



Oct. 9, 2018

United States
Department of
Agriculture

Office of the
Assistant
Secretary
for Administration

Office of Contracting
and Procurement

Procurement
Operations Division

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ACQUISITION OPERATING PROCEDURE (AOP)

FROM: Richard R. Jiron
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SUBJECT: AOP No. 8: Pre-solicitation and Pre-award Reviews

◆ **PURPOSE:** This Acquisition Operating Procedure (AOP) establishes a pre-solicitation and pre-award review process of the contract file documents. The pre-solicitation and pre-award review process will be conducted for selected 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 October 9, 2018.

◆ **REVISIONS:** This AOP is replaced in its entirety and the post-award guidance is moved to AOP 25, Procurement Review Program for the annual review process.

This AOP replaces AOP No. 8, dated January 25, 2017.

◆ **AUTHORITIES:** FAR 4.801, Government Contract Files, Procurement Advisory 87D, USDA Federal Procurement Data Quality Plan, dated January 13, 2015; Departmental Regulation 5000-4, Legal Review of Contractual Actions, dated April 4, 2012.

◆ **REVIEWERS:**

Reviewers may consist of Contract Specialists, Contracting Officers, Procurement Analysts, Competition Advocate, Contracting Branch Chiefs, and the Deputy Chief and Chief/Mission Area - Senior Contracting Official (MASCO) of the Procurement Operations Division (POD). External reviewers may be staff from the Office of the Small and Disadvantaged Business Utilization, General Counsel, Office of

Contracting and Procurement/Procurement Policy Division, or other offices as deemed appropriate by the Contracting Branch, Deputy, or Division Chiefs.

◆ **REVIEW OF PROPOSED CONTRACT ACTIONS:**

1. The Review applies to solicitations, purchase orders, delivery and task orders, blanket purchase agreements (BPA), BPA calls and contracts. All supporting documentation relating to the appropriate tabs on the *Contract File Index* (AOP 7) shall be submitted for review. The review thresholds are included in Table-1 and Table-2 below.

2. Individual contract file documents requiring external staff office review and approval (e.g., DR 5090-001, Small Business Program-Procurement Request Review, PA 91D, Advisory and Assistance & Professional Services) will be provided as soon as possible in the procurement process through the appropriate supervisory/review process channel and prior to the pre-solicitation or pre-award review, as applicable.

Table-1

REVIEW THRESHOLDS <i>(Applicable to POD contracting offices)</i>		
<i>Contract Value/Threshold</i>	<i>Review Cycle</i>	<i>Required Review</i>
\$3,000 up to \$5,000,000	Periodically (Randomly Selected)	At the Contracting Branch Chief’s discretion, IAS requisitions may be designated for "Review."
\$5,000,000 and greater	Daily (100%)	All proposed contract actions reviewed by Contracting Branch Chief with the discretion to determine additional File Reviewers.
\$10,000,000 up to \$25,000,000	Daily (100%)	All proposed contract actions reviewed by the Contracting Branch Chief, Procurement Analyst and POD Deputy Chief.
\$25,000,000 and greater	Daily (100%)	All proposed contract actions reviewed by the Contracting Branch Chief, Procurement Analyst, POD Deputy Chief and Chief/MASCO.

Table-2

REVIEW THRESHOLDS <i>(Applicable to contracting offices with warrant authority signed by the MASCO of POD)</i>		
<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 discretion of the Contracting Team Lead or Contracting Branch Chief, IAS requisitions may 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, Contracting Branch Chief, Procurement Analyst; and POD Deputy Chief, and/or Chief/MASCO.

Note: Contracting personnel in offices with no Contracting Team Leads, Branch Chiefs or Division Chief will provide documents to the appropriate Contracting Branch Chief in POD that supports their customers focus area. (See Organizational Chart at <https://www.dm.usda.gov/oppm/pod/index.htm>).

◆ **FILE DOCUMENTATION:**

1. All applicable documents (e.g., acquisition plan, milestone schedule, clearances, Determinations & Findings, justifications and approvals, waivers, pre/negotiated memoranda, award memorandum)) shall be completed and included in the file at time of submission for review; otherwise, the contract file will be returned to the Contracting Branch Chief and/or Contract Specialist for correction prior to further review.
2. The Contract Specialist shall use the appropriate Contract File Index (AOP 7). All documents for the Contract File Index shall contain the current notations, filed, and tabbed sequentially per the Contract File Index.
3. The Contract Specialist shall submit the File Review Record and contract file documentation to the reviewer(s) identified by the Contracting Branch Chief.

