

**US DEPARTMENT OF AGRICULTURE (USDA)**

**USDA**



**CONTRACTING DESK BOOK**

ISSUED BY: Office of Contracting & Procurement (OCP)  
Procurement Policy Division (PPD)

EFFECTIVE DATE: OCTOBER 1, 2018\*

\* Updates to content will be made as an iterative process and notices of changes issued.

## **FOREWORD**

The USDA Contracting Desk Book is intended to be a depiction of departmental and subagency/mission area acquisition regulations, policies, procedures guidance and information.

The Desk Book is for internal use by USDA personnel. For any questions or discrepancies, contact the USDA Procurement Policy Branch.

Procedures, Guidance, and Information (PGI) is a companion resource to the Agriculture Acquisition Regulation (AGAR). The PGI is a web-based tool to simply and rapidly access guidance and information relevant to the Federal Acquisition Regulations (FAR) and AGAR topics. The AGAR remains the source for regulations, which include the implementation of statutes and USDA-wide contracting authorities. The PGI contains both mandatory and non-mandatory internal USDA procedures, guidance, and supplemental information.

## **CONTENTS**

Procedures, Guidance, and Information  
Attachment A, Animal & Plant Health Inspection Service (APHIS)  
Attachment B, Agricultural Research Service (ARS)  
Attachment C, Food & Nutrition Service (FNS)  
Attachment D, Forest Service (FS)  
Attachment E, Farm Service Agency (FSA)  
Attachment F, Food Safety and Inspection Service (FSIS)  
Attachment G, Natural Resources and Conservation Service (NRCS)  
Attachment H, Procurement Operations Division (POD)  
Attachment J, Rural Development (RD)

---

USDA CONTRACTING DESKBOOK OCTOBER 2018 v1.20

---

Version	Date	Changes
1.01	10/30/2018	PGI Parts 2, 3, 4, 5
1.02	11/1/2018	Minor edit to PGI Part 2
1.10	2/8/2019	Significant changes to PGI for effected parts to incorporate FAR updates, subagency policies, procedures and best practices. Updated parts should be reviewed for changes as shown via track changes version. Updated parts are 3, 5, 6, 8, 9, 10, 11, 14, 18, 22, 25, 26, 28, 29, 30, 35, 38, 41, 43, 47,49, 50, and 51. Minor editorial changes in other parts.
1.20	3/1/2019	Significant changes in PGI part 1; change of agency legacy procedures to Attachments vice Appendices. Changes in parts 6,8,16 regarding approval levels for amended justifications.

## Contents

### **Chapter 401 – Procedures, Guidance and Information (PGI) 14**

401.001 Acronyms 14

*Subpart 401.1--Purpose, Authority, Issuance 14*

401.102 Guiding Principles 14

401.104 Applicability 14

*Subpart 401.2--Administration 15*

401.201 Maintenance of the Procedures, Guidance, and Information and other Policy Directives. 15

*Subpart 401.6 Career Development, Contracting Authority, and Responsibilities 16*

401.601 General. 16

401.601-70 Delegations 16

Mission Area Senior Contracting Official 16

Chief of the Contracting Office 22

401.601-71 Career Development 23

GS-1102 Qualifications 23

Contracting Officer's Representative (COR) Qualifications 23

Program Manager Qualifications 24

401.601-72 Federal Acquisition Certification 24

Federal Acquisition Certification in Contracting (FAC-C) 24

Federal Acquisition Certification in Contracting (FAC-C) Core-Plus Specialization 25

Federal Acquisition Certification for Contracting Officer's Representatives (FAC-COR) 25

Federal Acquisition Certification for Program and Project Managers (FAC-P/PM) 26

Federal Acquisition Certification for FAC-P/PM Core-Plus Specialization 27

401.601-73 Continuous Learning 27

401.601-74 Responsibility for the Acquisition Workforce Career Management Program 27

