercial items in a manner that is inconsistent with customary commercial practice for the item being acquired, prepare a waiver request. Prepare the request in accordance with the requirements at FAR 12.302(c) and send it to the HCO for approval.

**References:** FAR Subpart 12.3

## PART 13

### SIMPLIFIED ACQUISITION PROCEDURES

#### 13.1 Award and Documentation of Simplified Acquisitions

**Who** CS

**What** Guidance on required file documentation on simplified acquisitions

**When** Prior to award and throughout life of award

**Discussion:**

- (a) The CS is responsible for ensuring that the supporting documentation for simplified acquisitions is concise, clear and fully documents the decisions made and the rationale for those decisions. It is insufficient to simply make conclusionary statements. The facts supporting the conclusion must be included in the file. The file is to be a stand-alone summarization of the acquisition and the decisions made.
- (b) *File documentation and retention.* While documentation requirements for simplified acquisitions are intended to be simplified as well, the file documentation must stand on its own in documenting the decisions made. Documentation must be sufficient to clearly support the decisions made.

See Exhibit 1 to this Part for file assembly instructions.

- (c) *Use of pre-printed folders for simplified acquisitions.* Some NOAA acquisition offices utilize pre-printed folders for simplified acquisitions. These pre-printed folders provide for pre-award, award and post-award documentation to be recorded directly on the folder. If such folders are utilized, the files should not contain paperwork that duplicates information that can be recorded directly on the file. Any additional paperwork that must be included in the pre-printed folder shall be filed in accordance with the file assembly instructions included in Exhibit 1 to this Part.

**References:** FAR Subpart 13.1

#### 13.2 Simplified Acquisition Methods-Government-wide Purchase Card

**Who** CS and Government-wide Purchase Cardholders

**What** Use of the Government-wide Purchase Card

**When** Upon identification of the need to acquire goods or services

**Discussion:** It is NOAA policy that the Government-wide Commercial Purchase Card (purchase card) shall be used to the maximum extent possible. All acquisitions below the micro-purchase threshold (currently \$2,500) shall be processed utilizing the purchase card. Purchase requests below the micropurchase threshold shall not be submitted to a NOAA acquisition office for processing. Any purchase request below the micropurchase threshold submitted to a NOAA

acquisition office must include documentation showing what efforts were made to obtain the required product/service utilizing the purchase card and a certification that no source could be identified that would accept the purchase card. Any purchase request below the micropurchase threshold submitted without the required documentation and certification shall be returned for processing by the requesting office's authorized purchase cardholder.

**References:** FAR 13.3; CAM Chapter 1313.301

### **13.3 Simplified Acquisition Methods – Purchase Orders**

**Who** CS

**What** Distribution of award documents

**When** At time of award

**Discussion:** Distribute award documents in accordance with FAR 4.201, FAR 4.202, and FAR 13.302-1(d).

**References:** FAR Subpart 4.2 and 13.3

### **13.4 Blanket Purchase Agreements (BPAs)**

**Who** CS

**What** Guidance on the use and award of BPAs

**When** Throughout the acquisition process

**Discussion:**

- (a) *General.* Follow the requirements at FAR 13.303-5(e) to make sure you comply with the requirements at FAR 13.303-1.
- (b) *Preparation of BPAs.* Make sure the individuals authorized to purchase under the BPA understand their responsibilities regarding ordering, record keeping, receiving and acceptance, and certifying invoices for payment.

If a COR has been designated under the BPA, he/she should be advised of the review procedures at FAR 13.303-6(a), which requires an annual sampling of the BPA records to ensure authorized procedures are being followed by the CS.

- (c) *Purchases Under BPAs.* NOAA policy allows the simplified acquisition threshold for individual purchases to be exceeded consistent with the thresholds in FAR 13.303-5(b)(1) and (2) upon concurrence of the DOC Procurement Executive.
- (d) Use C-Stars to record award information. If individuals that do not have access to C-Stars have been given the authority to purchase under the BPA, a record of these purchases must be provided to the cognizant to NOAA Acquisition Office. This may be accomplished in a variety of ways such as:

- (1) The authorized individuals may keep a record of all calls and related actions (e.g., receiving and payment information), and submit this record to the cognizant acquisition office monthly, quarterly, or within the timeframes established by the cognizant acquisition office.
- (2) The CO can stipulate in the BPA that the contractor must submit a monthly summary of all the supplies and services delivered to the CO and the cognizant COR. This may be more practical than the method in (1) above if NOAA's micropurchasers have been authorized to purchase under the BPA.
- (3) Individualized methods can be developed on a case-by-case basis as long as those methods ensure that the required information is submitted routinely to the cognizant acquisition office.

**References:** FAR Subpart 13.3

### **13.5 Oral Purchase Order Procedures for Open Market Acquisitions**

Definitions. As used in this section:

“Oral Purchase Order” (Oral PO) means an oral offer by the Government, using a purchase card or Convenience Check (CC) as the method of payment, to buy supplies or services based on specified oral terms and conditions using simplified acquisition procedures.

“Non-complex” means that the specifications and applicable terms and conditions are so simple that the contractor can understand and fulfill the Government's requirement without receiving a written PO.

**Who** CS

**What** Policy and procedures for utilizing oral purchase orders

**When** At start and throughout the acquisition phase

#### **Discussion:**

(a) *Policy.* Consistent with your delegated acquisition authority, you can use the oral PO procedures to acquire non-complex supplies or services whenever practicable as follows:

- (1) Up to the simplified acquisition threshold (SAT) when using a purchase card, or your purchase card limitation level, whichever is less;
- (2) Up to the maximum amount that can be issued by a cashier for convenience checks. Only use convenience checks when the purchase card is not accepted.

You cannot use the oral PO procedure if:

- (i) The contractor will not accept an oral order;
- (ii) The acquisition, including terms and conditions, is complex, and cannot be

- communicated orally;
- (iii) A clause(s) applies to the acquisition that is not included in one of the pre-assembled clause group lists located on AGO's Website (<http://www.ofa.noaa.gov/~amd>) (under construction), or you want to use additional clauses other than those located on AGO's Website.
- (iv) The acquisition is subject to the Service Contract Act or the Davis-Bacon Act;
- (v) Security requirements apply;
- (vi) The requirement contains options; or
- (vii) You decide that an oral PO is not the most economical or practical method to use.

(b) *Procedures.* The CS shall solicit and evaluate quotes in accordance with the procedures prescribed in the FAR, and prepare file documentation as would normally be done when doing a written PO.

Whether quotes are solicited orally or in writing potential offerors must be informed that the Government intends to issue an oral PO and use a purchase card or convenience check (if the purchase card is not acceptable) to pay for the required goods or services, and that no follow-up will be made with a written offer to buy.

If potential offerors agree to accept an oral PO, proceed with the solicitation. In either a written or oral solicitation the CS should, at a minimum, provide and obtain from offerors the following information:

- (1) the applicable SBA designated district if the acquisition is set-aside for very small businesses;
- (2) the applicable North American Industry Classification System Code (NAICS), and Small Business Size Standard if the acquisition is set-aside for small business concerns;
- (3) the basis for award (include "all or none" or "multiple" award);
- (4) use appropriate clauses when placing an oral PO. Commercial item and non commercial item clause group lists using required clauses for acquisitions at or below the SAT and other applicable agency terms and conditions are available at AGO's Internet site at <http://www.ofa.noaa.gov/~amd> (under construction) and click on the "Acquisition Information" title bar to view the applicable clause group. The CS may fax the clauses to potential quoters if they do not have access to the Internet); and
- (5) obtain Representations and Certifications (Reps and Certs) from the quoters. The Reps and Certs are also located at the Internet address cited above. Provide the Internet address to potential quoters, and ask them to complete the appropriate set of Reps and Certs and submit them to the CS. The CS may fax the Reps and Certs to potential quoters if they do not have access to the Internet.

(c) *Prepare the award in C-Stars.* Remember that the Payment Type and Invoice

Address in C-Stars must indicate either “Purchase Card” or “CC”.

(d) If an oral PO must be modified, the CS can:

- (1) Do the modification orally if the contractor does not require a written modification, and agrees to accept an oral modification to the oral PO; or
- (2) Do the modification in writing by providing the contractor a copy of the SF 30, if the contractor requires a written modification.
- (3) In either case modify the order in C-Stars. Include the following statement as applicable in the description “Oral Purchase Order.” Indicate whether or not the referenced order is a “Purchase Card” or “CC” order.

(e) The CS shall distribute award documents to all appropriate parties. Do not send award documents to the contractor, unless the contractor requests a written modification.

(f) If the CS has to cancel an oral PO, cancel it in accordance with FAR 13.004(c) or FAR 13.302-4(b) or Part 12, as applicable.

**References:** FAR Subpart 13

### **13.6 File Documentation**

**Who** CS

**What** File documentation requirements for Simplified Acquisitions

**When** Prior to award

**Discussion:** The CS may use the abstract in Exhibit 2, or another method to document your file, as long as the method used satisfies the documentation requirements to provide a stand-alone summary of the processes utilized and the decisions made relative to the award.

Note: Page 2 of the abstract in the Exhibit fully covers the documentation requirements.

**References:**

### **13.7 Test Program for Certain Commercial Items**

**Who** CS

**What** Special Documentation Requirements

**When** Prior to award

**Discussion:** See Part 7 of this handbook for agency approval levels.

**References:** FAR Subpart 13.5

**Exhibits:**

1 – Simplified Acquisition File Assembly instructions

## 2 – Abstract of Quotation/Ordering Information

**SIMPLIFIED ACQUISITION FILE ASSEMBLY INSTRUCTIONS**  
(for use with non pre-printed file folders)

1. Outside Cover

The Order Number should be clearly affixed to/written on the outside cover of the file.

2. Inside Left Cover

The documentation to support the award should be filed on the inside left cover. Documents should be tabbed and filed based on the file documentation requirements included in Part 4 of this Handbook. Administration documentation should be appropriately tabbed on top of pre-award and modification documentation. For example:

Basic Award	Tab 1 – Requisition
	Tab 2 – Request of Quotation
	Tab 3 – Offers
	Tab 4 – Abstract of Offers Received
	Tab 5 – Selection determination (if based on other than lowest offer)
	Tab 6 – FPDS-NG
Modification 1	Tab 1 – Requisition
	Tab 2 – Memorandum to File explaining purpose of modification
	Tab 3 – FPDS-NG

Invoices Submitted/Authorized for Payment

3. Inside Right Cover

Award documents beginning with the basic order with a tab on top. Modifications are to be filed sequentially on top of the basic order with numbered tabs corresponding to the modification number.

## PART 14

### SEALED BIDDING

#### 14.1 Invitations for Bids (IFB)

**Who** CS

**What** Agency guidance on IFBs

**When** Development of solicitation/receipt of offers

**Discussion:**

- (a) Facsimile transmission of bids is authorized.
- (b) Use of electronic commerce for submission of bids is not authorized.
- (c) Bidders are not allowed to submit annual representations and certifications.

**References:** FAR Subpart 14

#### 14.2 Opening of Bids and Award of Contract

**Who** CS

**What** Agency guidance on cancellation of IFBs and Mistakes in Bids

**When** After receipt of Bids

**Discussion:**

- (a) *Cancellation of Invitations After Opening.* Forward a written recommendation for a determination to cancel an invitation for bids after bid opening, but before award, to the HCO. Reference, as applicable, any of the reasons for the cancellation as shown in FAR 14.404-1(c)(1) through (10).
- (b) *Other Mistakes Disclosed Before Award.* Authority is delegated to the SBPO to make administrative determinations in connection with mistakes in bid alleged after opening but before award. This authority may not be redelegated.

When a bidder furnishes evidence supporting an alleged mistake, refer the case to the SBPO. To assist the SBPO, prepare a file containing all documents referred to in FAR 14.407-3(g)(3)(i) through (v). Annotate the file with ‘IMMEDIATE ACTION—MISTAKE IN BID.’ A single copy of the file will suffice.

- (c) *Mistakes After Award.* Forward each proposed determination under FAR 14.407-4(b)(1) and (2) through the DOC OGC CLD, for concurrence. See FAR 14.407-4(e)(2). To assist the DOC OGC CLD, prepare a file containing all documents referred to in FAR 14.407-4(e). Annotate the file with “IMMEDIATE ACTION—MISTAKE IN BID.” A single copy of the file will suffice.

Final approval authority rests with the HCO.

**References:** FAR Subpart 14

## PART 15

### NEGOTIATED PROCUREMENT

#### 15.1 Proposal Evaluation

**Who** CS, with support from COR  
**What** Guidance on evaluating past performance  
**When** Prior to award

**Discussion:**

- (a) *Use of the Past Performance Information Retrieval System (PPIRS):* Use information from PPIRS at [www.ppirs.gov](http://www.ppirs.gov) when evaluating an offeror's past performance.
- (b) *Other Means of Obtaining Past Performance Information:* Obtain information through questionnaires tailored to the circumstances of the acquisition; interviews with program managers and contracting officers; or other sources.

You may obtain information to evaluate an offeror's past performance on subcontracting plan goals and small disadvantaged business participation, monetary targets and notifications under FAR 19.1202-4(b) from the Small Business Administration; information on prior contracts from contracting officers and CORs; offeror's references; and past performance information collected under FAR 42.15 and available through PPIRS.

**References:** FAR Subpart 15.3

#### 15.2 Source Selection Decision

**Who** CS and COR  
**What** Source Selection Delegations and Procedures  
**When** Prior to release of solicitation

**Discussion:** Source selection officials and their respective delegated authorities are as follows:

- (a) The Deputy Under Secretary (DUS) for Oceans and Atmosphere for Competitive procurements with an estimated cost/price of \$10 million or more. This authority may be delegated to an AA or a Department manager at a level above the CO. In general, the DUS will not delegate Source Selection Official (SSO) Authority on acquisitions meeting the following criteria:
  - (1) acquisitions exceeding \$15 million; or
  - (2) acquisitions for which there is a history of OIG interest; or
  - (3) acquisitions for which there is significant political interest; and
  - (4) acquisitions on which there have been significant activities (e.g., extensive delays,

protests, etc.).

*Procedures for requesting a delegation of SSO authority.*

Designation of Source Selection Official. The SSO must be identified in the acquisition plan submitted to the ARB. Accordingly, if a delegation below the DUS is determined to be appropriate, such request for delegation shall be submitted and approved in advance of the acquisition plan's submission to the ARB. The DUS, through the Director, AGO, shall advise the appropriate LO/SO and assigned acquisition office of any acquisition below the threshold established herein for which Source Selection Authority will be retained at the DUS level. These criteria do not apply to acquisitions being processed by NOAA for other operating units of DOC. The provisions of CAM 15.6, Chapter 1 shall apply to those acquisitions.

Delegation Request. Exhibit 1 to this Part provides a template for requesting a delegation of Source Selection Authority below the DUS level. The delegation request is to be prepared by the assigned Project Officer/COR with the assistance of the assigned CS.

Coordination of Requests for Delegation. All requests for delegation of source selection authority below the DUS are required to be reviewed and concurred in by the CO, HCO, and SBPO. As well, appropriate concurrences shall be obtained from the organizational entity with subject matter responsibility. For example, an acquisition for information technology (products or services) must be submitted to the Office of the CIO for concurrence; an acquisition for an A-76 cost comparison must be submitted to the Workforce Management Office and the Chief, Audit, Internal Control and Information Management Office for concurrence; or an acquisition for facility construction must be concurred in by the Chief Administrative Officer. These examples are not all inclusive and appropriate concurring offices need to be identified on a case-by-case basis between the COR and the CS.

- (b) The CO of the servicing acquisition office for those with an estimated cost/price  $\leq$ \$9,999,999. The DUS may elect to serve as the source selection official for negotiated acquisitions  $\leq$ \$9,999,999.
- (c) Except as detailed above, source selection authorities may not be redelegated.
- (d) *Value Determination.* Life cycle value of an acquisition for these purposes is determined as follows:

Contracts without Options. Contract value shall be calculated as the total fixed price, cost, cost-plus-fixed-fee, cost-plus-award-fee, or ceiling amount of Time and Material or Labor Hour type contracts.

Contracts with Options. Contract value shall be calculated as the base period and/or quantity plus all option periods/quantities (stated in terms of dollars).

Indefinite Delivery, Indefinite Quantity Contracts. Contract value shall be calculated as

the maximum (stated in terms of dollars) under the contract. If there are options to be included in the contract, the value is calculated as the sum of the maximum (stated in terms of dollars) for the base period plus the maximum of all options (stated in terms of dollars).

Requirements-type Contracts. Contract value shall be calculated as the total estimated amount (stated in terms of dollars). If there are options to be included in the contract, the value is calculated as the sum of the total estimated amount for the base period/quantity (stated in terms of dollars) plus the estimated amount for all option periods/quantities (stated in terms of dollars).

Contracts with Award Term Provisions. Contract value shall be calculated as the total price/cost of the base period plus the total price/cost of any options plus the total price/cost of any potential award term periods.

**References:** FAR Subpart 15.3; CAM 15.6, Chapter 1; NAO 208-100

**Exhibit 1** – Request for Source Selection Authority Delegation Template

**TEMPLATE  
SOURCE SELECTION AUTHORITY  
REQUEST FOR DELEGATION**

MEMORANDUM FOR: John J. Kelly, Jr.  
Deputy Under Secretary

FROM:

SUBJECT: Request for Delegation of Source Selection Authority

Background

Provide a brief synopsis of the acquisition, including total value as determined based on guidance in Part 15 of the NAHB. Identify previous or concurrent related acquisitions and proposed acquisition methodology.

Requested Delegation

Identify to whom, by name and title, the delegation of source selection authority is proposed to be made.

Factors for Consideration

Identify whether the Office of Inspector General has audited or investigated the proposed current acquisition or any predecessor acquisitions. Include an identification of any report issued, issues identified in any investigation or audit, and actions taken as a result of any such report or investigation.

Identify known or potential Congressional interest in the current or predecessor acquisitions.

Identify significant extraordinary acquisition activities (e.g., protests, injunctions, claims, disputes) on the current or predecessor acquisitions that may impact the acquisition.

Justification

Discuss the rationale for the delegation request.

CONCURRENCE:

A. Program Office Concurrence:

\_\_\_\_\_  
(Proposed Delegee) Date

B. Acquisition Concurrences:

\_\_\_\_\_  
Contracting Officer Date

\_\_\_\_\_  
Head of the Contracting Office Date

\_\_\_\_\_  
Director, Acquisition and Grants Office Date

C. Subject Matter Concurrences:

\_\_\_\_\_  
(Title) Date

\_\_\_\_\_  
(Title) Date

**DECISION**

Request for Source Selection Authority delegation is:

( ) Approved \_\_\_\_\_

( ) Disapproved \_\_\_\_\_

( ) Let's discuss \_\_\_\_\_

### **15.3 Local Clause - Representation, Certifications and Other Statements Of Offeror**

**Who** CS, CO

**What** Representation, Certifications and Other Statements of Offerer

**When** Prior to award

**Discussion:**

The following Section H Clause is mandatory and shall be included in contract types:

#### **H.xx REPRESENTATION, CERTIFICATIONS AND OTHER STATEMENTS OF OFFEROR**

**In accordance with FAR 15.204-1(b), the completed and submitted "Representations, Certifications, and Other Statements of Offeror" are hereby incorporated by reference in this resulting contract.**

**References:** FAR Subpart 15.204-1(b)

### **15.4 Summary of Negotiations/Business Case Memorandum**

**Who** CS, CO

**What** Preparation of Business Case Memorandum/ Summary of Negotiations

**When** Prior to award

**Discussion:**

#### **15.4 Summary of Negotiations/Business Case Memorandum**

**Who** CS, CO

**What** Preparation of Business Case Memorandum/ Summary of Negotiations

**When** Prior to award

**Discussion:**

The CS/CO shall prepare a Business Case Memorandum/Summary of Negotiations prior to award and include it in the contract file. The Memorandum/Summary shall include historical data a discussion of all elements of the negotiated agreement to include the prime's proposed prices, the government's negotiation objective, negotiated price, and details of any and all negotiations / discussions.

Memoranda/Summary's in support of change orders/modifications to the contract shall provide background information which clearly identifies an evaluation of proposed changes, alternatives considered, basis for decision, associated cost considerations, documentation of briefings concerning proposed decisions, findings and recommendations for those changes to the contract.

**References:** FAR Subpart 15

## PART 16

### TYPES OF CONTRACTS

#### 16.1 Fixed-Price Contracts

**Who** CS

**What** Approval requirements for adjustments

**When** Prior to release of solicitation and/or contract award

**Discussion:** The HCO must approve use of any clause developed that will include adjustments based on cost indexes of labor or material.

**References:** FAR Subpart 16.203-4

#### 16.2 Indefinite-Delivery Contracts

**Who** CS

**What** Guidance on Indefinite Delivery type contracts

**When** Prior to release of solicitation and/or contract award

**Discussion:**

- (a) *Requirements-Type Contracts.* When awarding the contract, do not fund the contract. Only DOs or TOs issued against the contract should be funded.
- (b) *Indefinite-Quantity Contracts.* When making the award (including multiple awards), the minimum quantity specified in the contract must be funded. When exercising an option, any guaranteed minimum quantity in the option modification must be funded. Subsequent DOs or TOs should obligate no additional funds until the initial funding/quantity has been depleted. For additional orders above the minimum quantity, issue a TO or DO as appropriate, obligating current funds available at the time you issue each TO or DO. Do not modify the contract to provide additional funds. See FAR 16.505(a)(4) regarding ordering and FAR Part 43 regarding modifications.

Include the following information about the Ombudsman in solicitation(s) and contract(s) for an indefinite quantity if you may make/made multiple awards:

Team Lead, Performance Assessment & Improvement Team, CAPPS  
U. S. Department of Commerce  
Office of Acquisition Management  
1401 Constitution Avenue, N. W.  
Washington, DC 20230  
202-482-3780

Ordering. Optional Form 347 (OF 347), Order for Supplies or Services, shall be used to

issue TOs and DOs. Do not use the Standard Form 30, Amendment of Solicitation/Modification of Contract See FAR Part 43.000(a). See FAR section 43.301, and subsection 53.216-1 regarding the use o forms.

Record-keeping. Keep track of DOs or TOs in the contract file. This will help assure that you meet the Government’s obligation under the contract.

The Team Leader, Performance Assessment and Improvement Team, DOC OAMFA, performs the duties of the “task order and delivery order ombudsman” as specified in FAR 16.505(b)(5).

**References:** FAR Subparts 16, 43 and 53.

### 16.3 Letter Contracts

**Who** CS

**What** Guidance on Letter Contracts

**When** Prior to release of solicitation and/or award of contract

**Discussion:**

- (a) HCO approval must be obtained before authorizing any additional period for definitizing a contract.
- (b) *Approval of Letter Contracts.* The “head of the contracting activity or a designee,” as used in the FAR at 16.603-3, means the HCO. Acting for the head of the contracting activity (HCA), the HCO is the approving official who determines in writing that no other contract than the letter contract is suitable. However, if the HCO signs the letter contract as the contracting officer, the HCA is the approving official.
- (c) *Information to be Furnished When Requesting Authority to Issue A Letter Contract.* Include the following information in any memorandum requesting approval to issue a letter contract:
  - Name and address of contractor.
  - Location where contract will be performed.
  - Contract number, including modification number if appropriate.
  - Brief description of work and services.
  - Performance or delivery schedule.
  - Amount of letter contract.
  - Estimated total amount of definitized contract.
  - Type of definitive contract (e.g., fixed price or cost reimbursement).
  - Statement of the necessity and advantage to the Government of using the letter contract.

- Statement of the percentage of the estimated cost that the obligation of funds represents. Where the obligation represents 50 percent or more of the proposed estimated cost of the acquisition, include a justification for that obligation indicating the basis and necessity for the obligation (e.g., the contractor requires a large initial outlay of funds for major subcontract awards or an extensive purchase of materials to meet an urgent delivery requirement). Assure that the documentation demonstrates that the amount to be obligated is reasonable for the specified work.
  - Schedule for definitization of the letter contract. If more than 180 days, give a justification.
  - Statement of any substantive matters that need to be resolved.
- (d) *Approval for Modifications to Letter Contracts.* Process requests for authority to issue letter contract modifications in the same manner as requests for authority to issue letter contracts. Include the following:
- Contractor's name and address.
  - Description of work and services.
  - Approval date of original request and approving official's name and title.
  - Letter contract number and date issued.
  - Justification as to why you can't definitize the letter contract at this time.
  - Justification as to why you must increase the level of funding.
  - Justification as to why the schedule for definitization exceeds 180 days, if applicable.
  - Statement of percentages of the estimated cost that the obligation of funds represents. This is if the funding of the letter contract will exceed 50 percent of the estimated cost of the acquisition.

**References:** FAR Subpart 16.603

## PART 17

### SPECIAL CONTRACTING METHODS

#### 17.1 Options

**Who** CS, with input from the COR

**What** Guidance on the use, evaluation and exercise of options

**When** Prior to solicitation and during performance of contract

**Discussion:**

- (a) *Solicitations.* HCO approval (unless the HCO is also the CO; in which case, the approving official would be the SBPO) approval must be obtained for inclusion of option quantities for additional supplies greater than 50 percent of the initial quantity of a contract line item.
- (b) *Contracts.* HCO approval must be obtained for certain contract actions including basic and option periods, exceeding five years. See FAR 17.204(e). Include the following in the request to exceed five years:
  - The positive and negative aspects of negotiating a contract for more than five years;
  - The restrictions on competition;
  - The risk of nonperformance;
  - Any cost or price risk; and
  - The continuity of operations.
- (c) *Evaluation.* The CO may determine that evaluating option quantities in offers is not in the best interests of the Government. Requests for approval of the determination shall be submitted to the HCO (unless the HCO is also the CO; in which case, the approving official would be the SBPO).
- (d) *Exercise of Options.* The written notice to exercise an option should include:
  - The notice date;
  - The contract number;
  - The authorizing contract option clause;
  - The period of performance;
  - A statement that the preliminary notice does not commit the government to the extension; and
  - The CO's signature.

When considering whether to exercise the option or not, include the following:

- Is the contractor in compliance with the VETS-100 reporting requirements? See FAR 22.1302(b).
- If applicable, are the terms of the contract in compliance with the Service Contract Act requirements at FAR 22.1007 (e.g., is there a current wage determination

- applicable to the option period).
- Is the contractor performance information required by FAR 42.15 complete and satisfactory?
  - What market research was done to substantiate that exercising the option is still the “best deal” for the government, including addressing any inquiries or offers from other sources for providing the product or service required under the option?

Documentation. The determination required by FAR 17.207(f) shall be Prepared in accordance with Exhibit 1 to this Part, sample Memorandum to the File. This document becomes a permanent part of the award file.

Use a Standard Form 30 (SF30), “Amendment of Solicitation/Modification of Contract.” Cite the option clause in the contract in Block 13, item “D.”

Operation and maintenance or continuing services contracts. An option for services that cross fiscal years may be exercised as long as performance begins in the fiscal year in which funds are obligated (See FAR 37.106(b). If funds are not available, you can exercise an option for the full term, subject to the availability of funds, as long as the contract includes the appropriate clause, either FAR clause 52.232-18, “Availability of Funds,” or FAR 52.232-19, “Availability of Funds for the Next Fiscal Year.”

**References:** FAR Subpart 17.2

## **17.2 Interagency Acquisitions Under the Economy Act**

**Who** COR, CO

**What** Approval required for Economy Act D&Fs for Interagency and Other Special Agreements (IOSA)

**When** Prior to execution of an IOSA

**Discussion:** The D&F must be prepared by the COR and submitted to the cognizant CO for approval. A copy of each D&F approved shall be provided to the Director, AGO.

**References:** FAR Subpart 17.5; DOC Interim Handbook on IOSAs; NOAA IOSA User Manual

**Exhibit:**

**1** - Memorandum to the File

**Memorandum to the File**

Subject: Determination to Exercise Option for **<insert as applicable: extension of contract term, increased quantities, conversion from lease to purchase, etc.>**

The following represents the basis for my determination to exercise an option for **<insert as applicable: extension of contract term, increased quantities, conversion from lease to purchase, etc.>** under Contract No. **<Insert contract number>** in accordance with FAR 17.207.

The terms of the option, along with **<option prices or a method of price calculation>**, are clearly specified in **<insert section/paragraph number applicable to the option provision>** of the contract **<if the option provision extends the period of performance continue with:>** and the same option also extends the period of performance of the contract for an additional **<insert the additional term in months, or years, as applicable.>**

**Background**

NOAA has a requirement for **<discuss the prior and current, or continuing, need for this requirement which results in the present action.>**

This requirement is already provided for by the terms of an option to Contract No. **<insert contract number>** which was originally awarded on **<insert date of award>** to the contractor, **<insert contractor's name>** of **<insert contractor's address.>** The basic contract and option years **<Insert an explanation of how the option prices were evaluated. Discuss how the basic contract and all options, or all maximum quantities available over the life of the contract were evaluated before award in accordance with the requirements of FAR Part 6. Also reference FAR 17.207(f).>**

**<Discuss applicable items in FAR 17.207(c), (d), and (e). Provide detail that supports:**

- *The need for continuity of operations;*
- *The costs to the Agency if the option is not exercised;*
- *The reasonableness of the option pricing (based on current market research and addressing any offers received from any other vendors for the option quantity/period); and*
- *The statements in the following Determination>*

### Determination

Based on the above and other information available to me, I have determined the following:

1. **<Sufficient funds are available> or <the option is exercised subject to the availability of funds. If subject to the availability of funds, indicate whether FAR 52.232-18 or 52.232-19 is applicable.>**
2. In accordance with FAR 17.207(a) and **<insert the applicable section of the contract>** written notice has been provided to the contractor by **<insert either the date of the letter providing preliminary notice of the Government’s intention to exercise the option; or, a statement that the contract modification represents the written notice provided to the contractor.>**
3. The requirements covered by the option fulfill an existing need of the Government.
4. The exercise of this option is most advantageous to the Government in terms of price because: **<insert a statement as to why exercising the option is the most advantageous means of fulfilling the Government needs in terms of price. This reason must be supported by facts in “Background.” Refer to FAR 17.207(d).>**
5. The exercise of this option is most advantageous to the Government in terms of other factors because: **<Insert a statement as to why exercising the option is advantageous to the Government in terms of other factors, such as continuity of operations, etc. Support this statement in the background.” Refer to FAR 17.207(e).>**
6. The option **<state whether or not the option was synopsisized. If not synopsisized, cite the specific exception allowed by FAR 5.202.>**
7. Exercise of this option is in accordance with the terms of FAR 17.207 and FAR Part 6.
8. **<If applicable, state that the contractor is in compliance with the VETS-100 reporting requirements. See FAR 22.1302(b).>**
9. **<If applicable, state that you are in compliance with the Service Contract Act requirements at FAR 22.1007.>**
10. The contractor performance information required by FAR 42.15 is complete.

\_\_\_\_\_

Date

\_\_\_\_\_  
Signature of Contracting Officer  
Typed Name of Contracting Officer

**PART 18**

**[RESERVED]**

## PART 19

### SMALL BUSINESS PROGRAMS

#### 19.1 Policies

**Who** CS, COR

**What** Policies related to small business programs

**When** Acquisition planning phase

**Discussion:**

- (a) *General Policy.* Along with the regular duties of their position, an individual in each Regional Acquisition Division (RAD) shall be designated and act as the Small and Disadvantaged Business Utilization Specialist (SADBUS) for his or her RAD.
  - (1) The individual designated as the SADBUS for CRAD shall act as the SADBUS for the acquisition office at the National Data Buoy Center.
  - (2) The individual designated as the SADBUS for WRAD shall act as the SADBUS for the acquisition office in Hawaii.

The NOAA SADBUS is organizationally under the Director, Acquisition and Grants Office and is located in the Director's office in Silver Spring, MD.

Per FAR Subpart 19.201(c)(7) and DOO 15-9, the Director, DOC Office of Small and Disadvantaged Business Utilization, exercises counterpart clearance on the hiring and promotion of all Small Business Technical Advisors (SBTAs aka SADBUS) and provides technical evaluations of the work of the SBTAs to line supervisors that will be incorporated in the SBTAs' annual performance appraisals.

- (b) *SADBUS Review of Agency Acquisition Requirements.* See Exhibit 1 to this Part for a matrix of Approval Levels for Small Business Set-Aside Reviews.

Headquarters.

- (1) Acquisitions between \$2,500 and \$100,000.
  - (i) It is NOAA policy that each acquisition of supplies or services in excess of \$2,500 and not exceeding \$100,000 be reserved exclusively for small businesses (see FAR 19.502-2 for exceptions). There will be no SADBUS pre-award review of these acquisitions. However, whenever the CO is recommending that the acquisition should not be set-aside for small business, the CO shall obtain the SADBUS' approval/concurrence via the CD-570, Small Business Set-Aside Review form and include that approval/clearance in the award file.
  - (ii) If the CO determines there are no small business concerns that are capable of providing the supply or service based on the results of market research (see FAR Subpart 10), then the CO must complete a CD-570, Small Business et-Aside Review form, and submit to the SADBUS for approval, along with a copy of the

CD-435 and supporting documentation, i.e., statement of work, source list, etc. The SADBUS will provide a decision on the set-aside based on the information submitted. Differences shall be elevated to the Director, AGO.

(2) Requirements exceeding \$100,000.

- (i) The SADBUS will conduct a pre-Solicitation review of all requirements exceeding \$100,000 to determine if the Acquisition should be set aside for small business or awarded under the 8(a) Program. COs should coordinate efforts with the SADBUS during the acquisition planning and market research steps. Early decisions on the appropriateness of setting aside a particular planned requirement will help to streamline the process upon receipt of the CD-435 in the acquisition office. As well, if the acquisition involves bundling, the SADBUS will assist in identifying alternative strategies to reduce or minimize bundling and notify OSDBU. If the SADBUS concurs in the non-set aside, the CD-570 must be routed to the OSDBU and the Small Business Administration (SBA) Procurement Center Representative (PCR) for approval.
- (ii) The CO must complete the Small business Set-Aside Review Form and forward the form to the SADBUS, along with the CD-435 and supporting documentation. Within 4 days, the SADBUS will check the records, complete and sign the form, and return the form to the CS. If the requirement is not restricted to small business, then the CD-570 (and attachments) must be routed to OSDBU for review and approval. Attachments include SOW, acquisition strategy, market survey results, etc. OSDBU submits the CD-570 package to the SBA PCR for approval. Per FAR 19.202-1(e)(1), the package must be submitted to the PCR 30 days prior to issuance of the solicitation. Every effort will be made to return the PCR's decision sooner than 30 days.

In the absence of the SADBUS, the Director, AGO and each Headquarters' HCO have approval authority to sign the small business review form, who will submit to OSDBU for approval.

See reverse side of CD-570 for exceptions.

Regional Acquisition Divisions. The RAD SADBUS must complete a CD-570 consistent with the direction above for Headquarters. The RAD HCOs have approval authority to sign the CD-570 in the absence of the designated SADBUS. For any decision not to set aside an acquisition, the RAD SADBUS must submit the CD-570 with complete documentation to OSDBU for their consideration and coordination with the SBA PCR.

**References:** FAR Subpart 19.2; DOO 15-9, Procurement Memo 2003-04

## **19.2 Set-Asides for Small Business**

**Who** CS and CO

**What** Guidance on rejecting SADBUS recommendations or withdrawing/modifying small business set-asides and reporting requirements

**When** During the acquisition planning phase

**Discussion:**

- (a) *Rejecting SADBUS Recommendations.* If the CO rejects the SADBUS' recommendation for a set-aside, the SADBUS may appeal, in writing, to the HCA. The SADBUS must provide the HCA with all the pertinent information concerning the disagreement. The HCA must then respond in writing within 7 business days. The HCA's decision is final and not appealable. Attach the HCA's decision to the documentation and place it in the contract file. If the action is over \$100,000 and not restricted, the CO must seek OSDBU and SBA PCR approval via the CD-570. If the HCA's decision is to proceed unrestricted, then include documentation of the HCA's decision as part of the CD-570 package to assist OSDBU and SBA PCR in the approval process. If the OSDBU director disagrees with the HCA's decision, the CO can appeal to the DOC CFO/ASA. If the SBA PCR disagrees with the CO, the PCR may appeal to the HCA. If the HCA agrees with the CO, the SBA may appeal the matter to the Secretary of Commerce. The time schedule for such appeals is included in FAR Subpart 19.505.
- (b) *Withdrawing or Modifying Small Business Set-Asides.* The CO must notify the SADBUS regarding all set-aside withdrawals. The CO must also notify the OSDBU of the intent to withdraw or modify a small business set-aside by generating a new or modified CD-570 with justification. The CO shall request that the SADBUS notify the HCA of the withdrawal. The CO shall refer any disagreement between the SADBUS and the CO regarding the withdrawal to the HCA for resolution. If the HCA agrees with the CO to proceed unrestricted, then the CO must submit CD-570 with supporting documentation to OSDBU via the SADBUS for approval.

**References:** FAR Subpart 19.5

### **19.3 Certificates of Competency and Determinations of Responsibility**

**Who** CO

**What** Referral of vendors to SBA for a Certificate of Competency and Determination of Responsibility

**When** Prior to award

**Discussion:** The CO must coordinate with the SADBUS and OSDBU before referring the matter to SBA. The CO must copy OSDBU on any correspondence with SBA because SBA will be communicating with OSDBU.

The CO must request that the SABUS and OSDBU assist in resolving any differences.

**References:** FAR Subpart 19.6

### **19.4 The Small Business Subcontracting Program**

**Who** CO

**What** Policies regarding Small Business Subcontracting Plans

**When** All phases of the acquisition

**Discussion:**

- (a) *Determining the Need for a Subcontracting Plan.* If the CO determines that there are no subcontracting possibilities, the CO must make the appropriate notation on the CD-570, Small Business Set-Aside Review form and attach documentation to support such determination. The CD-570 must receive SADBUS, OSDBU and SBA PCR approval.

For negotiated acquisitions, when making an award without discussions, the CO shall require a subcontracting plan only from the apparent successful offeror. When conducting discussions, the CO shall require a plan from all offerors in the competitive range.

In sealed bidding, the CO shall require that the bidder selected for award submit a subcontracting plan.

- (b) *Preparing the Solicitation.*

(1) Before or at the same time the solicitation expected to exceed \$500,000 (\$1,000,000 for construction) is issued, the CO shall send an informational copy to the SADBUS. The SADBUS will review the solicitation and forward to OSDBU with comments (normally within two working days of receipt). OSDBU will review and provide comments to SADBUS (normally within five working days).

(2) Whenever you use Clause FAR 52.219-9, Small Business Subcontracting Plan, in a solicitation for a negotiated or sealed bid acquisition, you must also include the Model Subcontracting Plan Outline available in MS Word or PDF format at <http://www.osec.doc.gov/osdbu/Subcontracting.htm> . This helps the offeror or bidder to address the required elements when preparing its subcontracting plan. The solicitation and resultant contract should specifically state the small business subcontracting goals for each category of small business and the goals should be based on total contract dollars instead of subcontract dollars. The CO shall also establish a separate evaluation factor with significant weight for the extent to which offerors attained their subcontracting goals on previous contracts

- (c) *Reviewing the Subcontracting Plan.* Upon receipt, the CO shall forward the subcontracting plan (and proposed contract and a synopsis of how the subcontracting plan was negotiated) to the SADBUS for review. The SADBUS will forward the subcontracting plan and proposed contract to OSDBU within two working days with comments as to acceptability. OSDBU will review and provide comments to SADBUS within five working days.

If the CO determines that the subcontracting plan submitted reflects the best effort by the offeror or bidder but the SADBUS disagrees with the CO's determination, the HCA will make a final determination. Include the HCA's decision when submitting the subcontracting plan and proposed contract to OSDBU for review. If OSDBU disagrees with the HCA, the OSDBU can appeal to the HCA. If the HCA does not agree with the

OSDBU, the decision can be appealed first to the DOC Procurement Executive and then, if there is still disagreement, to the CFO/ASA.

(d) *SADBUS' Reporting Responsibility.* (1) The designated RAD SADBUS' are responsible for summarizing and reporting to the NOAA SADBUS on a monthly basis, all prime contracts \$500,000 and over (\$1 million for construction) using the following reporting format:

- Name of the program office;
- Number and dollar amount of contracts requiring subcontracting plans;
- Number of contracts with subcontracting plans;
- Number of contracts without subcontracting plans;
- Small business, veteran-owned small business, service-disabled veteran-owned, HUBZone small business, small disadvantaged business, and women-owned small business subcontracting goals; and
- Statements citing reasons why small business, veteran-owned small business, service-disabled veteran-owned, HUBZone small business, small disadvantaged business, and women-owned small business subcontracting plans were not included in the contracts.

These reports are to be submitted, electronically, to the NOAA SADBUS by the 10<sup>th</sup> of the month following the month being reported (e.g., by June 10 for the month of May).

The NOAA SADBUS is responsible for summarizing (NOAA-wide) and reporting to the Director, AGO, on a quarterly basis, all prime contracts \$500,000 and over (\$1 million for construction) using the same reporting format as specified above. These reports are to be submitted, in hard copy and electronically, to the Director, AGO by the 15<sup>th</sup> of the month following the end of the quarter being reported (e.g., by July 15 for the quarter ending June 30).

The NOAA SADBUS is responsible for coordinating and compiling the fiscal year report for NOAA. The SADBUS submits NOAA's fiscal year report to OSDBU by October 30 of each year.

**References:** FAR Subpart 19.7; 13 CFR 125.2; DOO 15-9

## **19.5 Responsibilities of the Cognizant Administrative Contracting Officer**

**Who** CO

**What** Designation of individual responsible for administering the small business aspects of a contract

**When** During performance of the contract

**Discussion:** At NOAA, the awarding CO fulfills the role of the administrative contracting officer.

- (a) The SF-294 shall be used to monitor the contractor's progress in achieving the small business, veteran-owned small business, service-disabled veteran-owned, HUBZone small business, small disadvantaged business, and women-owned small business subcontracting goals.
- (b) When the contract is physically complete, the CO shall prepare a memorandum for inclusion in the contract file indicating whether or not the contractor complied with the subcontracting plan and the contract's subcontracting provisions.
- (c) The CO shall send a copy of the memorandum pertaining to either situation to the NOAA SADBUS.
- (d) The CO shall send a copy of the SF-294 and SF-295 to the cognizant SADBUS for reporting purposes.

**References:** FAR Subpart 19.7

## **19.6 Contracting with the Small Business Administration (The 8(a) Program)**

**Who** CS, with input from the COR

**What** Acquisitions under the 8(a) set aside program

**When** Throughout the acquisition process

**Discussion:**

- (a) *General.* As part of acquisition planning, the CO should review the historical aspects of the acquisition to determine if an 8(a) participant is currently performing the requirement and if the requirement remains suitable for the 8(a) Business Development Program. If an 8(a) firm is currently performing the requirement, the CO shall proceed with Subpart 19.8, Contracting with the Small Business Administration (8(a) contracting procedures), unless SBA has consented to release the requirement from the 8(a) Business Development Program. If an 8(a) firm is not currently performing the requirement, the CO should consider Subparts 19.8 (8(a) Business Development), 19.13 (HUBZone small business), or 19.14 (service-disabled veteran-owned small business) prior to the consideration of Subpart 19.5 (small business).
- (b) *DOC/SBA Partnership Agreement.* DOC has a Partnership Agreement (PA) with the SBA. Under the PA, SBA has delegated its authority to contract directly with program participants under Section 8(a) of the Small Business Act to DOC COs. CO's may, therefore, award a contract directly to an 8(a) concern on either a sole source or competitive basis.

NOTE: Add language similar to the following in every contract stating that: "Even though SBA may not be identified in Section XXXX of the contract, it is the prime contractor."

SBA reserves the right to withdraw any delegation issued as a result of the PA. Any such withdrawal, however, will have no effect on contracts awarded under the PA.

The PA's provisions supersede the FAR where mentioned. A copy of the PA is on the AGO's Homepage on the Internet. To download the file, select DOC/SBA Partnership Agreement.

- (c) *Agency Offering*. The CO shall submit an offering letter to SBA for sole source procurements. If the CO is nominating an 8(a) firm, then the offering letter shall be submitted to the SBA district office responsible for servicing that firm. If the CO is submitting an open offering letter for a sole source requirement, then the letter shall be sent to the SBA district office that services the geographic area where the contracting activity is located. An offering letter is not required for acquisitions under the SAT.

The CO shall submit an offering letter for competitive 8(a) procurements to the SBA district office that services the geographical area where the contracting activity is located, except that offering letters for construction work will be sent to the SBA district office located in the geographical area where the work will be performed.

When applicable, the notification must identify that the offering is in accordance with the PA.

You can find the addresses of SBA offices on the Internet at <http://www.sba.gov/services/>.

Limit contents of the offering letter to the eligibility of the recommended 8(a) concern. The CO should ensure that FAR Subpart 19.804-2 is followed when preparing offer letters.

- (d) *SBA Acceptance*. SBA will issue an acceptance letter or notification of rejection within five working days of receipt of an offering letter for competitive and sole source acquisitions above the SAT. Absent a notification of rejection within five working days of receipt of the offer, acceptance may be assumed on the 6<sup>th</sup> working day.

For requirements under the SAT, SBA will review the eligibility of the 8(a) participant within two working days after receipt of a copy of the signed purchase order (contract). Absent receipt of a negative determination within two working days, the 8(a) contractor is authorized to begin performance.

SBA Acceptance under the PA for Acquisitions Exceeding the SAT. SBA may request, and the CO may grant, an extension beyond the five working day limit.

The CO should request that SBA fax or e-mail the acceptance letter to the CO.

- (e) *Competitive 8(a)*. Where an acquisition exceeds the competitive threshold, the SBA may accept the requirement for a sole source 8(a) award if SBA accepts the requirement on behalf of a concern owned by an Indian tribe or an Alaska Native Corporation.

The CO may conduct 8(a) acquisitions using SAP (see FAR part 13).

In sealed bid acquisitions, SBA will issue an eligibility determination for the concern with the lowest bid within two days of receipt of the CO's request. If the CO does not

receive a negative eligibility determination within that time frame, the CO can award the contract on the third working day.

In negotiated acquisitions, SBA will issue an eligibility determination within two working days of the CO's request for all firms in the competitive range if the CO will hold discussions. If the CO does not receive a negative eligibility determination within that time frame, the CO can award the contract on the third working day.

SBA will issue an eligibility determination within two working days of the CO's request for all firms with a realistic chance for award if the CO will not hold discussions. If the CO does not receive a negative determination within that time frame, the CO may award the contract on the third working day.

For an acquisition that does not exceed the SAT, SBA will not issue an eligibility determination until after award. The CO must send a copy of the signed contract to SBA. SBA will respond within two working days. If the CO has not received a negative determination within that time frame, the CO may authorize the contractor to begin performance on the third day.

- (f) *Sole Source.* The 8(a) concern is responsible for negotiating with NOAA within the time established by the CO. If the 8(a) concern does not negotiate within the established time frame and NOAA cannot allow additional time, the CO may, after notification to and approval by SADBUS, OSDDBU and SBA, proceed with the acquisition from another source(s).

DOC is delegated the authority to negotiate directly with the 8(a) concern. SBA may participate in negotiations if the 8(a) concern requests it.

- (g) *Preparing the Contracts.*

- (1) *Sole Source.* For acquisitions that exceed the SAT, CO's may use an SF-33 or, for commercial items, an SF-1449. Identify the NOAA office in the "Issued by" block of the award document. List the 8(a) concern's name and address as the contractor. Identify in the award document the cognizant SBA district office for the 8(a) concern.

NOTE: The contract must specify that SBA is the prime contractor, even though award is made directly to the 8(a) concern.

For awards over \$2,500 that do not exceed the SAT, use the simplified acquisition procedures (SAP) of FAR part 13 to issue contracts to 8(a) concerns. The following applies to such acquisitions:

- The Central Contractor Registration (CCR) database must be used to establish that the selected 8(a) concern is a current program participant. Access CCR at <http://www.ccr.gov>
- An offering letter does not need to be submitted to SBA. Nor is an acceptance letter from SBA required.

- Once the CO has identified an 8(a) concern, establish the terms and conditions, including price, with the selected 8(a) concern. Next the CO shall prepare and issue a contract in accordance with FAR part 13.
- The CO shall issue the contract directly to the 8(a) concern. This does not necessarily mean that the concern is eligible for an 8(a) award.
- SBA has two working days from receipt of the award document to advise the SADBUS of the 8(a)'s eligibility. To accommodate this, the CO shall make sure that there is adequate time between the date of award and the date when contract performance begins.
- The CO shall send a copy of the contract to the SADBUS and the SBA District Office that serves the 8(a) concern within five working days after award. RAD COs do not need to send copies of contracts to AGO.

For awards exceeding the SAT, the CO shall prepare the contract in accordance with the normal procedures, given the contract type and dollar amount that are used for a similar, non-8(a) acquisition. The CO shall send a copy of the contract to the SADBUS and the SBA district Office within 15 calendar days of the date of award.

- (2) Competitive. The CO shall prepare competitive contracts for 8(a) concerns in accordance with the same procedures as 8(a) sole source contracts.

The CO shall follow the process for obtaining signatures as specified above.

The CO shall ensure that SBA approves all proposed joint ventures involving 8(a) concerns before award of the contract.

- (h) *Contract Administration.* The CO shall notify the SADBUS, OSDBU and SBA before you begin action to terminate, either in whole or in part, an 8(a) contract.

The CO shall coordinate with SBA before processing any novation agreement. Only SBA can approve a novation agreement.

**References:** FAR Subpart 19.8

**PART 20**  
**[RESERVED]**

**PART 21**

**[RESERVED]**

## PART 22

### APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

#### 22.1 Basic Labor Policies

**Who** CS

**What** Handling issues regarding labor laws

**When** Anytime throughout the acquisition process

**Discussion:**

- (a) *General.* Contact DOC OGC CLD at 202-482-1122 or fax at 202-482-5858 if assistance is needed with handling labor relations matters.
- (b) *Reporting Labor Disputes.* Request assistance from the DOC OGC. Route the request through the cognizant HCO.
- (c) *Removal of Items from Contractors' Facilities Affected by Work Stoppages.* Have items removed from contractors' facilities only after obtaining the approval of the person one organizational level above the COR, the COR, the DOC OGC, the cognizant HCA and the HCA.

When requesting approval to remove items from a contractor's facility, a memorandum shall be prepared that addresses the considerations contained at FAR 22.101-4(a).

- (d) *Approval of Overtime.* Use of overtime as prescribed in FAR 22.103-4(a), (b), (e), and (f) may be approved by the cognizant CO.

**References:** FAR Subpart 22.1

#### 22.2 Contract Work Hours and Safety Standards Act

**Who** CS

**What** Application of provisions of Contract Work Hours and Safety Standards Act

**When** During contract performance

**Discussion:** *Liquidated Damages and Overtime Pay.* A memorandum supporting the decision as outlined in FAR 22.302(c)(1), (2) or (3) shall be prepared by the CS and submitted through the HCO to the SBPO.

The Office of Finance (OF) will disburse any remaining assessments.

**References:** FAR Subpart 22.3

## 22.3 Labor Standards for Contracts Involving Construction

**Who** CS

**What** Application of labor standards to contracts involving construction

**When** Throughout the life of the contract

**Discussion:**

- (a) *Modifications of Wage Determinations.* The CS shall prepare a memorandum requesting concurrence with the extension as outlined in FAR 22.404-6(b)(6) and must be approved by the CO.
- (b) *Posting Wage Determinations and Notice.* Department of Labor (DOL) Form WH-1321, Notice to Employees Working on Federal and Federally Financed Construction Projects can be obtained from DOL's website using "Quick Finder" at <http://www.dol.gov/esa/whd>.
- (c) *Wages, Fringe Benefits and Overtime.* The CS shall submit questions related to wages, fringe benefits and overtime for final determination to the DOL after consultation with DOC OGC and concurrence by the appropriate HCO.
- (d) *Investigations.* The CS shall forward a report of any violations, including findings and supporting evidence as outlined in FAR 22.406-8(d)(1) to the HCO.
- (e) *Withholding From or Suspension of Contract Payments.* The CS shall coordinate with OF personnel the disposal of funds withheld or collected for liquidated damages. (Refer to FAR subpart 32.6, Contract Debts, for information on the collection of contract debts.)

**References:** FAR Subpart 22.4

## 22.4 Walsh-Healey Public Contracts Act

**Who** CS

**What** Application of the Walsh-Healey Public Contracts Act

**When** Throughout the life of the contract

**Discussion:**

- (a) *Regulatory exemptions.* The CS shall prepare a memorandum requesting concurrence with the extension as outlined in FAR 22.604-2(b)(1) through the HCO and the SBPO to the DOC PE.
- (b) *Post-award activities.* The CS shall furnish DOL publication WH-1313, Notice to Employees Working on Government Contracts to the contractor. This publication can be obtained from DOL's website using "Quick Finder" at <http://www.dol.gov/esa/whd>.

The CS shall notify DOL, through the SBPO, of any violation under the Act.

**References:** FAR Subpart 22.6

## 22.5 Equal Employment Opportunity

**Who** CS

**What** Processes for applying Equal Employment Opportunity to federal contracts

**When** Throughout the acquisition process

**Discussion:**

- (a) *Construction.* The CS shall include clause FAR 52.222-23 if the acquisition is a construction project with a value that exceeds \$10,000. Use 8% as the goal for women. The goal for minority participation changes based on locality. The current goals are listed in 45 FR 65979, Exhibit B-80, dated October 3, 1980.
- (b) *Procedures.* Usually requests for a preaward EEO clearance will be sent by e-mail or a fax. A copy should not be sent by regular mail if the request has been submitted by e-mail or fax.

The CS shall send a preaward clearance request to the OFCCP office (below) serving the area in which the contract work is to be performed. If the place of performance is outside the U.S., send the request to OFCCP in accordance with FAR 22.805(a) (3).

If possible, the CS should submit requests sent by regular mail to the OFCCP regional office at least 30 days before the proposed award date and should include a self-addressed label. Requests that are sent by fax or e-mail should allow up to 20 days.

**SEE <http://www.dol.gov/esa/contacts/ofccp/> FOR OFFICES & CONTACT NUMBERS**

- (c) *Distribution.* The CS shall make distribution for preaward clearance requests and construction contract award notifications as follows:
  - Original to the appropriate OFCCP regional office;
  - One copy to the cognizant SADBUS; and
  - One copy for the contract file.
- (d) *Furnishing posters.* Additional copies of the poster “Equal Employment Opportunity Is the Law” can be obtained from DOL’s internet site at <http://www.dol.gov/esa/regs/compliance/posters/eo.htm>. From that site, go to “Posters.” As an alternate source, contractors may contact the local DOL OFCCP office listed above or DOL at:

U. S. Department of Labor  
Employment Standards Administration  
Office of Federal Contract Compliance  
200 Constitution Avenue, N.W.  
Washington, DC 20210

- (e) *Exemptions.* To request an exemption under FAR 22.807(b)(5) of this section, the CS shall submit through the SBPO a detailed justification for omitting all or part of the requirements of EO 11246.

**References:** FAR Subpart 22.8

**22.6 Service Contract Act of 1965, as Amended**

**Who** CS

**What** Application of the provisions of the Service Contract Act

**When** Throughout the acquisition process and post-award

**Discussion:**

- (a) *Wage Determinations Based on Collective Bargaining Agreements.* The Predecessor contractor's Collective Bargaining Agreement (CBA) is only applicable to the base contract period of the successor contract. It does not apply to any option period(s). If a successor contract is terminated for default during the base contract period, the predecessor's CBA would remain applicable to the reprocurement for the full term of its basic contract period, even if it extends beyond the basic contract period of the defaulted contract.
- (b) *Preparation of Notice (SF 98/98A).* The DOL website provides a means to request and receive any wage determination electronically. In many cases, the requested wage category can be referenced and the appropriate wage determination displayed immediately. The website for these requests is <http://www.dol-esa.gov/sf98>.

The DOL website can be used to submit an SF98 for any type of wage determination including a CBA. However, the system does not allow for submission of the actual CBA. Upon receipt of the SF98, DOL will send an e-mail message requiring the forwarding of either an electronic copy of the CBA or hard copy of the CBA along with a hard copy of the electronic SF98 via mail.

- (c) *Requests for Status or Expediting of Response.* For submissions using the DOL website in which an immediate response is not received, the CS can contact Wage and Hour Division personnel at DOL to determine when the wage determination or revision can be expected to be received.

The Wage and Hour Division can be contacted at 202-219-7096.

- (d) *Handling Acquisitions where award is delayed over 60 days.* If a delay in excess of 60 days in the award of an acquisition is experienced, the CS shall check to see if the wage determination issued under the initial submission is still current. If it is not current, the CS shall obtain an updated wage determination.
- (e) *Notification to Contractors and Employees.* DOL Publication WH-1313, Notice to Employees Working on Government Contracts can be obtained from DOL's website using "Quick Finder" at <http://www.dol.gov/esa/whd>
- (f) *Additional Classes of Service Employees.* If the performance of the contract will require the utilization of personnel that are not clearly covered by an existing wage rate, the Contractor must undertake to have those positions "conformed". The contractor must:
  - Establish a reasonable relationship or skill comparison between any non-WD employee(s) and one that is identified on the wage determination;
  - Give this to the CO before the unlisted employees can begin work; and
  - Submit the information to the CO on Standard Form (SF) 1444, "Request for Authorization of Additional Classification and Rate."

Upon receiving the form, the CO should review the proposed classification and rate. The CO should submit the request to DOL with his/her recommendation.

The FAR is of limited help as to how to develop this comparison. The need for a viable method of comparison is really important if the comparison is between dissimilar job classifications, such as between a plumber and a carpenter.

NOAA policy recommends that you give the contractor the following procedure for establishing this comparison. It uses five general scoring categories and addresses the “point scheme” concept briefly alluded to in FAR 52.222-41(c)(2)(iv)(A). The categories follow:

- MENTAL REQUIREMENTS; (intellect, education, work know-how)
- PHYSICAL REQUIREMENTS; (sedentary, standing, lifting)
- SKILLS; (sensory, mental versus manual, experience)
- RESPONSIBILITY; and
- WORKING CONDITIONS (hazardous equipment, dust, smoke).

Assign each category a score from 1 through 10, with 10 being the most difficult. Tell the contractor to develop a means of comparison by scoring the job category listed in the DOL WD that most approximates the non-rated job in question. The total score of the wage-rated job category should equate to the salary level assigned to it in the wage determination. The contractor will then score and total each individual non-rated job category using these criteria. Next, the contractor will assign a wage rate for these job categories using the scores obtained from the rated job as a baseline. The contractor then must give you the results for submission to the DOL.

The above procedure gives a useful method for conforming non-wage rated job categories. Tailor the scoring categories to fit the specific needs of each acquisition, as needed.

SAMPLE

Breakdown for Typing/Transcriber Position:  
(10 most difficult; 1 least difficult)

1.	Mental Requirements: (intellect, education, work knowledge)	7
2.	Physical Requirements: (sedentary, standing, lifting, etc.)	3
3.	Skills: (sensory, mental vs. manual, experience)	7
4.	Responsibility	7
5.	Working Conditions: (hazards, dust, smoke)	<u>1</u>
		25

Breakdown for Checker/Transcript Assembler:

1.	Mental Requirements	5
2.	Physical Requirements	2
3.	Skills:	2
4.	Responsibility	6
5.	Working Conditions	<u>1</u>
		16

Breakdown for Messenger:

1.	Mental Requirements	2
2.	Physical Requirements	2
3.	Skills	4
4.	Responsibility	4
5.	Working Conditions	<u>1</u>
		13

Breakdown for Proofreader/Auditor:

1.	Mental Requirements	7
2.	Physical Requirements	3
3.	Skills	7
4.	Responsibility	7
5.	Working Conditions	<u>1</u>
		25

Average typist types 10 to 12 pages per hour, at \$.61 per page, or \$6.10 to \$7.32 per hour.

If 25 = \$6.71, then each point = \$.2684

If Typist/Transcriber job is equivalent to \$6.10 per hour, then Checker/Transcript Assembler job would be \$4.29 per hours, then Messenger would be \$3.48 per hour; and Proofreader/Auditor would be \$6.71 per hour.

**References:** FAR Subpart 22.10

## **22.7 Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans**

**Who** CS

**What** Applying provisions to contracts

**When** Throughout the acquisition process and contract performance period

**Discussion:**

- (a) *Policy.* The CS shall document that the contractor is in compliance with the VETS 100 reporting requirement either in the Summary of Award, or in the Responsibility Determination.
- (b) *Waivers.* The CS shall forward any request for waiver, prepared in accordance with FAR 22.1305(a) or (b) through the SBPO to the DOC PE.
- (c) *Complaint Procedures.* The CS shall forward, through the SBPO, any complaints received about the administration of the Act.

**References:** FAR Subpart 22.13

## **22.8 Employment of Workers with Disabilities**

**Who** CS

**What** Applying provisions to contracts

**When** Throughout the acquisition process and contract performance period

**Discussion:**

- (a) *Waivers.* The CS shall forward via memorandum including documentation as outlined in FAR 22.1403(a) or (b)(1) any waiver request through the SBPO to the DOC PE.
- (b) *Complaint Procedures.* The CS shall forward, through the SBPO, any complaints received about the administration of the Act.

**References:** FAR Subpart 22.14

## **22.9 Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor**

**Who** CS

**What** Application to federal contracts

**When** Throughout the life of the acquisition

**Discussion:** The CS shall refer the matter to the DOC Office of the Inspector General.

**References:** FAR Subpart 22.15

**PART 23**

**ENVIRONMENT, ENERGY AND WATER EFFICIENCY,  
RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY,  
AND DRUG-FREE WORKPLACE**

**(This section is left open pending publication  
of new guidance from DOC)**

## **PART 24**

### **PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION**

#### **24.0 Scope of Part**

This part also prescribes policies and procedures to protect personal and organizational confidential information that is accessible to Agency contractors but which is not necessarily covered by the Privacy Act (PA) (link: <http://www.epic.org/privacy/laws/privacyact.html>).

#### **24.1 General**

The PA tends to restrict access to information; the Freedom of Information Act (FOIA) tends to promote its release. Therefore, the Acts should be read together in cases of potential conflict. The majority of the courts have empowered agencies to deny access to records sought under FOIA if exempted from release under the PA.

#### **24.2 Protection of Individual Privacy**

##### **(a) Definitions**

“Confidential information” means information or data of a personal nature about an individual, such as name, home address, and social security number, or proprietary information or data submitted by or pertaining to an institution or organization, such as employee pay scales and indirect cost rates.

##### **(b) General**

- (1) Section 1106 of the Social Security Act (42 U.S.C. 1306) prescribes criminal penalties for violating DOC/NOAA and Federal disclosure rules and regulations regarding tax return and any other information in NOAA’s possession. Contractors and their employees, as well as any subcontractors and their employees, may be subject to the same penalties in violation of these rules and regulations during contract performance.
- (2) As explained in FAR 24.102(a), the PA applies to a contract only when it is for the design, development, or operation of a system of records on individuals, as defined in FAR 24.101. At NOAA, contracts for such purposes are relatively infrequent; consequently, the PA clauses (see FAR 24.104) have not often applied. Much more prevalent are contracts that allow contractor access to confidential information, a much broader term as defined in NAHB 24.101.
- (3) Systems of records protected by the PA contain confidential information.

#### **24.3 Freedom of Information Act**

**Who** CS and CO

**What** Applying FOIA provisions to request for information in possession of the CO

**When** Throughout the contracting process

**Discussion:**

- (a) *Policy.* The policies in this subpart apply to all NOAA contracting offices.
- (b) *Exemptions.* The FOIA lists nine exemptions under which NOAA may justify withholding information requested by an outside source. Of these, only four involve contracting. See Exhibit 1 – FOIA Supplemental Guidance and Background Information – Exemptions 3, 4, 5, and 6; Exhibit 2 – Authority to Release Certain Records Outside the Freedom of Information Act; and Exhibit 3 – The Freedom of Information (FOIA) Checklist.
- (c) *Approvals.* NAO 205-14 identifies those agency officials with the authority to deny (withhold) some or all of the information sought by a requestor. If it is believed that the Agency should not furnish some requested information, recommend the denial to the appropriate agency official.
- (d) *General Instructions.* Requests for information under the FOIA must be in writing. Refer oral requestors to the NOAA FOIA Officer.

You must respond within 20 working days from the date the request was received.

Some information is considered public and you can release it without a FOIA request. See Exhibit 2.

(e) *Procedures.*

(1) Requests.