4. The Contract Specialist shall provide the original File Review Record and file documents sequentially to the Reviewers.
5. Requirements to Note:
 - a. The Program Official and Contracting Officer (CO) shall sign and date the Acquisition Plan (FAR Subpart 7.1), if an Acquisition Plan is required.
 - b. The Program Official, CO and Competition Advocate shall sign and date the Justification for Other Than Full and Open Competition/Brand Name/Limited Sources Justification, when the justification is required, prior to routing the file to the Contracting Branch Chief.
 - c. Performance-Based Contracting shall be utilized for eligible services, whenever possible (FAR Subparts 11.101 and 37.6). The acquisition plan, if required, must document the rationale if performance-based acquisition methods will not be used.
 - d. If a Federal Business Opportunities notice of intent to sole source results in contractor or vendor responses, the CO shall include the contract file the vendor responses, the CO's draft contractor/vendor reply (ies), and the written memorandum on whether the proposed contract action should remain, as a non-competitive or limited competition action.
 - e. Negotiated procurements over threshold as prescribed in FAR 19.702 shall contain subcontracting plan requirements as part of the proposal evaluation criteria, if applicable.
 - f. 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.
6. The Contract Specialist shall place the documents in the 6-part file folders for Contracts and the manila standard file folders for Simplified Acquisition Procedures actions and/or follow the instructions for electronic contract files in AOP 7.
7. The File Review Record shall become a permanent part of the official contract file.

◆ **REVIEW PROCESS:**

1. In order to expedite the review, the Contract Specialist must identify, document and resolve contractual problems including legal concerns; and obtain approvals from customers, competition advocate, and OSDBU during the early stages of procurement planning prior to routing the file to the Contracting Branch Chief for review.
2. Five (5) business days shall be allowed for any review required above the Contracting Branch Chief level. The Contract Specialist should plan the milestone schedule accordingly.
3. The Contract Specialist shall route the file to Contracting Branch Chief, or other Branch Chief-designated individual for review. Reviewers are responsible to document comments, findings and recommendations on the File Review Record (Attachment) and either return the file for correction, or route the file to the next level for review.
4. The Contracting Branch Chief will consider the Reviewer's comments, include any additional comments as appropriate, and then provide the File Review Record to the Contract Specialist for corrective actions. The Contracting Branch Chief shall ensure all corrective actions, concerns are addressed and signatures are obtained before routing the file to the Procurement Analyst for the approval of the Deputy Chief or Chief/MASCO of POD.
5. The Contracting Branch Chief may request a meeting with the Contract Specialist and/or Reviewer(s) to discuss the comments, findings and recommendations submitted.
6. File Review Record:
 - a. Initials/Date (*Reviewed/Returned for Action*) - The Reviewer has completed the review; however, the document is being returned for changes before approval. The Contracting Branch Chief will review any revisions prior to re-submitting the document to the higher-level approval to ensure consistency with documentation and guidance within the division.
 - b. Signature/Date - The Reviewer has completed the review with approval to proceed. Minor changes, if applicable, may be required; but do not require the file to be resubmitted for approval to proceed.
 - c. The File Review Record(s) shall become a permanent part of the official contract file.

◆ **WAIVER REVIEW REQUEST:**

1. In special situations and where authorized, the Contracting Branch Chief, and POD Deputy Chief or POD Chief/MASCO may waive the review for a specific contract action, when it is determined to be in the best interest of the agency.
2. The Contract Specialist shall:
 - a. Complete the File Review Record.
 - b. Check the “Waiver” box on the File Review Record.
 - c. In the “File Reviewer’s Comments/Findings” box on the File Review Record, explain the rationale and impacts if the waiver is not granted for the action, and attach any other supporting documentation that may be pertinent.
 - d. Submit the File Review Record to the Contracting Branch Chief, and then to the Procurement Analyst routes it to the POD Deputy Chief or Chief/MASCO for approval.
3. The Contract Specialist shall allow adequate time for a deliberate assessment of all facts by the Contracting Branch Chief, Procurement Analyst, POD Deputy Chief or Chief/MASCO prior to release of the solicitation or award.

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

(END)

ATTACHMENT:

File Review Record

FILE REVIEW FORM

(Continuation)

CONTRACT SPECIALIST/CONTRACTING OFFICER Print Name: _____	SOLICITATION/CONTRACT NO: _____
REVIEWER'S COMMENTS/FINDINGS:	CORRECTIVE ACTIONS TAKEN:

FILE REVIEW FORM

(Continuation)

CONTRACT SPECIALIST/CONTRACTING OFFICER Print Name: _____	SOLICITATION/CONTRACT NO: _____
REVIEWER'S COMMENTS/FINDINGS:	CORRECTIVE ACTIONS TAKEN:

