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ACQUISITION OPERATING PROCEDURE (AOP)

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FROM: Richard R. Jiron
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SUBJECT: AOP No. 8: Preaward and Postaward File Review

◆ **PURPOSE:** The purpose of this Acquisition Operating Procedure (AOP) is to establish a Preaward and Postaward File Review process of pre-solicitation/award and awarded contract file documents. The Preaward and Postaward File Review process will be conducted for selected proposed contract actions outlined in this procedure to ensure the proposed contract actions, when properly executed, will--

- Comply with established acquisition statutes, regulations, policies and procedures;
- Reflect sound business judgment; and
- Be in the best interests of the Government.

◆ **EFFECTIVE DATE:** This AOP is effective on September 9, 2014.

◆ **REVISIONS:** *Purpose:* Removed sentence "This procedure applies . . ." *File Reviewers:* Changed Team Leads to Contracting Team Leads, and hereafter throughout this procedure. *Proposed Contract Actions To Review:* Revised Item #1 and removed Item #3. *Table - Preaward File Review Threshold:* Changed \$3,000 up to SAT to \$3,000 up to \$1,000,000 and its text in Required Review; Removed in its entirety text/row "Exceeding SAT up to \$1,000,000;" Added Contracting Team Lead in the Required Review for all Contract Value/Thresholds; Changed Chief POD to HCAD in the \$5,000,000 or greater and Modification that extends thresholds (up to 6 months) . . . contract Value/Threshold; and Deleted the word performance from Modification that extends (up to 6 months) . . . in Contract Value/Threshold, and Deleted OPPM Deputy Director and/or OPPM Director from Required Review. *Preaward Review Process:* Added Contracting Team Lead in items #3 and #4; and Added Item #10. *File Review Form:* Added Initials/Date (Reviewed/ Returned for Action).

This AOP replaces AOP No. 8, dated September 13, 2013.

◆ **AUTHORITIES:** AGAR Advisory 87A, USDA Federal Procurement Data Quality Plan, dated November 13, 2009; and Departmental Regulation 5000-4, Legal Review of Contractual Actions, dated September 10, 1997.

◆ **FILE REVIEWERS:**

The File Reviewers may consist of Contracting Branch Chiefs; Contracting Team Leads, Contract Specialists; Head of the Contracting Activity Designee (HCAD); Procurement Analysts; and External offices such as the Offices the Small and Disadvantaged Business Utilization, General Counsel, Procurement and Property Management, Procurement Policy Division, or offices as deemed appropriate by the Branch Chiefs or HCAD.

◆ **PROPOSED CONTRACT ACTIONS TO REVIEW:**

1. The Preaward File Review applies to solicitations; purchase orders; delivery and task orders; blanket purchase agreements (BPA); contracts; and modifications that extend the base contract/options up to 6 months beyond the initial periods, and contract value increases beyond the initial contract (base/options) threshold. All supporting documentation relating to the appropriate tabs on the *Contract File Index* shall be submitted for review.
2. Documents requiring an external office approval (e.g., *DPA, SB Program- Procurement Request Review, Advisory and Assistance, etc.*) may be submitted through the review process prior to the file review in order to expedite the review process of these documents.

PREAWARD FILE REVIEW THRESHOLDS		
<i>Contract Value/Threshold</i>	<i>Review Cycle</i>	<i>Required Review</i>
\$3,000 up to \$1,000,000	Periodically (Randomly Selected)	At the Contracting Team Lead's or Contracting Branch Chief's discretion, IAS requisitions will be designated for "Review."
\$1,000,000 and greater	Daily (100%)	All proposed contract actions reviewed by Contracting Team Lead and Contracting Branch Chief with the discretion to determine additional File Reviewers
\$5,000,000 and greater	Daily (100%)	All proposed contract actions reviewed by the Contracting Team Lead and Contracting Branch Chief, Senior Procurement Analyst and HCAD
Modifications that extend (up to 6 months) the base contract/option period beyond the initial contract period (<i>Clause: 52.217-8</i>)	Daily (100%)	All modifications, prior to release will be reviewed by the Contracting Team Lead, Contracting Branch Chief and HCAD.

POSTAWARD FILE REVIEW			
<i>Threshold</i>	<i>Review Cycle</i>	<i>Number</i>	<i>Required Review</i>
All Dollar Values	January <i>(Annually, calendar year)</i>	15 to 20 <i>(contracts)</i>	Randomly selected proposed contract actions reported in the Federal Procurement data System - Next Generation (FPDS-NG) will be reviewed by the Contracting Branch Chiefs, Contracting Team Leads, Procurement Analysts and/or Chief POD.

◆ FILE DOCUMENTATION:

1. All supporting and applicable documents (e.g. acquisition plan, milestone schedule, clearances, Determinations & Findings, Justifications and Approvals, waivers, pre/negotiated memoranda, award memorandum) must be placed in the Preaward file at time of submission for review in accordance with AOP Number (No.) 7, Contract File Index.
2. Requirements to Note:
 - a) The Program Official and Contracting Officer (CO) should sign and date the Acquisition Plan and milestone schedule.
 - b) Performance-Based Contracting will be included for eligible services requirements, whenever possible (FAR Subpart 11.101, and FAR Subpart 37.6). The acquisition plan must document the rationale if performance-based acquisition will not be used.
 - c) If a Federal Business Opportunities notice results in contractor or vendor responses, the CO will include the contractor/vendor responses, CO's draft contractor/vendor reply(s), and the written memorandum on whether the proposed contract action should remain, as a non-competitive or limited competition shall be provided to the Contracting Branch Chief.
 - d) Negotiated procurements over \$650,000 (\$1.5M for construction) should contain subcontracting plan requirements as part of the proposal evaluation criteria, if applicable. Procurements issued against General Services Administration Federal Supply Schedules, Government-wide Acquisition Contracts and Set-Aside for a Small Business concerns are excluded from subcontracting requirements.
3. The Contract Specialist shall must use the appropriate Contract File Index (see AOP No.7, Contract File Index)
4. All documents for the Contract File Index shall contain the current notations, filed, and tabbed sequentially per the Contract File Index; otherwise, the file will be returned to the Contract Specialist for correction prior to further review.
5. The Contract Specialist shall place the Preaward file documents in the 6-part file folders for Contracts and the manila standard file folders for Simplified Acquisition Procedures actions.
6. The Contract Specialist shall provide the original File Review Form and Preaward file sequentially to the File Reviewers identified by the Contracting Branch Chief.
7. The File Review Form(s) shall become a permanent part of the official contract file.

◆ PREAWARD REVIEW PROCESS:

1. In order to expedite the Preaward File Review, the Contract Specialist must identify, document and resolve contractual problems, including legal concerns during the early stages of procurement planning (prior to Offeror's discussions).
2. Normally, five (5) business days will be allowed to complete the Preaward File Review to enable a thorough and meaningful contract review by a File Reviewers; however, the Contracting Branch Chief will establish, on a case-by-case basis, the due date, for which the Preaward Review is to be completed. The Contract Specialist should plan the milestone schedule accordingly.

3. The Contracting Branch Chief or Contracting Team Lead may assign the Preaward File Review to a Contract Specialist on their team for specific proposed contract actions and/or may request review by other Contract Specialists of Departmental Management and/or external offices personnel.
4. The Contracting Specialist may give the original contract file to the Contracting Team Lead, Contracting Branch Chief, Senior Procurement Analyst and HCAD for review; however, if external office personnel outside POD will review the contract file, the Contract Specialist must make a copy of the complete contract file for the external office personnel.
5. The File Reviewers must use the File Review Form (Attachment) to explain comments, and to provide findings and recommendations.
6. The File Reviewers must return the File Review Form and the Preaward file to the Contract Specialist that requested the Preaward File Review.
7. If the Contracting Branch Chief requests a Preaward File Review by other Contracting Branch Chiefs of Departmental Management, the other Contracting Branch Chief will complete the Preaward File Review or may:
 - a) Assign the Preaward File Review to a Contract Specialist on their team.
 - b) The Contract Specialist will complete the Preaward File Review and provide the comments, findings and/or recommendations to their Contracting Branch Chief.
 - c) The Contracting Branch Chief will review and/or discuss the Contract Specialist's comments, findings or recommendations prior to providing the File Review Form and the Preaward file to the Contracting Branch Chief that requested the Preaward File Review.
8. The Contracting Branch Chief will review the File Reviewer's comments and include any additional comments as appropriate, and then provide the File Review Form and Preaward file to the Contract Specialist for action.
9. The Contracting Branch Chief may request a meeting with the Contract Specialist and/or File Reviewer(s) to discuss the comments, findings and recommendations submitted.
10. File Review Form:
 - a) Initials/Date (*Reviewed/Returned for Action*) - The File Reviewer has completed the review; however, the document is being returned for changes before approval. The Contracting Branch Chief and/or Contracting Team Lead will review revisions made by the Contracting Specialist/Buyer prior to re-submitting the document to the higher-level approval to help ensure consistency with documentation and guidance within the division.
 - b) Signature/Date - The File Reviewer has completed the review with approval to proceed. Minor changes, if applicable, may be required; but do not require re-submitting for approval to proceed.

◆ **POSTAWARD REVIEW PROCESS:**

1. The Contracting Branch Chiefs, Team Leads, designated Contract Specialists, Procurement Analysts, and/or the HCAD will review a sampling of appropriately 15 to 20 contract actions in FPDS-NG for the calendar year.
2. The Postaward File Reviewers must use the File Review Form (Attachment) to provide comments, findings, and recommendations of the review results.

3. The File Reviewers will submit the File Review Forms to the Procurement Analysts for consolidation to prepare a “Postaward Review Analysis” of the findings and recommendations.
4. The HCAD, Contracting Branch Chiefs and the Procurement Analyst will schedule a meeting to review the results of the “Postaward Review Analysis” to determine the issuance of new or revised procedures, and/or remedial training, as necessary.

◆ **PREAWARD FILE REVIEW - WAIVER REQUEST:**

1. In special situations, the Contracting Branch Chief or HCAD may waive the Preaward File Review process for a specific proposed contract action, when it is determined to be in the best interest of the agency.
2. The Contract Specialist will:
 - Complete the File Review Form.
 - Check the “Waiver” box on the File Review form.
 - In the “File Reviewer’s Comments/Findings” box on the File Review form, explain the rationale and impacts if the waiver is not granted for the proposed contract action. Attached any other supporting documentation, which may be pertinent.
 - Submit the File Review Form to the Team Lead and then Contracting Branch Chief and/or HCAD for review.
3. The Contract Specialist will allow adequate time for a deliberate assessment of all facts by the Contracting Branch Chief and/or HCAD prior to the procurement action being released or awarded.

◆ **EXPIRATION DATE:** This AOP will remain in effect until canceled.