- (a) The FOIA Coordinator in the office of the Director, AGO, will prepare a “Freedom of Information Request Tracking Form,” complete Page 1 of that form, and assign the request to the CO or other AGO employee. If someone sends a request directly to another individual within any of the NOAA acquisition offices, it should be faxed to the FOIA Coordinator.
- (b) When it is unclear what the requestor wants, or if the request seems too broad, ask for clarification. Cancel and return the request if a workable answer is not provided by the requestor within five days.
- (c) Consider negotiating with the requestor to reduce the scope of the request or to determine if the information can be provided as a non-FOIA response.
- (d) Make a reasonable effort to obtain the information. The Government is not required, however, to prepare custom reports if they take an extended time- period to prepare. If the decision is made that the request is unreasonable, reject it and document the file. This is not a denial. Rather, inform the requestor that the information cannot be reasonably or realistically obtained.

- (e) If the requestor is asking for something that no longer exists, respond accordingly. This is not a denial.

(2) Processing.

- (a) If it is not possible to meet the 20-day deadline, ask the requester for an extension of no more than 10 days.
- (b) Use the “Authority to Release Certain Records Outside the Freedom of Information Act” (Exhibit B) and the “Freedom of Information Act Checklist” (Exhibit 3) to help decide what information may be released.
- (c) The submitter of the information should be asked if there is reason to withhold it. Under exemption 4, NOAA policy stipulates the submitter must be asked what material he or she wants to withhold.

(3) Response.

- (a) Authority to withhold any requested information rests solely with the agency officials designated in NAO 205-14. Those preparing responses to FOIA requests have authority only to fully release requested information when the submitter agrees. If withholding is recommended, or if it is believed that release is allowable but the submitter wants the information withheld, forward your recommendation and response to the appropriate agency official for final decision.
- (b) Determine the dollar amount to charge the requestor according to NAO 205-14.
- (c) Fill out the CD-244, FOIA Information and Action Record, according to the directions on the form.
- (d) The response should be assembled as follows:
  - (1) Tracking form;
  - (2) FOIA request;
  - (3) Relevant notes and correspondence;
  - (4) Notification letter to the submitter;
  - (5) Response from the submitter;
  - (6) Letter releasing information (if all requested information can be released); and
  - (7) Information recommended for withholding or release. When withholding is recommended, prepare one copy highlighted with the portions to be withheld, with a second copy unmarked.
- (e) Forward the response package to your team leader/division director for signature and release to the FOIA Coordinator or the requestor. Provide a copy of the letter and the

original, completed Tracking Form and Freedom of Information Request Total Time and Cost Tally Sheet to the FOIA Officer.

(4) Appeals. When NOAA withholds information, the requestor can appeal the decision. Should an appeal be received from the requestor, contact the FOIA Officer for instructions

(5) Receipt of Checks from Requestors for Payment of Documentation Provided. Provide the check made payable to the U. S. Treasury to the FOIA Officer. Send the check (with a note indicating what it is for) to:

National Oceanic and Atmospheric Administration  
Contract Specialist

(6) Fiscal Year Report to Congress on Freedom of Information Act Activities. The AGO FOIA Coordinator will prepare the report in response to instructions received from the FOIA Office in its end of the fiscal year request.

**References:** FAR Subpart 24; NAO 205-14

**Exhibits:**

- 1 FOIA Supplemental Guidance and Background Information – Exemptions 3, 4, 5 and 6
- 2 Authority to Release Certain Records Outside the Freedom of Information Act
- 3 The Freedom of Information Act (FOIA) Checklist

## **FOIA Supplemental Guidance and Background Information Exemptions 3, 4, 5, and 6**

The FOIA includes four exemptions that may apply to contracting as possible justification for withholding information. They are:

Exemption 3: When authorized by statute.

Exemption 4: The information contains trade secrets or sensitive commercial or financial information.

Exemption 5: The information is part of deliberations that come before a decision is reached.

Exemption 6: The information is personal or private.

### **EXEMPTION 3**

- This exemption allows for withholding information that is based on a specific statute that may exist at a given time. Currently two statutes, 41 United States Code (U.S.C.) 253(b)(m) and 42 U.S.C. 405(r), apply to acquisitions. They are both discussed in Attachment 3 under “Contractor Proposal (Technical, Business, Management, Price or Cost)” and “Death Information,” respectively.
- There is no need to request that the submitter provide his or her rationale to withhold or permission to release if the statute states that the information is exempt from disclosure. If you receive a request that comes under an exemption 3 statute, be sure to cite the statute in your recommendation. Forward your response to the appropriate agency official for final decision.

### **EXEMPTION 4**

- **Dual Protection:** You can use Exemption 4 to protect the interests of the Government and the submitter. The Government can invoke Exemption 4 if disclosure of information would impair the Government’s ability to obtain information in the future. The submitter can claim that trade secrets would be disclosed if its commercial information were released. Trade secrets consist of specific product design and manufacturing information but not general information such as physical or performance characteristics.
- **Information Voluntarily Provided by the Submitter to the Government:** Such information is categorically protected from disclosure if it is not customarily disclosed by the submitter to the public. Examples: Providing information that is not specifically

required in response to a solicitation from the Government; corporate economic data; and General & Administrative Expense (G&A) ceiling rates (unless the Government requests them).

- **Information Required/Compelled From the Submitter by the Government:** Submission of this information to the Government is the cost of doing business with the Government. Consequently, it does not enjoy the same level of protection as voluntarily submitted information. Example: G&A actual rates.
- **Reverse Engineering:** The submitter can potentially make the case that disclosure of information would permit a competitor to reverse back through the engineering and design process and learn the unique manufacturing techniques or proprietary information.

### **EXEMPTION 5**

The key evaluation here is whether or not an agency is in a pre-decisional or post-decisional situation. Broadly stated, pre-decisional Government information is developed as part of the deliberation process that an agency undertakes on its way toward making a decision. Pre-decisional documents associated with this process are usually not released. To do so could give the public a distorted or even false impression of what the agency is ultimately planning and cause foreseeable harm to the agency's image or decision-making capacity. However, once a decision is reached, the pre-decisional document often loses its protection and is releasable.

- In some cases, a pre-decisional document can remain so even after a decision is made. In acquisitions, there are a number of pre-decisional documents that generally are not released even in the post-decisional (award) environment. They include:
  - Audit reports: Release may reveal a contractor's sensitive financial and management practice.
  - Pre-negotiation plan: Release may disclose AGO's negotiation techniques.
  - Summary of award: Release would reveal AGO's sensitive strategy and evaluation practices.
- Pre-decisional documents can be protected even if they originate in another agency.
- **Factual Versus Deliberative (Pre-decisional) Documents:** Factual documents are usually releasable. However if facts are so embedded in a pre-decisional document that they cannot be extracted without destroying the coherence of the document, then the entire document can be withheld.

### **EXEMPTION 6**

Exemption 6 deals with the issue of personal and private information. Below are key factors to consider when evaluating requests for information that fall under this exemption.

- Would release be a clear invasion of someone’s personal privacy? If so, withhold the information.
- The exemption must apply to a specific individual or individuals.
- Public interest is critical. If there is none, then there is no need to release personal information.
- The requestor’s identify has no bearing on the decision to release or withhold.
- **Prior public knowledge of personal/private information is not a factor.** The fact that a few people may know this information does not justify release.
- **Public Versus Private Balancing Act:** A question to ask is “What is more important, the benefit to the public or the harm to the individual if disclosure of personal/private information is made?” The threat to privacy must simply outweigh the public’s need to know. In general, privacy usually trumps the public need.
- **Information Typically Withheld by the Courts:**
  - Name of company employee
  - Marital status
  - Date of birth
  - Citizenship data
  - Religious affiliation
  - Social security number
  - Financial status
- **Information Typically Released by the Courts (provided the name(s) is withheld):**
  - Qualifications
  - Achievements
  - Education

**Authority to Release Certain Records  
Outside the Freedom of Information Act (FOIA)**

Requests for the information below generally need not be processed under the FOIA. They can be received orally or in writing and responded to the same way, depending on the complexity of the subject matter.

**However, should any of the instruments requested below incorporate information that may be withheld under a FOIA exemption, treat the request as a FOIA action.**

All NOAA contracting offices have authority to release the following information directly to requestors without securing prior approval:

**Contracts/Purchase Orders**

- Name of contractor, date, and dollar amount of contract;
- Purchase order – name of contractor, award date, line items purchased, price per item, total dollar amount, and delivery date;
- Solicitation Mailing List;
- Bidders Abstract (or similar document showing the same information ) – Invitation for Bids (IFBs) only;
- Identity of a specific FOIA requestor;
- NOAA Forecast of Opportunities for Small Businesses – Contracts over \$25,000;
- List of 8(a) firms, contract number(s), name, expiration date of the contract, and
- Copy of a request for proposal.

**Grants**

- Name of grantee, date, subject matter and amount of grant;
- Face sheet of funded grant application;
- Final report of grantee; and

- Final report of audits, surveys, review or evaluations of grantee performance conducted or caused to be conducted by NOAA.

### **Administrative Areas**

A list of names, office addresses, and telephone numbers of Government employees working in NOAA (includes a list of purchase cardholders – but see the entry under “Names, Addresses, and Telephone Numbers of Purchase Cardholders” in Attachment 3).

**THE FREEDOM OF INFORMATION ACT (FOIA) CHECKLIST – INTRODUCTION**

You will notice a historical reference under each item. This indicates that the document has a sufficient history so that you can usually make an informed judgment whether information should be released or withheld.

The HCOs are delegated the authority to release contractual documents absent an exemption against such release. They do not have the authority to withhold information. Therefore, whenever a request is for documents and you recommend that some or all of the requested information be withheld, the documents must be forwarded to the FOI Officer for final decision with your recommendation. Also, where you recommend releasing information that the submitter wants withheld, the final decision rests with the FOI Officer.

**IMPORTANT NOTES**

- **WHENEVER REQUESTED INFORMATION MAY BE A CANDIDATE FOR NONDISCLOSURE, YOU SHOULD ASK THE SUBMITTER TO PROVIDE HIS/HER RECOMMENDATION CONCERNING RELEASE. UNDER EXEMPTION 4, YOU MUST ASK FOR THE SUBMITTER'S RECOMMENDATION.**
- **WHENEVER YOU OR THE SUBMITTER RECOMMEND WITHHOLDING INFORMATION, THE RECOMMENDATION MUST BE DOCUMENTED WITH CLEAR, AND CONVINCING RATIONALE.**

# THE FREEDOM OF INFORMATION CHECKLIST

## AGENCY ACQUISITION PLANNING DOCUMENT

**HISTORY:** Generally not released.

**EXEMPTION:** 5

**BACKGROUND/RATIONALE:** Formulation of the document and input phase should be considered pre-decisional. Release would create potential for public misconception.

## AUDIT REPORTS AND SURVEYS BY NOAA

**HISTORY:** Not released.

**EXEMPTION:** 5

## CONTRACT PRICES RESULTING FROM A REQUEST FOR PROPOSAL

**HISTORY:** Release is conditional (See the Policy Discussion, below).

**EXEMPTION:** 4

**HISTORY/RATIONALE:** After award, the contract prices may be releasable (Also see “Unfunded Options” below). However, the prices may be withheld if the submitter (contractor) can provide clear, convincing rationale that release would reveal the submitter’s confidential technical or business information or cause it competitive harm. Concerning unsuccessful offers, the courts have determined that these prices are not releasable. (Also, see “REQUEST FOR A LIST OF FIRMS THAT RESPONDED TO AN RFQ, RFP, OR IFB” below, for related guidance.)

**POLICY NOTES:** Generally, the courts have asserted that routine unit prices can be released unless there is a need to protect business sensitive information.

Simple unit prices can be released in accordance with FAR 15.506. However, complex price matrices (consisting of price elements, pricing components and cost breakdowns) may be withheld as “confidential commercial information.” Price matrices are much like the cost breakdowns that the FAR maintains are not releasable.

Unit prices can be released when the submitter has previously disclosed them publicly and/or agrees to their release.

**IMPORTANT:** Be as sure as possible. Give the submitter the opportunity to opine concerning your intent to disclose unit prices. If you cannot agree or you both agree to withhold, then forward the FOIA package to the appropriate agency official, for final resolution.

## **CONTRACTOR PROPOSAL (TECHNICAL, BUSINESS, MANAGEMENT, PRICE OR COST)**

**HISTORY:** 41 U.S.C. 253(b)(m) states that certain types of proposals are categorically not released (see Background/Rationale, below).

**EXEMPTION:** 3

**BACKGROUND/RATIONALE:** An unsuccessful proposal submitted in response to a solicitation for a competitive acquisition is not releasable. The proposal of a successful offeror is not to be released unless it is made an actual part of the contract or specifically referenced in the contract with the statement (incorporated by reference.” Also, see FAR 24.202(a).

## **FEE (COST TYPE CONTRACTS)**

**HISTORY:** Generally not released.

**EXEMPTION:** 4

**BACKGROUND/RATIONALE:** Don't release before award. It may be withheld after award only with clear and convincing rationale.

## **NAMES OF EVALUATION TEAM MEMBERS**

**HISTORY:** Not released.

**EXEMPTION:** 5

**BACKGROUND/RATIONALE:** Release may subject the individuals to outside inquiries to such a degree that it compromises the authority and control of the contracting officer.

## **NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF PURCHASE CARDHOLDERS**

**HISTORY:** Released in almost all cases.

**EXEMPTION:** N/A

**BACKGROUND/RATIONALE:** The Office of Personnel Management has determined that this is public information.

## **NAMES OF GOVERNMENT EMPLOYEES (I.E., CONTRACTING OFFICERS, CONTRACTING OFFICER REPRESENTATIVES)**

**HISTORY:** Released in almost all cases.

**EXEMPTION:** N/A

**BACKGROUND/RATIONALE:** The Office of Personnel Management has determined that this is public information.

## **PRE-NEGOTIATION PLAN**

**HISTORY:** Not released.

**EXEMPTION:** 5

**BACKGROUND/RATIONALE:** Release would reveal the Government's acquisition strategy.

### **PRICES RESULTING FROM A REQUEST FOR QUOTATION**

**HISTORY:** The same rules apply as in "CONTRACT PRICES RESULTING FROM A REQUEST FOR PROPOSAL," above.

**EXEMPTION:** 4

### **PROTESTS – RELEASE OF ACQUISITION INFORMATION UNDER PROTEST**

**HISTORY:** Generally not released.

**EXEMPTION:** 5

**BACKGROUND/RATIONALE:** Do not leave the request open/in process while it is being protested. Information that is under protest should be viewed as pre-decisional in nature. It should not be disclosed while it is under protest/litigation. Recommend non-disclosure for this reason and submit the proposed response to the FOI Officer for final decision.

### **PROVISIONAL RATES, CHARGES/COSTS, AND FEES**

**HISTORY:** Generally not released before award.

**EXEMPTION:** 4

**BACKGROUND/RATIONALE:** Don't release before award. Information may be withheld after award only with clear, convincing rationale.

### **PURCHASE CARD CONTRACTOR'S REPORTS AND COMPANY INFORMATION**

**HISTORY:** Not released.

**EXEMPTION:** 4

**BACKGROUND/RATIONALE:** Reports and information cannot be released without the express written permission of the purchase card contractor.

### **REQUEST FOR A LIST OF FIRMS THAT RESPONDED TO AN RFQ, RFP, OR IFB**

**HISTORY:** Generally not released before bid opening and award.

**EXEMPTION:** 6

**BACKGROUND/RATIONALE:** This is a pre-decisional document. Don't release the names of any companies before award of an RFP or a bid opening.

### **RESUMES**

**HISTORY:** Generally not released.

**EXEMPTION:** 6

**BACKGROUND/RATIONALE:** Names, home addresses, home telephone numbers, social security numbers, memberships in organizations, religious affiliation, places of education, general qualifications, and experience descriptions should not be disclosed.

### **SUBCONTRACTING PLAN**

**HISTORY:** Generally not released.

**EXEMPTION:** 4

**BACKGROUND/RATIONALE:** Release could reveal the prime contractor's subcontracting strategy.

### **SUMMARY OF AWARD**

**HISTORY:** Not released.

**EXEMPTION:** 5

**BACKGROUND/RATIONALE:** Release would compromise the Government's most sensitive strategy and evaluation information. For all practical purposes, this document is never released.

### **SUMMARY OF NEGOTIATIONS**

**HISTORY:** Generally not released.

**EXEMPTION:** 5

**BACKGROUND/RATIONALE:** Only the "Source Selection Decision" memorandum is releasable.

### **UNFUNDED OPTIONS**

**HISTORY:** Release with the submitter's approval.

**EXEMPTION:** 4

**BACKGROUND/RATIONALE:** Withhold if the submitter provides convincing rationale that release would cause it business harm. In this case, you may support the submitter by indicating that release would also harm the Government and the reason(s) why, if such is the case.

## PART 25

### FOREIGN ACQUISITION

#### 25.1 Buy American Act Supplies

**Who** CS and CO

**What** Exceptions to the Buy American Act

**When** Throughout the acquisition process

**Discussion** If it is believed the nonavailability of an article is likely to affect future acquisitions and could be added to the list of nonavailable articles in FAR 25.104(a), send a copy of the determination and supporting documentation to the Director, AGO for routing to the Civilian Agency Acquisition Council (CAAC).

Send a copy of supporting documentation required by Subpart 25.104 of the FAR to the Director, AGO for routing to the CAAC for the possible removal of an article from the list of nonavailable articles in FAR 25.104(a).

**References:** FAR Subpart 25.1

## **PART 26**

### **OTHER SOCIOECONOMIC PROGRAMS**

#### **26.1 Indian Incentive Program**

**Who** CS

**What** Making awards under the Indian Incentive Program

**When** Prior to award (preferably to be discussed with the COR during the planning process.

**Discussion** Request that the COR give you additional funding for the incentive payment of 5 percent of the amount paid to the subcontractor. The subcontractor must be either an Indian organization or an Indian-owned economic enterprise.

There is no special funding source. Advise the COR that funds should cite the same appropriation and accounting data as the prime contract.

**References:** FAR Subpart 26.103

**PART 27**  
**PATENTS, DATA AND COPYRIGHTS**  
**[RESERVED]**

## PART 28

### BONDS AND INSURANCE

#### 28.1 Bonds and Other Financial Protections

**Who** CS and CO

**What** Determining requirement for and amount of bonds

**When** During Acquisition planning phase; prior to solicitation

**Discussion**

- (a) *Amount Required. Performance bonds.* A lesser amount is recommended when the risk of nonperformance is low and you cannot justify the additional cost to the Government.  
*Payment bonds.* A lesser amount is recommended when the risk of nonperformance is low and you cannot justify the additional cost to the Government.
- (b) *Performance Bonds.* Requiring performance bonds is discouraged when the risk of nonperformance is low and the additional cost to the Government cannot be justified.
- (c) *Payment Bonds.* Requiring payment bonds is discouraged when the risk of nonperformance is low and the additional cost to the Government cannot be justified.

**References:** FAR Subpart 28.102

#### 28.2 Sureties and Other Securities for Bonds

**Who** CS

**What** Handling concerns with action of individual sureties

**When** Anytime throughout the acquisition process

**Discussion** Refer any evidence of possible criminal or fraudulent activities by an individual surety to the Office of the Inspector General.

**References:** FAR Subpart 28.203

#### 28.3 Insurance

**Who** CS

**What** Approval of Group Insurance Plans

**When** Prior to beginning contract performance

**Discussion** *Prior approval requirement.* The contractor must submit the plan to the CO for approval.

**References:** FAR Subpart 28.3

## PART 29

**TAXES**

**[RESERVED]**

**PART 30**

**COST ACCOUNTING STANDARDS ADMINISTRATION**

**[RESERVED]**

## PART 31

### CONTRACT COST PRINCIPLES AND PROCEDURES

#### 31.1 Contracts with Commercial Organizations

**Who** CS

**What** Benchmark compensation amounts

**When** During contract performance

**Discussion** *Limitation on allowability of compensation for certain contractor personnel.* Use the benchmark compensation amounts for contract costs incurred as follows:

- \$353,010 for contract costs incurred after January 1, 2000.
- \$374,228 for contract costs incurred after January 1, 2001.
- \$387,783 for contract costs incurred after January 1, 2002. Use this benchmark compensation amount for contractor fiscal year 2002.
- \$405,273 for contract costs incurred after January 1, 2003. Use this benchmark compensation amount for contractor fiscal year 2003, and subsequent contractor fiscal years, unless and until revised by the Office of Federal Procurement Policy (OFPP).

**References:** FAR Subpart 31.205-6

## PART 32

### CONTRACT FINANCING

#### 32.0 Definitions

“Interest Rate” as used in this Part, except at FAR 32.205(c)(4) and 32.407(a)(1)), means the interest rate established by the Secretary of the Treasury for use under the *Prompt Payment Act*, the *Contract Dispute Act*, and for *Facilities Capital Cost of Money*. Go to the Department of Treasury’s website at <http://www.fms.treas.gov/prompt/rates.html> to find the applicable rate.

#### 32.1 Reduction or Suspension of Contract Payments Upon Finding of Fraud

**Who** CS and COR

**What** Processing reductions or suspensions of contract payments upon findings of fraud

**When** During contract performance

**Discussion**

- (a) *General*. The CFO/ASA is the only individual with the authority in NOAA/DOC with the authority to make the determinations authorized under this section. The “Remedy Coordination Official” is the Director, AGO.
- (b) *Responsibilities*. Report suspected fraud related to advance, partial, or progress payments to the agency’s remedy coordination official.

**References:** FAR Subpart 32

#### 32.2 Non-Commercial Item Purchase Financing

**Who** CS

**What** Establishing progress payments

**When** Prior to solicitation

**Discussion**

- (a) *Contract Financing Methods*. Follow the guidance at FAR Subpart 32.102(e) (2) for progress payments based on a percentage or stage of completion.
- (b) *Contract Clauses*. Payment due dates must be based on the FAR procedure governing the type of contract and financing arrangement. You may modify the clauses at FAR 32.111(a) – (d) to clarify the payment due dates, and the process for submitting invoices and financing requests.

**References:** FAR Subpart 32.1

### **32.3 Commercial Item Purchase Financing**

**Who** CS

**What** Procedures for Offeror-Proposed Commercial Contract Financing

**When** Prior to Award

**Discussion** Go to the Office of Management and Budget (OMB) Circular webpage at <http://www.whitehouse.gov/omb/circulars/index.html> to obtain the latest issuance of Appendix C of OMB Circular A-94, “Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.”

**References:** FAR Subpart 32.205

### **32.4 Advance Payments for Non-Commercial Items**

**Who** CS

**What** Approval authority for advance payments

**When** Prior to advance payments

**Discussion** The SBPO must approve the recommendations and determinations for advance payments. (See FAR 32.409 and FAR 32.410).

The SBPO is the approving authority or authorized official for the documents required at FAR 32.409 and FAR 32.410. The CO submits these documents to the SBPO in accordance with FAR 32.402(c)(1)(iii).

**References:** FAR Subparts 32.402, 32.409, 32.410

### **32.5 Progress Payments Based on Costs**

**Who** CS

**What** Contract Finance Office clearance

**When** Prior to payment

**Discussion** Obtain the SBPO’s approval before taking any of the actions at FAR 32.502-2(a) thru (c).

**References:** FAR 32.502-2(a) – (c)

## 32.6 Contract Debts

**Who** CS, CO, Finance Office

**What** Debt management under contracts

**When** During performance of the contract

### Discussion

- (a) *Definition.* “Responsible official,” as used in this part generally means the CO. However, see FAR 32.605, Responsibilities and Cooperation Among Government officials.
- (b) *Responsibilities and Cooperation Among Government Officials.* The Office of Finance (OF) serves as the Agency’s focal point for administrative debt management, ensuring the billing and collection of administrative receivables. Coordinate any debt collection action, following the policies and procedures in this subpart, with OF.

**References:** FAR Subpart 32.605

## 32.7 Contract Funding

**Who** CS and COR

**What** Determining availability of funding

**When** Prior to Award

### Discussion

- (a) *Verifying funds are available.* Make sure that the requesting office has certified that funds are available before processing any AR received. A list of the individuals authorized to certify funding availability are included in Exhibit 1. If you receive a hard (paper) copy AR, make sure it is signed by the appropriate funds certifying official for the program area providing the funding for the acquisition or, in the case of ARs received for the next fiscal year, cites “Subject to the Availability of Funds.”
- (b) *Contracts Conditioned Upon Availability of Funds.*
  - (1) Fiscal Year Contracts. You may initiate a contract action properly chargeable to funds of the new fiscal year during a continuing resolution (CR). Anytime there is a CR, the NOAA Chief Financial Officer, in conjunction with OF, Office of Budget, and AGO issues operating policies and procedures for funding awards during a CR. AGO’s management staff will provide this guidance to all acquisition personnel.
  - (2) Acceptance of supplies or services. The written notice to the contractor that funds are available must be in the form of a modification to the award.

**References:** FAR Subpart 32.7

## 32.8 Assignment of Claims

**Who** CS

**What** Prohibiting Assignment of Claims

**When** Prior to Award or during contract performance

**Discussion** You may prohibit assignment of claims if you determine the prohibition to be in the Government's interest. Document this determination in a note to the contract file.

**References:** FAR Subpart 32.8

### **32.9 Prompt Payment**

**Who** CS, Office of Finance

**What** Payment Documentation and Process

**When** During contract performance

**Discussion** OF makes payments based on what is authorized in the award document, and in accordance with FAR Subparts 32.905 and 32.906.

**References:** FAR Subparts 32.905 and 32.906

### **32.10 Performance-Based Payments**

**Who** CS and COR

**What** Making performance-based payments

**When** During contract performance

**Discussion** It is NOAA's policy to make performance-based payments in accordance with the guidance at FAR 32.007, Contract financing payments

**References:** FAR Subpart 32

**Exhibit 1** – Individual's with Funds Certifying Authority



## PART 33

### PROTESTS, DISPUTES, AND APPEALS

#### 33.1 Protests

**Who** CS and CO

**What** General protest policies

**When** Pre- or Post-Award

**Discussion**

- (a) Policies and procedures under this subpart apply to all NOAA contracting personnel. Work with the Protest Control Officer (PCO) and the DOC OGC CLD attorney to resolve protests.

- (1) The AGO's Policy Coordinator serves as the liaison/point of contact for protests filed with the General Accounting Office (GAO) and the agency. The AGO Policy Coordinator acts as NOAA's PCO. The PCO can also act as an independent reviewer as allowed in FAR 33.103(d)(4). The PCO's mailing address and contact numbers are:

National Oceanic and Atmospheric Administration  
Acquisition and Grants Office  
1305 East West Highway, Suite 6300  
Silver Spring, MD 20910

Phone Number: (301) 713-0325  
FAX: (301) 713-1974

- (2) Coordinate all protests with DOC OGC CLD, the cognizant legal counsel for contractual issues. The mailing address and contact numbers are:

U. S. Department of Commerce  
Office of General Counsel  
Contract Law Division, Room 5893  
Herbert C. Hoover Building  
14<sup>th</sup> Street and Constitution Avenue, N. W.  
Washington, DC 20230  
Attn: Mark Langstein, Esquire  
FAX 202-482-5858

**References:** FAR 33.1

#### 33.2 Protests to the Agency

**Who** CS and CO

**What** Agency-level protest procedures

**When** Pre- and Post-award

**Discussion** FAR 33.103(d)(4) allows interested parties to request an independent review of their protest. In the solicitation, state how and who will conduct the independent review. Generally, the solicitation will identify the PCO as the independent reviewer and that the review will be performed after the CO's review.

Coordinate all protests received before award, even those that appear to be groundless, with the PCO and DOC OGC CLD. The DOC OGC CLD attorney will work with the cognizant Contract Specialist/CO and COR and offer advice as to the appropriate action. Before responding to the protester, obtain the concurrence of the PCO and DOC OGC CLD. In accordance with FAR 33.103(f)(1), the cognizant HCO unless the HCO is the CO, in which case the SBPO can make this determination, is authorized to make the determination to award a contract, in spite of the protest, after obtaining the concurrence of the PCO and DOC OGC CLD.

Coordinate all protests received after award, even those which appear to be groundless, with the PCO and DOC OGC CLD. The DOC OGC CLD attorney will work with the cognizant Contract Specialist/CO and COR and offer advice as to the appropriate action. Before responding to the protester, obtain the concurrence of the PCO and DOC OGC CLD. In accordance with FAR 33.103(f)(3), the cognizant HCO unless the HCO is the CO, in which case the SBPO can make this determination, is authorized to make the determination to award a contract, in spite of the protest, after obtaining the concurrence of the PCO and DOC OGC CLD.

**References:** FAR 33.103

### **33.3 Protests to GAO**

**Who** CS and CO

**What** GAO protest procedures

**When** Pre- and Post-Award

#### **Discussion**

(a) *General procedures.*

- (1) The PCO will notify the Director, AGO, when a protest has been filed with GAO. The PCO will also provide the case Number (B-number), the name of the protester, the solicitation number, the date and time the protest was received from the protester, the agency report due date, and GAO decision date to DOC OGC CLD and the cognizant CS/CO. The PCO will ensure that DOC OGC CLD and the cognizant CS/CO have a copy of all documents.
- (2) The CO shall make the necessary notifications reference in FAR 33.104(a)(2). The CO shall provide copies of the comments of interested parties responding to the notification to the PCO and to DOC OGC CLD.

- (3) (i) Process protests filed with GAO, through the PCO. These protests require coordination with the PCO, the DOC, OGC CLD and the cognizant CO.
  - (ii) The cognizant Contract Specialist, with the assistance of the COR, must assemble the protest file.
  - (iii) The cognizant CS must obtain PCO and DOC OGC CLD guidance in determining which documents to release or withhold from the protestor.
  - (iv) Working with the DOC OGC CLD attorney, the cognizant CS prepares the statement in accordance with FAR 33.104(a)(if)(B), for inclusion in the agency report to GAO. DOC OGC CLD will prepare the complete agency report and submit it to GAO.
  - (4) (i) Send out other copies of the agency report as specified in FAR 33.104(a)(4)(i).
  - (ii) (A) and (B) DOC OGC CLD will provide the additional documentation covered in FAR 33.104(a)(4)(ii) (A) and (B).
- (b) *Protests before award.*

- (1) To make an award in spite of a protest, the cognizant CS shall prepare a finding using the criteria in FAR 33.104(b)(1). Forward it for PCO concurrence, along with a written request for HCA approval to make the award. Furnish a copy concurrently to DOC OGC CLD.
  - (2) If the HCA approves the request to make an award, DOC OGC CLD will notify GAO of the findings.
- (c) *Protests after award.* If it is believed performance should be allowed to continue in spite of the protest, the cognizant CS prepares a finding, and forwards it for PCO concurrence, along with a written request for HCA approval. Furnish a copy concurrently to the DOC OGC CLD. If the HCA approves continued performance, DOC OGC CLD will notify GAO of the findings.
- (d) *Notice to GAO.* With input and review by DOC OGC CLD, the cognizant CS prepares the report required by FAR 33.104(g) for the HCA's signature. Forward the report to GAO.

**References:** FAR Subpart 33.104

### **33.4 Disputes and Appeals**

**Who** CS and CO

**What** Agency dispute/appeals procedures

**When** During contract performance

**Discussion**

- (a) *Applicability.* The agency head has designated the General Services Board of Contract Appeals (GSBCA) as the authorized "Board" to hear and determine disputes for DOC.
- (b) *Suspected Fraudulent Claims.* Submit any suspected contractor's fraudulent claim(s) to the Office of the Inspector General for investigation.
- (c) *CO's Authority.* Refer a proposed final decision to DOC OGC CLD for advice as to the legal sufficiency and format before sending the final decision to the contractor. Provide

DOC OGC CLD with the pertinent documents, with the submission of each proposed final decision.

- (d) *CO's Decision*. When using the paragraph in FAR 33.211(a)(4)(v), substitute the words "General Services" for each mention of the term "agency."
- (e) *CO's Duties Upon Appeal*.

- (1) GSBCA's rules or by the rules established by the United States (U.S.) Court of Federal Claims, as appropriate, govern appeals.
- (2) DOC OGC CLD is designated as the Government Trial Attorney (GTA) to represent the Government in the defense of appeals before GSBCA. The GTA transmits the GSBCA decision to the cognizant CS for compliance. The CS and COR must work with the GTA to achieve a satisfactory resolution of the appeal.
- (3) If an appeal is filed with the GSBCA, the cognizant CS must assemble a file within 30 days of receipt of an appeal or advise that an appeal has been filed, that consists of all documents pertinent to the appeal, including:
  - (i) The decision and findings of fact from which the appeal is taken;
  - (ii) The contract, including specifications and pertinent modifications, plans and drawings;
  - (iii) All correspondence between the parties pertinent to the appeal, including the letter or letters of claims in response to which the decision was issued;
  - (iv) Transcripts of any testimony taken during the course of proceedings, and Affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and
  - (v) Any additional pertinent information.