401.602 Contracting Officers. 28

401.602-1 Limitations on Authority 28

401.602-2 Responsibilities. 29

Legal Advice 29

Designate Contracting Officer's Representative 29

Nomination of Contracting Officer's Representative (COR) 31

401.602-3 Ratification of Unauthorized Commitments. 31

401.603 Selection, Appointment, and Termination of Appointment for Contracting Officers. 31

401.603-2 Selection 32

Warrant or Waiver Request 32

401.603-3 Appointment 32

401.603-4 Suspension/Termination 33

401.603-70 Existing Warranted Non-FAC-C Certified Contracting Officers 34

401.670 Roles and Responsibilities of Acquisition Team 34

401.671 Performance Plan Standards 38

401.671-1 Program Manager or Contracting Officer Representative 38

401.671-2 Contract Specialist or Contracting Officer 39

401.672 Selection, Appointment and Termination of Non-Warranted Ordering Officials 39

**PART 402--DEFINITIONS OF WORDS AND TERMS 40**

402.101 Definitions. 40

**PART 403--IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST 41**

*SUBPART 403.1--SAFEGUARDS 41*

403.101 Standards of Conduct. 41

*SUBPART 403.2--CONTRACTOR GRATUITIES TO GOVERNMENT PERSONNEL 42*

403.203 Reporting suspected violations of the gratuities clause. 42

403.204 Treatment of violations. 42

*SUBPART 403.3--REPORTS OF SUSPECTED ANTITRUST VIOLATIONS 42*

403.303 Reporting suspected antitrust violations. 42

*SUBPART 403.4--CONTINGENT FEES 42*

403.405 Misrepresentations or violations of the Covenant against Contingent Fees. 42

*SUBPART 403.5--OTHER IMPROPER BUSINESS PRACTICES 42*

403.502 Subcontractor kickbacks. 42

*SUBPART 403.6--CONTRACTS WITH GOVERNMENT EMPLOYEES OR ORGANIZATIONS OWNED OR CONTROLLED BY THEM 43*

403.603 Responsibilities of the Contracting Officer. 43

*SUBPART 403.8--LIMITATION ON THE PAYMENT OF FUNDS TO INFLUENCE FEDERAL TRANSACTIONS 43*

403.806 Processing suspected violations. 43

**PART 404--ADMINISTRATIVE MATTERS 43**

*SUBPART 404.2--CONTRACT DISTRIBUTION 43*

404.203 Taxpayer Identification Information. 43

*SUBPART 404.4--SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY 43*

404.403 Responsibilities of Contracting Officers. 43

*SUBPART 404.5--ELECTRONIC COMMERCE IN CONTRACTING 43*

*SUBPART 404.6--CONTRACT REPORTING 44*

404.602 Federal Procurement Data System. 44

*SUBPART 404.8--GOVERNMENT CONTRACT FILES 44*

404.804 Closeout of Contract Files 44

404.870 Document Numbering System. 44

*SUBPART 404.10--UNIFORM USE OF LINE ITEMS 44*

404.1000 Establishing. 44

LINE ITEMS (LIN): 44

SUBLINE ITEMS (SLIN) 45

LINE ITEMS NUMBERING PROCEDURES 45

LINE ITEM STRUCTURE 45

OPTION LINE ITEMS 46

SUBLINE ITEMS NUMBERING PROCEDURES 46

EXAMPLE OF LINE ITEM AND SUBLINE ITEM STRUCTURE: 46

INTEGRATED ACQUISITION SYSTEM (IAS) PROCEDURES 47

*SUBPART 404.11—SYSTEM FOR AWARD MANAGEMENT 47*

404.1103 Procedures. 47

*SUBPART 404.13—PERSONAL IDENTITY VERIFICATION 48*

404.1301 Policy 48

*SUBPART 404.16—UNIQUE PROCUREMENT INSTRUMENT IDENTIFIERS 48*

404.1603 Procedures. 48

**PART 405 PUBLICIZING CONTRACT ACTIONS 48**

*SUBPART 405.4 RELEASE OF INFORMATION 48*

405.404 Release of long-range acquisition estimates. 48

*SUBPART 405.5--PAID ADVERTISEMENTS 48*

405.502 Authority. 48

**PART 406--COMPETITION REQUIREMENTS 49**

*SUBPART 406.1—FULL AND OPEN COMPETITION 49*

406.101 Policy. 49

*SUBPART 406.3—OTHER THAN FULL AND OPEN COMPETITION 49*

406.303 Justifications. 49

Template for Justification for Other than Full and Open Competition 49

406.304 Approval of the Justification 49

*SUBPART 406.5—ADVOCATES FOR COMPETITION 50*

**PART 407--ACQUISITION PLANNING 50**

*SUBPART 407.1--ACQUISITION PLANS 50*

407.170 Advance acquisition plans. 50

*SUBPART 407.5--INHERENTLY GOVERNMENTAL FUNCTIONS 50*

407.503 Policy. 50

**PART 408--REQUIRED SOURCES OF SUPPLIES AND SERVICES 51**

408.002 Priorities for Use of Mandatory Sources. 51

408.003 Use of Other Mandatory Sources. 51

*SUBPART 408.4--FEDERAL SUPPLY SCHEDULES 52*

408.405 Ordering Procedures for Federal Supply Schedules. 52

FAR DEVIATION 52

408.405-6 Limiting Sources 52

Template for Limited Sources Justification under SAT. 53

Template for Limited Sources Justification over SAT. 53

*SUBPART 408.7--ACQUISITION FROM NONPROFIT AGENCIES EMPLOYING PEOPLE WHO ARE BLIND OR SEVERELY DISABLED 53*

408.703 Procurement List. 53

*SUBPART 408.8--ACQUISITION OF PRINTING AND RELATED SUPPLIES 53*

408.802 Policy. 53

*SUBPART 408.11--LEASING OF MOTOR VEHICLES 53*

408.1103 Contract Requirements. 53

**PART 409--CONTRACTOR QUALIFICATIONS 54**

*SUBPART 409.2—QUALIFICATIONS REQUIREMENTS 54*

409.202 Policy. 54

*SUBPART 409.4--DEBARMENT, SUSPENSION AND INELIGIBILITY 54*

409.404 System for Award Management Exclusions. 54

409.405 Effect of Listing 55

*SUBPART 409.5--ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST 55*

409.503 Waiver. 55

**PART 410—MARKET RESEARCH 55**

410.001 Policy. 55

FAR DEVIATION 55

410.002 Procedures. 55

**PART 411--DESCRIBING AGENCY NEEDS 55**

*SUBPART 411.1--SELECTING AND DEVELOPING REQUIREMENTS DOCUMENTS 55*

411.101 Order of precedence for requirements documents. 55

411.106 Purchase Descriptions for Service Contracts. 56

*SUBPART 411.6---PRIORITIES AND ALLOCATIONS 56*

411.600 Scope of Subpart. 56

**PART 412--ACQUISITION OF COMMERCIAL ITEMS 56**

*SUBPART 412.1—ACQUISITION OF COMMERCIAL ITEMS—GENERAL 56*

412.101 Policy. 56

412.102 Applicability. 56

**PART 413--SIMPLIFIED ACQUISITION PROCEDURES 56**

413.003 Policy. 56

*SUBPART 413.201—GENERAL 56*

*SUBPART 413.3--SIMPLIFIED ACQUISITION METHODS 57*

413.301 Governmentwide commercial purchase card. 57

413.306 SF 44, Purchase Order-Invoice-Voucher. 57

413.307 Forms. 57

*SUBPART 413.5--SIMPLIFIED PROCEDURES FOR CERTAIN COMMERCIAL ITEMS 57*

413.500 General. 57

**PART 414--SEALED BIDDING 58**

**PART 415--CONTRACTING BY NEGOTIATION 58**

*SUBPART 415.2--SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION 58*

415.207 Handling proposals and information. 58

*SUBPART 415.4--CONTRACT PRICING 59*

415.403 Obtaining certified cost or pricing data. 59

415.403-4 Requiring Certified Cost or Pricing Data 59

415.404 Proposal Analysis. 59

415.404-4 Profit. 59

**PART 416--TYPES OF CONTRACTS 60**

*SUBPART 416.4--INCENTIVE CONTRACTS 60*

416.405 Cost-reimbursement incentive contracts. 60

416.405-2 Cost-plus-award-fee contracts. 60

*SUBPART 416.5--INDEFINITE DELIVERY CONTRACTS 60*

416.505 Ordering. 60

*SUBPART 416.7--AGREEMENTS 60*

416.702 Basic Agreements. 60

**PART 417--SPECIAL CONTRACTING METHODS 61**

*SUBPART 417.2--OPTIONS 61*

417.202 Use of Options. 61

*SUBPART 417.5--INTERAGENCY ACQUISITIONS 61*

417.502 Procedures 61

417.502-1 General. 61

**PART 418--EMERGENCY ACQUISITIONS 61**

418.001 Definition. 61

FAR DEVIATION 61

*SUBPART 418.2 EMERGENCY ACQUISITION FLEXIBILITIES 61*

FAR DEVIATION 62

**PART 419--SMALL BUSINESS PROGRAMS 62**

*SUBPART 419.2--POLICIES 62*

419.201 General Policy. 62

419.201-70 Office of Small and Disadvantaged Business Utilization (OSDBU). 62

419.201-71 Small Business Coordinators. 62

419.203 Relationship Among Small Business Programs. 63

*SUBPART 419.4--COOPERATION WITH THE SMALL BUSINESS ADMINISTRATION 63*

419.401 General. 63

*SUBPART 419.5--SET-ASIDES FOR SMALL BUSINESS 63*

419.502 Setting Aside Acquisitions 64

419.508 Solicitation provisions and contract clauses. 64

*SUBPART 419.6—CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF RESPONSIBILITY 64*

419.602 Procedures. 64

419.602-1 Referral. 64

**PART 422--APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS 64**

*SUBPART 422.1--BASIC LABOR POLICIES 64*

422.103 Overtime. 64

422.103-4 Approvals. 64

*SUBPART 422.8--EQUAL EMPLOYMENT OPPORTUNITY 64*

422.803 Responsibilities. 64

422.807 Exemptions. 64

*SUBPART 422.10—SERVICE CONTRACT LABOR STANDARDS 65*

422.1003 Applicability. 65

Template for Service Contract Labor Standards Exemption Documentation 65

*SUBPART 422.13—EQUAL OPPORTUNITY FOR VETERANS 65*

422.1305 Waivers. 65

422.1308 Complaint Procedures. 65

*SUBPART 422.14--EMPLOYMENT OF WORKERS WITH DISABILITIES 65*

422.1403 Waivers. 65

422.1406 Complaint Procedures. 65

**PART 423--ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE 65**

*SUBPART 423.2--ENERGY AND WATER EFFICIENCY AND RENEWABLE ENERGY 65*

423.202 Policy. 65

*SUBPART 423.4--USE OF RECOVERED MATERIALS 65*

423.403 Policy. 66

423.405 Procedures 66

*SUBPART 423.5--DRUG-FREE WORKPLACE 66*

423.506 Suspension of payments, termination of contract, and debarment and suspension actions. 66

*SUBPART 423.7--CONTRACTING FOR ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES 66*

423.703 Policy. 66

**PART 424--PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION 66**

*SUBPART 424.1--PROTECTION OF INDIVIDUAL PRIVACY 66*

424.103 Procedures. 67

*SUBPART 424.2--FREEDOM OF INFORMATION ACT 67*

424.203 Policy. 67

**PART 425--FOREIGN ACQUISITION 67**

*SUBPART 425.1--BUY AMERICAN--SUPPLIES 67*

425.103 Exceptions. 67

- 425.104 Nonavailable Articles. 67
- 425.105 Determining Reasonableness of Cost. 67

*SUBPART 425.2--BUY AMERICAN--CONSTRUCTION MATERIALS 67*

- 425.202 Exceptions. 67

**PART 426—OTHER SCIOECONOMIC PROGRAMS 68**

*SUBPART 426.2—DISASTER OR EMERGENCY ASSISTANCE ACTIVITIES 68*

- 426.202 Local Area Preference. 68
- FAR DEVIATION 68

**PART 427--PATENTS, DATA AND COPYRIGHTS 68**

**PART 428--BONDS AND INSURANCE 68**

*SUBPART 428.2--SURETIES AND OTHER SECURITY FOR BONDS 68*

- 428.202 Acceptability of Corporate Sureties. 68
- 428.203 Acceptability of Individual Sureties. 68

*SUBPART 428.3--INSURANCE 68*

- 428.370 Government-Owned Vehicles Operated In Foreign Countries. 68

**PART 429--TAXES 68**

**PART 430---COST ACCOUNTING STANDARDS ADMINISTRATION 69**

*SUBPART 430.2--CAS PROGRAM REQUIREMENTS 69*

- 430.201 Contract Requirements. 69
  - 430.201-4 Contract Clauses. 69
  - FAR DEVIATION 69
- 430.202 Disclosure Requirements. 69
  - 430.202-2 Impracticality of Submission. 69
  - 430.202-8 Subcontractor Disclosure Statements. 69

**PART 431--CONTRACT COST PRINCIPLES AND PROCEDURES 69**

*SUBPART 431.1--APPLICABILITY 69*

- 431.101 Objectives. 69

**PART 432--CONTRACT FINANCING 69**

- 432.003 Simplified acquisition procedures financing. 69
- 432.006 Reduction or suspension of contract payments upon finding of fraud. 69
  - 432.006-3 Responsibilities. 70
  - 432.006-4 Procedures. 70

*SUBPART 432.1--NON-COMMERCIAL ITEM PURCHASE FINANCING 70*

- 432.102 Description of contract financing methods. 70
- 432.103 Progress payments under construction contracts. 71
- 432.113 Customary contract financing. 71
- 432.114 Unusual contract financing. 71

*SUBPART 432.2--COMMERCIAL ITEM PURCHASE FINANCING 71*

432.202 General. 71

432.202-1 Policy. 71

432.202-4 Security for Government financing. 71

432.207 Administration and payment of commercial financing payments. 71

*SUBPART 432.4--ADVANCE PAYMENTS FOR NON-COMMERCIAL ITEMS 72*

432.407 Interest. 72

*SUBPART 432.6--CONTRACT DEBTS 72*

432.601 Definition. 72

432.616 Compromise actions. 72

*SUBPART 432.8--ASSIGNMENT OF CLAIMS 72*

432.805 Procedure. 72

*SUBPART 432.10---PERFORMANCE-BASED PAYMENTS 72*

432.1007 Administration and payment of performance-based payments. 72

*SUBPART 432.11---ELECTRONIC FUNDS TRANSFER 73*

432.1108 Payment by Governmentwide Commercial Purchase Card. 73

**PART 433--PROTESTS, DISPUTES AND APPEALS 73**

*SUBPART 433.1--PROTESTS 73*

433.102 General. 73

433.103 Protests to the agency. 73

*SUBPART 433.2--DISPUTES AND APPEALS 73*

433.209 Suspected fraudulent claims. 73

**PART 434--MAJOR SYSTEM ACQUISITION 73**

*SUBPART 434.0--GENERAL 73*

434.002 Policy. 74

434.004 Acquisition Strategy. 74

*SUBPART 434.2--EARNED VALUE MANAGEMENT SYSTEM 74*

**PART 435--RESEARCH AND DEVELOPMENT CONTRACTING 74**

*SUBPART 435.017 FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS. 74*

FAR DEVIATION 74

**PART 436--CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS 74**

*SUBPART 436.2--SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION 74*

436.201 Evaluation of contractor performance. 75

436.203 Government estimate of construction costs. 75

436.204 Disclosure of the magnitude of construction projects. 75

*SUBPART 436.5--CONTRACT CLAUSES 75*

436.575 Maximum workweek-construction schedule. 75

*SUBPART 436.6--ARCHITECT- ENGINEER SERVICES 75*

436.601 Policy. 75

436.601-3 Applicable contracting procedures. 75

436.602 Selection of firms for architect-engineer contracts. 75

436.602-2 Evaluation boards. 75

436.602-3 Evaluation board functions. 76

436.602-4 Selection authority. 76

436.603 Collecting data on and appraising firms' qualifications. 76

436.604 Performance evaluation. 76

436.605 Government cost estimate for architect-engineer work. 76

436.609 Contract clauses. 76

436.609-1 Design within funding limitations. 76

**PART 437--SERVICE CONTRACTING 76**

*SUBPART 437.2--ADVISORY AND ASSISTANCE SERVICES 76*

437.203 Policy. 76

437.204 Guidelines for determining availability of personnel. 77

**PART 438—FEDERAL SUPPLY SCHEDULE CONTRACTING 77**

**PART 439—ACQUISITION OF INFORMATION TECHNOLOGY 77**

*SUBPART 439.1--GENERAL 77*

439.101 Policy. 77

**PART 441--ACQUISITION OF UTILITY SERVICES 77**

**PART 442--CONTRACT ADMINISTRATION AND AUDIT SERVICES 78**

*SUBPART 442.1--INTERAGENCY CONTRACT ADMINISTRATION AND AUDIT SERVICES 78*

442.102 Procedures. 78

*SUBPART 442.7—INDIRECT COST RATES 78*

442.703 General 78

442.703.2 Certificate of Indirect Costs. 78

442.708 Quick Closeout Procedure. 78

*SUBPART 442.15--CONTRACTOR PERFORMANCE INFORMATION 78*

442.1502 Policy. 78

**PART 443--CONTRACT MODIFICATIONS 79**

*SUBPART 443.1--GENERAL 79*

443.102 Policy. 79