The cognizant CS furnishes the appeal file to the GTA for review and approval. After approval, prepare four copies of the file. This includes one each for the GSBCA, the appellant, the GTA, and the contracting office.

- (4) After the filing of an appeal, the cognizant CS and COR shall render whatever assistance the GTA requests. When an appeal is set for hearing, acting with the guidance of the GTA arrange the attendance of Government witnesses and specified physical and documentary evidence at both the pre- hearing conference and the hearing.
- (5) (i) The CO may withdraw or modify your final decision at any time during the appeal period. If this is done, forward the recommended correction or amendment to DOC GOC CLD with any supplemental documentation to the contract file that supports the recommended action.
  - (ii) If a contractor elects to accept fully the decision from which the appeal was taken, or any modification to it, and gives written notification of acceptance to the GTA or the concerned CO, the GTA will notify the GSBCA of the disposition of the dispute.
- (6) If the contractor has appealed to the U. S. Court of Federal Claims, the U.S. Department of Justice will represent the Agency. However, coordination of all actions through DOC OGC CLD must continue.

- (f) *Obligation to Continue Performance.* Generally the Disputes clause at FAR 52.233-1 with Alternate I should be used. However, the HCO can grant approval if it is determined that the Government's interest would be better served by paragraph (i) in Alternate I.

**References:** FAR Subpart 33.2

**PART 34**  
**MAJOR SYSTEM ACQUISITION**  
**[RESERVED]**

**PART 35**  
**RESEARCH AND DEVELOPMENT CONTRACTING**  
**[RESERVED]**

## PART 36

### CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

#### 36.0 Scope of Subpart

Requirements officials are reminded of the requirements of NAO 217.104, Approval of New Building Construction Projects. Prior to beginning any new building construction projects, this NAO should be reviewed and process for obtaining required approvals be taken into consideration when developing the project schedule.

#### 36.1 Definitions

“Agency head or other designated selection authority” is the Deputy Under Secretary for Oceans and Atmosphere.

#### 36.2 Special Aspects of Contracting for Construction

**Who** CS and COR

**What** Agency policy for construction contracts

**When** Pre-solicitation and post-award

##### Discussion

- (a) *Evaluation of Contractor Performance.* The COR fulfills the role of the evaluating official and prepares performance evaluation reports at the time of final acceptance, at the time of contract termination, and whenever the CO requests them. Distribute and maintain the performance reports in accordance with NAHB 42.4.
- (b) *Government Estimate of Construction Costs.* You may not disclose the overall amount of the Government’s estimate to anyone other than Government personnel whose official duties require knowledge of the estimate, unless the HCO approves this disclosure.
- (c) *Presolicitation Notices.* Submit your request for a waiver of the presolicitation notice required at FAR 36.213-2(a) to your HCO.

**References:** FAR Subpart 36.2 and NAO 217.104

#### 36.3 Architect-Engineer Services

**Who** CS and CO

**What** Policies and procedures applicable to the acquisition of architect-engineer services

**When** Pre- and post-award

##### Discussion

- (a) *Mapping services.* Mapping services are required to be acquired utilizing A-E contracting processes.
- (b) *Conflicts of interest.* After the closing date of the synopsis, but before the first active

involvement of the preselection board and the evaluation board, have the board members sign a Combined Certification of Qualifications/Confidentiality/Conflict of Interest form.

- (c) *Evaluation Boards.* The Chief Administrative Officer establishes the evaluation board for acquisitions up to \$100,000. The Deputy Under Secretary for Oceans and Atmosphere establishes the preselection board for acquisitions exceeding \$100,000. For non-NOAA clients, the equivalent positions in the client organization shall fulfill these roles.
- (d) *Evaluation Board Functions.*

(1) *Preselection board.*

- (i) A preselection board is normally used in acquisitions where the estimated cost exceeds \$100,000. A preselection board may also be used when a large quantity of responses to the synopsis is received and an in-depth study of each by the evaluation board would cause undue delays. Each member of the pre-selection board reviews the Standard Form 254 (SF 254), "Architect-Engineer and Related Services Questionnaire," and the SF 255, "Architect-Engineer and Related Services Questionnaire for Specific Project" submitted in response to the synopsis and eliminates those offerors that do not meet mandatory technical requirements. The remaining offerors are further reviewed and ranked based on their technical and professional expertise as it relates to the Government's requirement. The preselection board does not hold discussions with offerors.
- (ii) The Chairperson of the preselection board prepares a report which lists a minimum of three, and generally no more than five, of the highest evaluated (ranked) offerors from all responses received and submits the report through the CO to the evaluation board for further consideration. The report will reflect the preliminary rankings of all offerors and includes a copy of each rating sheet and any reservations, qualifications, or areas to be addressed that might bear upon the selection of offerors for interviews. The written report must list the reason(s) why certain offerors failed to qualify for further consideration.
- (iii) The pre-selection board report must be signed by each board member and permanently recorded in the contract file.

(2) *Evaluation Board.*

- (i) The evaluation board conducts interviews with at least the three highest rated offerors. In the interview, which is usually limited to a maximum of two hours per offeror, the offeror presents its capabilities and qualifications for the project, proposed organizational structure, design approach, and related experience. The board may use a question-and-answer period to consider additional information.
- (ii) After each interview is completed, each board member independently evaluates the offeror in accordance with the published selection criteria and the results of the interview. Using rating sheets approved by the CO, the board tabulates the results of the evaluations and ranks the offerors in order of preference. The board Chairperson then prepares a selection report, recommending, in order of preference, at least three offerors that are considered most highly qualified to

perform the required services. This report must be signed by each voting member of the board and contain the information required by FAR 36.602-3(d) and in (A) – (C) below.

(A) Summary sheet showing the individual member scores, ranking and rating factors.

(B) SF 254s and 255s, plus any essential brochures or other materials or information obtained, for each offeror; and

(C) Government estimate of the total amount of A&E fee. This includes the cost breakdown of all contributing factors (labor, materials, overhead, subcontracting and travel).

- (f) *Performance Evaluation.* The COR fulfills the role of the evaluating official and prepares performance evaluation reports at the time of final acceptance of the A&E contract work or after contract termination. In addition to the reports in this subparagraph, reports may be prepared as allowed in FAR 36.604(a)(2) and (3). Prepare a paper copy of the SF 1421. File one copy in the contract file and provide one copy to the contractor.
- (g) *Government Cost Estimate for Architect-Engineer Work.* The overall amount of the Government's estimate may not be disclosed to anyone other than Government personnel whose official duties require knowledge of the estimate, unless the HCO approves this disclosure.
- (h) *Design within Funding Limitations.* The HCO is the approving official who determines that cost limitations are secondary to performance considerations and additional project funding can be expected as specified in FAR 36.609-1(c)(1).

**References** FAR Subpart 36.6

**PART 37**  
**SERVICE CONTRACTING**  
**[RESERVED]**

**PART 38**  
**FEDERAL SUPPLY SCHEDULE CONTRACTING**  
**[RESERVED]**

## PART 39

### ACQUISITION OF INFORMATION TECHNOLOGY

#### 39.1 Definitions

“Requiring Official,” as used in this subpart, means the requestor cited on the CD-435, Purchase Requisition (PR).

#### 39.2 Applicability

**Who** CS and COR

**What** Agency IT Acquisition policies related to Sec. 508

**When** Throughout the acquisition process

#### Discussion

- (a) For NOAA specific information and links to additional Section 508 information go to NOAA’s Section 508 Advisory Council’s website at <http://www.cio.noaa.gov/itmanagement/508home.htm>. This site has samples of requirement documents and standards checklists that may be used in Solicitations as appropriate.
- (b) The requirements at FAR 39.203(b)(2) for exception determinations and Providing information to requiring and ordering officials also apply to Blanket Purchase Agreements (BPAs).
- (c) The requiring official must use the Non-Availability Certification form located on NOAA’s web site to document the non-availability as required by FAR 39.203(c)(2). The Approving Official who signed the PR must approve the Non-Availability Certification. The form is available at <http://www.ofa.noaa.gov~amd/>. Provide a copy of the Non-Availability Certification to AGO’s Policy Coordinator.
- (d) *Exceptions.* The requiring official’s Deputy Assistant Administrator (DAA) or equivalent, and the agency’s Chief Information Officer must approve the requiring official’s Undue Burden Exception documentation. The requiring official must use the Undue Burden form located on NOAA’s web site to document an Undue Burden as required by FAR 39.204(e)(2). The form is available at <http://www.ofa.noaa.gov~amd/>. Provide a copy of the Undue Burden determination to AGO’s Policy Coordinator.

**References:** FAR Subpart 39.2

**PART 40**

**[RESERVED]**

**PART 41**  
**ACQUISITION OF UTILITY SERVICES**  
**[RESERVED]**

## PART 42

### CONTRACT ADMINISTRATION AND AUDIT SERVICES

#### 42.1 Contract Audit Services

**Who** CS

**What** Procedures for requesting audit services

**When** Pre- and post-award

**Discussion** The CS should submit a request for audit service to the AGO Cost Analyst.

**References:** FAR Subpart 42.1

#### 42.2 Disallowance of Costs

**Who** CS and CO

**What** Procedures for handling vouchers

**When** During contract performance

**Discussion** *Contracting Officer receipt of vouchers.* See NAO 203-31 for procedures.

**References:** FAR Subpart 42.8, NAO 203-31

#### 42.3 Traffic and Transportation Management

**Who** CS

**What** Shipping documents covering F.O.B. Origin Shipments

**When** During contract performance

**Discussion** The CS should obtain a Government Bill of Lading (GBL) from the Freight Rate Specialist. See FAR Subpart 47.105(a). In order for the Freight Rate Specialist to issue a GBL, the CS must complete a "Government Bill of Lading Request" form (see Exhibit 1).

**References:** FAR Subpart 47.1

#### 42.4 Contractor Performance Information

**Who** CS

**What** Procedures for utilizing past performance as an evaluation factor

**When** Pre-award and post-award

**Discussion**

- (a) *General.* Contractors may not be given "downgraded" past performance evaluations for availing themselves of their rights by filing protests and/or claims or for deciding not to

use Alternate Dispute Resolution (ADR), nor should they be given more “positive” past performance evaluations for refraining from filing protests and/or claims or for agreeing to use ADR.

- (b) *Policy.* The term “each contract over \$100,000” includes not only contracts but also all delivery or task orders.
- (c) *Procedures.* An interim evaluation for an ongoing contract should be prepared to coincide with exercising an option, incremental funding, or at some other interval consistent with the contract effort. An evaluation must be prepared once every 12 months at a minimum.

The final evaluation must be prepared as soon as practicable after completion of the contract, but not later than 30 days after the completion date.

**References:** FAR Subpart 42.15

## **42.5 Contract Monitoring**

**Who** CS and COR

**What** Procedures for monitoring contract performance

**When** Post-award

### **Discussion**

- (a) *Purpose.* Contract monitoring is an essential element of contract administration and the acquisition process. This subpart describes NOAA’s procedures for contract monitoring, performed jointly by the COR and CO. They are meant to ensure that the required monitoring is performed, timely remedial action is taken when necessary, and a determination is made that contract objectives have been met.
- (b) *Contract Monitoring Responsibilities.* The written contract stipulates the mutual obligations of the Government and the contractor. Unless authorized, in writing, by the CO, no one may direct or request the contractor to assume any obligation or take any actions not specifically required by the contract. Only the CO may impose a requirement that will result in a change to the contract. All contract changes must be confirmed in writing.

Immediately upon award, the contractor must be informed by letter of the authorities and responsibilities of the Government personnel with whom the contractor will be dealing.

The CO must depend on the COR for assistance and advice in monitoring the contractor’s performance, and in other areas of postaward administration. The cognizant CS should ensure that the CORs and their alternates/assistants understand their responsibilities and perform their duties.

The COR’s responsibilities can be time-consuming, depending on a variety of factors including complexity of the requirement, dollar value, contract type, and contractor’s performance.

The COR is responsible for identifying to the OSY, Contractor employees working on-site, reporting contractor employees no longer working on-site (includes collecting badges and turning them into OSY).

**References:** FAR Subpart 42

#### **42.6 Contract Administration - Designation of COR and Alternate/Assistant COR or Point of Contact**

**Who** CO

**What** Process for designating CORs/Alternate/Assistant CORs/POCs

**When** Upon award

##### **Discussion**

- (a) COR's may be designated to perform certain functions during the term of the contract. Three important COR duties are:
  - (1) monitoring the contractor's technical progress;
  - (2) submitting periodic reports to the contract specialist; and
  - (3) submitting an assessment report to the contract specialist within 30 days prior to the exercising of an option or providing incremental funding or 30 days following completion of the contract requirements. Any individual designated as a COR or Assistant/Alternate COR must meet the COR training requirements set forth in CAM 1301.67.
- (b) In determining if designation of a COR is appropriate, the CS consider the three important COR duties listed in paragraph (a) above. If one or more of these duties is required, a separate designation memorandum to the individual selected to serve as the COR and/or as the Alternate/Assistant COR will be prepared by the CS. If the COR or alternate/assistant COR needs to be changed during the life of the contract, the CS will prepare and send a new designation memorandum to the individual selected to serve as the replacement COR and/or as the replacement Alternate/Assistant COR.

Prior to preparing any designation memorandum, the contract specialist should make sure the proposed COR/Alternate/Assistant COR has signed a conflict of interest certification. This certification should be provided by the COR or Alternate/Assistant COR prior to the evaluation process; however, if there was no evaluation or there is a change in COR/Alternate/Assistant COR, the CS must have the signed conflict of interest certification. Exhibit 2 is a sample of a post-award conflict of interest certification.

- (c) A copy of each designation memorandum must be included in the official contract file.
- (d) The sample memoranda (see AGO Website, <http://www.ofa.noaa.gov~amd>) may be used to comply with this section. They should be modified or tailored to fit the particular contract/situation and to specify whether an individual is being appointed as a COR, an ACOR, or a P/CO.

**References:** FAR Subpart 42

**Government Bill of Lading Request**

TO: (Freight Rate Specialist)

DATE:

FROM:

The following information is applicable to this request for a Government Bill of Lading (GBL):

1. Requisition Number:

2. ACCS Code:

Object Class:

3. Purchase/Delivery Order/Contract Number:

4. Company Name/Address/Contact Person/Telephone Number:

5. F.O.B. Point:

6. Delivery Address:

7. Item/Quantity:

8. Weight:

9. Inside delivery required:  Yes  No

Will be packaged as follows:

**Conflict of Interest Certification**

In order that I may participate as a Contracting Officer Representative (COR) for contract No. \_\_\_\_\_ awarded to \_\_\_\_\_, I have signed and dated this form where indicated. My signature is confirmation that the Certification Statement is accurate and true. If such certification cannot be made, I am prohibited from being the COR on this contract.

In addition, I have read and understand the requirements for procurement integrity, standards of conduct, and rules for safeguarding and disclosing information as follows:

- FAR, Part 3, Improper Business Practices and Personal Conflicts of Interest
- Standards of Ethical Conduct for Employees of the Executive Branch, subparts
  - Conflicting Financial Interests
  - Impartiality in Performing Official Duties
  - Seeking Other Employment
  - Misuse of Position

I certify that I do not have any personal, financial or other interest in, or relationship to, the contractor. I also certify that I am not biased for or against the contractor for any other reason.

\_\_\_\_\_  
Signature/Date

## **PART 43**

### **CONTRACT MODIFICATIONS**

#### **43.1 Change Orders**

**Who** CS

**What** Inclusion of contract clause

**When** Prior to solicitation

**Discussion** Obtain HCO approval as required by FAR 43.205(c) when varying the 30-day period in FAR clause 52.243-3.

**References:** FAR Subpart 43.205(c)

#### **43.2 Documentation of Contract Modifications**

**Who** CS/CO

**What** Preparation of Business Case Memorandum/Summary of Negotiations

**When** Prior to award of modifications

**Discussion** The Business Case Memorandum/Summary of Negotiations is mandatory documentation for any unilateral or negotiated change to the contract. See NOAA Acquisition Handbook part 15.4.