*SUBPART 443.2—CHANGE ORDERS 79*

443.201 General 79

**PART 445--GOVERNMENT PROPERTY 79**

*SUBPART 445.1—GENERAL 79*

445.103 General 79

**PART 446--QUALITY ASSURANCE 80**

**PART 447—TRANSPORTATION 80**

**PART 449--TERMINATION OF CONTRACTS 80**

*SUBPART 449.1--GENERAL PRINCIPLES 80*

449.106 Fraud or Other Criminal Conduct. 80

449.111 Review of Proposed Settlements. 80

*SUBPART 449.4--TERMINATION FOR DEFAULT 80*

**PART 450--EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT 80**

**PART 451—USE OF GOVERNMENT SOURCES BY CONTRACTORS 80**

**PART 452--SOLICITATION PROVISIONS AND CONTRACT CLAUSES 80**

**AGAR PGI APPENDIX A- UNAUTHORIZED COMMITMENT PROCEDURES 82**

REQUEST TO RATIFY AN UNAUTHORIZED COMMITMENT 87

UAC -- CONTRACTING OFFICER'S DETERMINATION AND FINDINGS 90

## Chapter 401 – Procedures, Guidance and Information (PGI)

### 401.001 Acronyms

Performance Work Statement (PWS)  
Source Selection Authority (SSA)  
Source Selection Evaluation Board (SSEB)

### Subpart 401.1--Purpose, Authority, Issuance

Procedures, Guidance and Information (PGI) is designed to establish internal operating procedures for acquisition personnel and clarify policies of the Federal Acquisition Regulation (FAR) or the Agriculture Acquisition Regulation (AGAR). The PGI adheres to AGAR numbering and drafting conventions. Citations to this document should be referenced as “PGI, Part, Subpart, Section, Subsection”, (e.g. PGI 401.106-2). It is the intent that this document will provide standard procedures for all mission areas for most purposes. Procedures for requirements unique to some mission areas (commodity, incident, stewardship, etc.) will be addressed in appendices to the PGI.

### 401.102 Guiding Principles

In accordance with the Program Management Improvement Accountability Act (PMIAA) and OMB M-18-19 “Improving the Management of Federal Programs and Projects through Implementing the PMIAA”, USDA will continue to develop a world class acquisition system that delivers best value products or services to the Customer.

### 401.104 Applicability

The requirement for a warranted Contracting Officer to authorize an obligation does not cover personnel carrying out transactions or executing documents listed below. Mission areas should duly authorize and instruct employees on their responsibilities and limitations when obligating the Government using these procedures. Although the following transactions and documents are exempt by the FAR warranting requirements, a Mission Area Senior Contracting Officials (MASCO) may require a warranted Contracting Officer to sign any or all of the listed procedures:

- (1) *Request, Authorization, Agreement, and Certification of Training*, SF-182;
- (2) Government Bills of Lading;
- (3) Use of Purchase Card and Related Alternative Payment Methods (in accordance with Departmental Regulation (DR) 5013-6); or
- (4) Cooperative agreements and grants.

Unwarranted micro-purchase cardholders are not Acquisition Workforce members. USDA issued purchase cards to employees to reduce the issuance of administratively costly purchase orders for inexpensive goods and services up to the micro-purchase threshold. Agency Program Coordinators (APC) are responsible for providing cardholders training prior to issuance of the purchase card. See [https://www.dm.usda.gov/procurement/ccsc/purchase\\_card.htm](https://www.dm.usda.gov/procurement/ccsc/purchase_card.htm) for more information.

## Subpart 401.2--Administration

### 401.201 Maintenance of the Procedures, Guidance, and Information and other Policy Directives.

Policy changes to the PGI, DR and the AGAR are managed by the Contracting Policy Advisory Board (CPAB).

1. The board uses regulatory and policy updates from all Federal agencies such as the Office of Management and Budget (OMB) and the FAR Council to make change decisions. The board will consider updates from USDA-wide agencies.
2. The USDA Procurement Policy Division (PPD) chairs the CPAB and the board is comprised of the Senior Procurement Executive (SPE), Procurement Systems Division (PSD), as necessary, Head of the Contracting Activity (HCA) and each Mission Area Senior Contracting Official (MASCO).
3. The primary role of the CPAB is to screen, manage, prioritize, and implement changes to national procurement policy directives, procedures and guidance, as necessary.
4. All changes and/or updates will originate with a change request (CR) and will be processed through the CPAB. PPD will prepare and issue CRs to initiate updates when the change is a result of specific guidance from OMB or other regulatory authority.
5. Operational contracting units throughout the agency are encouraged to submit CRs anytime a revision or update is needed to the AGAR, PGI or its appendices.. E-mail CRs to PPD at [procurement.policy@dm.usda.gov](mailto:procurement.policy@dm.usda.gov) with "PGI Change Request" in the subject line. The e-mail shall contain the following information:
  - a. Summary of the issue / topic being addressed.
  - b. Discussion/rationale for the CR.
  - c. Cite specific reference (FAR, AGAR or PGI Chapter, paragraph, etc.).
  - d. Attach supporting documentation, if necessary.
  - e. Confirmation the MASCO supports the CR.

Subpart 401.6 Career Development, Contracting Authority, and Responsibilities

401.601 General.

*401.601-70 Delegations*

Mission Area Senior Contracting Official

The SPE has determined that all contracting will be overseen by an HCA and supported by MASCO. The SPE will designate a MASCO for each Mission Area, as necessary. The HCA has generally delegated the following responsibilities to each MASCO as of February 14, 2019:

FAR/AGAR Reference	Role/Responsibility	Responsible	
		HCA	MA-SCO
AGAR 401.403	Authorize AGAR deviations	X	
AGAR 401.601	Make determinations as the Agency Head (AH) as delegated in writing	X	
AGAR 401.602	Ratification authority (with reporting to HCA)		X
AGAR 401.603	Approve warrant appointment Note: \$50M and above require SPE approval.	Over SAT	SAT and Below
AGAR 401.603	Warrant signatory for all approved warrant requests		X
FAR 3.104-5(c)(2)	Authorize disqualified officials to resume participation in the procurement or determine that an additional disqualification period is necessary to protect the integrity of the procurement process.		X
FAR 3.104-7	Review all information available and, in accordance with agency procedures, take appropriate action of violations or possible violations. <b>This authority is not delegable below SES.</b>	X	
FAR 3.602	Authorize exceptions to contracts with government employees. <b>(as AH) This authority is not delegable.</b>	X	
FAR 3.704(c)	Consider further actions in case of final conviction of violation relating to a contract		X
FAR 3.1104(b)	May impose conditions that provide mitigation of a personal conflict of interest or grant a waiver. <b>This authority is not delegable.</b>	X	
FAR 4.604(a)	Coordinate with senior procurement executive to ensure accuracy of Federal Procurement Data System (FPDS) reporting.	X	

FAR/AGAR Reference	Role/Responsibility	Responsible	
		HCA	MA-SCO
AGAR 405.4	Is designated Agency Head for this subpart		X
AGAR 405.502	Authorize publication of paid advertisements in newspapers (44U.S.C. 3702) (AH)		X
FAR 6.304(a)(3)	Approve justification for other than full and open competition for a proposed contract over \$13.5 million, but not exceeding \$68 million <b>This authority is not delegable below SES</b>	X	
AGAR 406.501	Competition Advocate		X
AGAR 407.103	Agency Head responsibilities for planning	X	
FAR 8.404(h)(3)(ii)(c)	Approve time and material or labor hour order for commercial services if total performance period is more than three years.		X
FAR 8.405-6 (d)(3)(i)	Approve limiting sources for a proposed order or BPA with an estimated value exceeding \$13.5 million, but not exceeding \$68 million <b>This authority is not delegable below SES</b>	X	
AGAR 409.202	Establish Qualification Requirements (as AH)	Requiring Agency Head	
FAR 9.202(b)	Waive the requirements of 9.202(a)(1)(ii) through (4) for up to 2 years with respect to the item subject to the qualification requirement. (as AH)	Requiring Agency Head	
AGAR 409.405-1	Make determination to continue contracts (as AH)		X
AGAR 409.405-2	Approve subcontracts (as AH)		X
FAR 9.503/AGAR 409.503	Waive any general rule or procedure of this subpart by determining that its application in a particular situation would not be in the Government's interest. (as AH) <b>This authority is not delegable below HCA per FAR.</b>	X	
FAR 9.506(d)(3)	Approve or direct action resolving a conflict of interest or potential conflict before award		X
AGAR 411.101	Submit determination required by A-119		X
AGAR 411.103	Determine offerors demonstrate market acceptability		X
AGAR 412.302	Approve waivers to tailor provisions and clauses		X
FAR 14.201-7(b)(2)	Waive the requirement for inclusion of FAR clause 52.214-27, "Price Reduction for Defective Cost or Pricing Data–Modifications–Sealed Bidding," in a contract with a foreign government or agency of that government.		X