**PART 44**  
**SUBCONTRACTING POLICIES AND PROCEDURES**  
**[RESERVED]**

## PART 45

### GOVERNMENT PROPERTY

#### 45.1 Definitions

“Property Administrator” is the Regional Property Manager in Headquarters or the RADs.

“NOAA Property Management Officer” (PMO) means the head of the NOAA Personal Property Office. The PMO is responsible for all NOAA property management programs and is the liaison with other agencies in property management policy. The PMO appoints the Property Administrator.

#### 45.2 Providing Government Property to Contractors

**Who** CS, CO, COR

**What** Procedures for providing government property to contractors

**When** Throughout the performance of the contract

##### **Discussion**

- (a) Whenever providing government-owned property to a Contractor or authorizing a contractor to acquire property under a contract, comply with the provisions of the NOAA Personal Property Handbook.
- (b) The CS must coordinate GFP with the Property Administrator, and the COR.
- (c) The CS and COR should consider the following before providing GFP or allowing a contractor to acquire such property at Government expense:
  - (1) Is there any practicable or economical alternative; e.g., acquisition from other sources, utilization of subcontractors, rental of property, or modification of program project requirements?
  - (2) Will the Government receive adequate consideration for providing the property?
  - (3) Will furnishing Government property result in substantially lower cost to the Government for the items produced or services rendered when all costs involved (e.g., transportation, installation, modification, and maintenance) are compared with the cost to the Government of the contractor’s use of privately-owned property?

**References:** FAR Subpart 45.3, NOAA Personal Property Handbook

### **45.3 Contractor Use and Rental of Government Property**

**Who** CS, CO, COR

**What** Providing GFP under contracts with foreign governments or international organizations

**When** Throughout the life of the contract

**Discussion** The CS should coordinate the request with the COR and contact the Property Administrator for agency procedures for providing government property under contracts with foreign governments or international organizations.

**References:** FAR Subpart 45.4 and NOAA Personal Property Handbook

### **45.4 Management of Government Property in the Possession of Contractors**

**Who** CS, CO, COR

**What** Contract administration duties related to managing government property in the possession of contractors

**When** Throughout the life of the contract

**Discussion**

- (a) The CS and COR should direct the contractor's attention to FAR subpart 45.5 for the management of Government property in the possession of contractors. Specifically, FAR Subparts 45.505-1 and 45.505-5 detail records to be maintained by the Contractor. Contractors should be told that the terms of the contract and the requirements at FAR subpart 45.5 are the contractor's guides for the control of Government property. Issues not covered by the FAR or the contract should be resolved with the assistance of the Property Administrator and the COR. Refer to the NOAA Personal Property Handbook at [http://www.pps.noaa.gov/New\\_menu/ppmanualmain.htm](http://www.pps.noaa.gov/New_menu/ppmanualmain.htm) for additional guidance.
- (b) *Identification.* The CS should direct the Contractor to identify property in accordance with the terms of the contract and the requirements at FAR section 45.506, which addresses the need to identify the property and report the assigned identification number.

**References:** FAR Subpart 45.5 and NOAA Personal Property Handbook

### **45.5 Reporting, Redistribution, and Disposal of Contractor Inventory**

**Who** CS and COR

**What** Guidance on reporting, redistribution and disposal of contractor inventory

**When** Throughout the life of the contract

**Discussion**

- (a) *Scope.* The contractor should be advised by the CS that the terms of the contract and the requirements at FAR subpart 45.6 govern the reporting, redistribution and disposal of contractor inventory. Issues not covered by the contract or the FAR should be resolved with the assistance of the Property Administrator and the COR.
- (b) *Definitions.* "Plant Clearance Officer" as referenced in FAR Subpart 45.601 means the

Property Administrator as defined in 45.101.

- (c) *Contractor Inventory in Foreign Countries.* The CS and COR must contact the Property Administrator for rules concerning sale or disposal of contractor inventory located in foreign countries.
- (d) *Property Disposal Determinations.* The CS prepares and the NOAA PMO reviews the property disposal determination in FAR section 45.613. The CO makes the final determination.

**References:** FAR Subpart 45.6 and the NOAA Personal Property Handbook

#### **45.6 Acquisitions Impacting NOAA Office Space, Environment or Energy**

**Who** CS and COR

**What** Procedures for providing contractor space in NOAA facilities

**When** During acquisition planning and throughout the life of the contract

**Discussion**

- (a) *Policy.* The CS and COR must coordinate the need for on-site contractor space with the cognizant Facilities Management office. This should include a review of the Acquisition Request.
- (b) *Procedures.* The CS shall use acquisition planning sessions to inform the COR of the need for Facilities Management coordination in any instance where the acquisition may have an impact on space, environment or energy. The milestone plan negotiated for the acquisition should reflect the required reviews or coordination.

It is the COR's responsibility to ensure that Acquisition Requests reflect the input and concurrence of the Facilities Management office for any acquisition that may impact NOAA space, environment or energy. The Acquisition Request or its supporting documents must record this coordination/concurrence.

**References:**

## PART 46

### QUALITY ASSURANCE

#### 46.1 Contract Clauses

**Who** CS

**What** Required approval for using FAR Clause 52.246-16, Responsibility for Supplies

**When** When developing solicitation and/or contract document

**Discussion** The contract specialist must obtain HCO approval as required by FAR 46.316 when including the Responsibility for Supplies clause in a contract when the contract amount is not expected to exceed the simplified acquisition threshold.

**References:** FAR Subpart 46.3

#### 46.2 Warranties

**Who** CS in consultation with the COR

**What** Guidance on including warranty provisions in NOAA contracts

**When** During the acquisition planning and solicitation/contract development phase

**Discussion**

- (a) *Criteria for use of Warranties.* Warranties should be obtained only when they are cost beneficial. To determine whether use of a warranty is cost beneficial, an analysis shall be performed to compare the benefits to be derived from the warranty with its acquisition and administration costs. The analysis should examine the procurement's life cycle costs, both with and without a warranty. Where possible, a comparison should be made with the costs of obtaining and enforcing warranties for similar supplies or services. If a warranty is determined to be appropriate, the contract file shall be documented with the reason for inclusion of a warranty and identify the specific parts, subassemblies, systems or contract line item(s) on which a warranty should apply and shall address why a warranty is appropriate under the criteria set forth in FAR 46.703.
- (b) *Authority for use of Warranties.* The contract specialist must obtain HCO approval as required by FAR 46.704 when recommending use of a warranty clause.
- (c) *Limitations.* The contract specialist must obtain HCO approval as required by FAR 46.705(a) when recommending use of a warranty clause in a cost-reimbursement contract.
- (d) *Warranties of Data.* The contract specialist must obtain HCO approval as required by FAR 46.708 when recommending use of a warranty clause.

**References:** FAR Subpart 46.7

## **PART 47**

### **TRANSPORTATION**

#### **47.0 Definitions**

“Transportation Officer” is organizationally located in the Logistics Office. The transportation officer (TO) has delegated to the freight rate specialist the authority to perform all duties assigned in the FAR for those portions of contracts that involve transportation of supplies.

#### **47.1 General**

The TO’s and the freight specialist’s address and phone numbers are: *(to be determined)*

**PART 48**  
**VALUE ENGINEERING**  
**[RESERVED]**

## **PART 49**

### **TERMINATION OF CONTRACTS**

#### **49.1 General Principles**

**Who** CS, CO, COR

**What** Reporting fraud or other criminal conduct in relationship to an acquisition termination

**When** At any time during the process of terminating a contract

**Discussion** Report suspected fraud or criminal conduct related to the settlement of a terminated contract to the Office of the Inspector General for investigation.

**References:** FAR Subpart 49.1

**PART 50**  
**EXTRAORDINARY CONTRACTUAL ACTIONS**  
**[RESERVED]**

## PART 51

### USE OF GOVERNMENT SOURCES BY CONTRACTORS

#### 51.1 Contractor Use of Government Supply Sources

**Who** CS with input from COR

**What** Availability of Government travel and transportation discounted rates to Government contractors

**When** Throughout the life of the contract

**Discussion** Cost-reimbursable contractors may be eligible for certain discounts that are available to Government employees. The travel and transportation costs must be related to official Government business.

- (a) *Contract air passenger transportation practices.* Contractors cannot use the General Services Administration's city pair fare rates.
- (b) *Discount rail services.* Rail services (such as AMTRAK) may offer discounted fares to eligible contractors. This requires a contractor-issued letter of identification. See the sample letter in Exhibit 1.
- (c) *Discount hotel/motel practices.* Lodging providers may offer discounted fares to eligible contractors. This requires a contractor-issued letter of identification. See sample letter in Exhibit 1.
- (d) *Department of Defense (DOD) car rental practices.* Car rental companies may offer the DOD-negotiated discount rates to contractors. This is at the vendor's option and requires a Government authorized letter of identification (prepared by the CS; signed by the CO). See sample letter in Exhibit 1.

**References:** FAR Subpart 51.101

#### 51.2 Authorization to use Government Supply Sources

**Who** CS with input from COR

**What** Providing authorization for Contractor use of government supply sources

**When** Throughout the life of the contract

**Discussion** If it is decided to authorize a contractor to use certain Government supply sources, the CS must obtain a FEDSTRIP activity address code.

Use the sample "Agency Letter of Identification" in Exhibit 1 to introduce NOAA cost-reimbursable contractors to lodging providers, rail services (such as AMTRAK), and car rental agencies.

**References:** FAR Subpart 51.102

EXHIBIT 1

Sample Agency Letter of Identification

(Date)

Official travel of Cost-Reimbursable Contractor

To Whom It May Concern:

Re: Contract Number \_\_\_\_\_

(Traveler's name), the bearer of this letter, is an employee of (contractor name). (Contractor name) is under contract to the National Oceanic and Atmospheric Administration under cost-reimbursable contract (contract number). During the performance period of the contract through (contract end date) the employee will be performing reimbursable travel in performance of the contract. I authorize the employee to receive any discount lodging, rail services, and car rental rates that you give to United States Government employees.

(Contracting Officer's signature,  
title and telephone number)

**PART 52**  
**SOLICITATION PROVISIONS AND CONTRACT CLAUSES**  
**[RESERVED]**

**PART 53**  
**FORMS**  
**[RESERVED]**

## PART 70

### NOAA-SPECIFIC ACQUISITION GUIDANCE

#### 70.1 Contractor Access to NOAA IT Systems

**Who** CS, CO and COR

**What** Guidance on providing contractor employees with access to NOAA IT Systems

**When** Throughout the life of the contract

**Discussion**

- (a) Whenever a contractual agreement (including purchase/delivery/task orders, orders against Blanket Purchase or Ordering Agreements and contracts) requires Contractor personnel to access NOAA's computer systems (includes PC, network, mainframe, firewall, router, telephone and other miscellaneous utility systems, regardless of platform), there are specific responsibilities of the Contractor and the COR associated with that access.
- (b) It is the responsibility of the designated COR to determine the need for contractor personnel to access NOAA's computer systems. Access is made available by the COR requesting accounts and system access for contractor employees assigned to their contracts from the appropriate system administrator. Further, it is the responsibility of the COR to subsequently notify the appropriate system administrator when such access is no longer required by that Contractor or that Contractor's employees.
- (c) *Contractor Identification* – Include the following provision in any order or contract which will require contractor communications (oral, written, electronic) with Government personnel:

#### Contractor Identification

During performance of this contract, it is anticipated that Contractor employees will have the opportunity to interact with Government personnel. This interaction can take the form of written or electronic communications or through formal or informal discussions or meetings. Accordingly, the following identification procedures shall be adhered to:

#### (1) Electronic Communications

- (i) Any contractor employee included in NOAA's locator shall be identified by both their name and the Contractor's name. Example:  
[Jane.Smith.ABC.Company@noaa.gov](mailto:Jane.Smith.ABC.Company@noaa.gov)
- (ii) Any contractor employee submitting any type of electronic correspondence to any NOAA employee shall clearly identify themselves as a contractor employee at the start of the communication. Example: The first line of an e-mail message (not generated through NOAA's locator or using a NOAA e-mail address) shall read as follows: "This message is from Jane Smith with ABC Company, Contract No. XXXXXXXXXXXX".

- (2) Written Communications. Any written correspondence from a contractor or any contractor employee shall be printed on company/organization letterhead or otherwise clearly identify the sender as an employee of whatever company or organization they are representing and shall identify the contract number on which they are performing.
- (3) Oral Communications. Contractors and/or contractor employees shall clearly identify themselves as such in any verbal communications, whether informal discussion or formal meeting.

**References:**

**70.2 Identification of Contractor Employees**

**Who** CS, CO and COR

**What** Requirements for identification of contractor employees

**When** Throughout the life of the contract

**Discussion**

- (a) As it has become more and more prevalent to utilize contractor's to perform as partners in assisting the agency to achieve its mission, it is critical that steps be taken to ensure the proper identification of Contractor employees in all correspondence and in face-to-face contacts.
- (b) Whenever a contractor and its employees have access to NOAA's computer systems, it is essential that such employees be identified as contractor employees to prevent the inadvertent provision of confidential or business sensitive materials to those employees. Accordingly, all NOAA contractual agreements (contracts, purchase/delivery/task orders, and orders against Blanket Purchase or Ordering Agreements) shall specify the identification requirements for electronic and written correspondence and discussion and meeting participation.
- (c) COs shall include the provision at NAHB 70.4(b) in all contractual documents (as defined in NAHB 70.2(b)) requiring contractor communications (in any form) with Government personnel.

**References:**

**70.3 Contractor Provided Terms and Conditions**

**Who** CS, CO and COR

**What** Determining acceptability of contractor-provided terms and conditions

**When** Prior and subsequent to contract award

**Discussion**

- (a) It is not uncommon for vendors to provide specific or their own standard terms and conditions in conjunction with an offer/bid/proposal or to request the separate execution of a commitment document. This is frequently seen with acquisitions for space rental

(e.g., hotel accommodations, conferences, etc.), subscriptions, licenses, memberships, and lease or maintenance agreements. It should be noted that these examples are not intended to be all-inclusive.

(b) Examples:

- (1) Subscriptions, licenses, memberships, lease and maintenance agreements frequently include “automatic renewal” provisions. These provisions are unacceptable to the Government as they may place the agency in a position of anti-deficiency and require the Government to pay for products/services it does not require.
- (2) Agreements for occupation of a block of hotel rooms may include penalty payments if the entire block is not booked or for requirements of automatic extension if specific notification of vacancy is not provided. These provisions, as well, can place the agency in a position of being anti- deficient.
- (3) Agreements for conference space may include provisions for payment of “other” charges such as utilities, set-up, materials, damages, etc. that will be determined by the contractor at the conclusion of the conference. These can amount to unauthorized commitments and/or place the agency in a position of anti-deficiency.

(c) These separate agreements shall not be executed by either the requesting official, the CO, or any other NOAA employee without first:

- (1) a thorough review of all language included in the separate agreement;
- (2) comparison of these terms and conditions to the terms and conditions included in the official contract document;
- (3) review of the terms and conditions of the official contract document and the separate agreement by the OGC; and
- (4) resolution of any objectionable or contradictory terms and conditions consistent with guidance provided by OGC.

(d) It should be noted that the “Order of Precedence” provisions incorporated in Government contracts does not always protect against conflicts or additional terms and conditions provided by a vendor and execution of the contractor’s agreement can bind the Government to those terms and conditions.

**References:**

**70.4 Contractual Provisions**

**Who** CS

**What** NOAA-specific contract provisions

**When** During solicitation development

**Discussion** *Contractor Access to Systems* – Include the following provision in any order (in the description or as an addendum incorporated into the order) or contract (in Section C) which will require contractor employee access to NOAA systems:

Termination of Access to Systems

The Contractor shall provide immediate (within 12 hours) notification to the designated Contracting Officer Representative (COR) of the need to cancel access to NOAA systems for any of its employees. The need to cancel access may arise in (but is not limited to) any of the following:

- Removal from performance on the specific contract;
- Suspension or termination of the employee's position with the contractor;
- Extended absence from performance on the contract (either detail or extended leave);
- Completion of the contractual requirements;
- When contractual responsibilities no longer require systems access; or
- When there are integrity or performance issues that make systems access inappropriate.

Immediately, but within 12 hours of receipt of such notification, the COR shall request access termination through the appropriate system administrator.

**References:**