FAR/AGAR Reference	Role/Responsibility	Responsible	
		HCA	MA-SCO
AGAR 414.407-3 (a)(b), and (d)	Permit bidder to correct a mistake (as AH) <b>This authority is not redelegable.</b>	X	
AGAR 415.303	Appoint source selection authorities other than the CO		X
FAR 15.403-1(c)(4)	Waive the requirement for submission of cost or pricing data in exceptional cases. <b>This authority is not delegable per FAR.</b>	X	
FAR 15.403-3(a)(4)	Determine offeror is eligible for award without the submission of other than certified cost and pricing data if it is best interest to award.		X
FAR 15.403-4(a)(2)	Authorize the contracting officer to obtain cost or pricing data for pricing actions below threshold, provided the action exceeds the simplified acquisition threshold. <b>This authority is not delegable per FAR.</b>	X	
AGAR 415.606	Establish a point of contact for unsolicited proposals		X
AGAR 416.203	Approve use of EPA clause		X
FAR 16.206-3(d)	Approve use of fixed-ceiling-price contracts with retroactive price redetermination. <b>This authority is not delegable below HCA</b>	X	
FAR 16.401(d)	Approve use of all incentive and award fee contracts		X
AGAR 416.401	Designate the Fee Determining Official (if other than MASCO)		X
AGAR 416.505	Designate a task order ombudsman		X
FAR 16.505(b)(2)(ii) (C)(3)(i)	Approve exception to fair opportunity for a proposed order exceeding \$13.5 million, but not exceeding \$68 million <b>This authority is not delegable below SES</b>	X	
FAR 16.601(d)(1)(ii)	Approve use of time-and-materials contracts.		X
FAR 16.603-2(c)	Approve a reasonable price or fee for letter contracts in accordance with FAR subpart 15.4 and part 31, subject to appeal as provided in the disputes clause.		X
AGAR 16.603-2	Extend the period for defining a letter contract required by FAR 16.603-2(c)		X
FAR 16.603-3	Approve use of letter contracts.		X
AGAR 417.204	Approve contracts which exceed the five year limitation		X

FAR/AGAR Reference	Role/Responsibility	Responsible	
		HCA	MA-SCO
FAR 18.125, 33.104(b)(1), 33.104(c)(2)	Determine that the contracting process may continue after the Government Accountability Office (GAO) has received a protest when urgent and compelling circumstances exist. <b>This authority is not delegable.</b>	X	
FAR 18.2	Use acquisition flexibilities (AH authority)	X	
FAR 19.201	Implementing the small business programs		X
AGAR 419.201	Designate a Small Business Coordinator		X
FAR 19.502-3	Authorize a partial set-aside if only two responsible offerors are expected.		X
FAR 19.505(b)	Make decision regarding Small Business Administration (SBA) appeal of a contracting officer's decision to reject a recommendation of the SBA procurement center representative.		X
AGAR 419.602-3	Appeal issuance of a COC to SBA		X
FAR 19.1305(d)(2) and 19.1405(d)	Make decision on suspending action on acquisition for unusual and compelling reasons when Small Business Administration (SBA) appeals a contracting officer's decision to reject a recommendation of the SBA procurement center representative for competition restricted to HUBZone small business concerns or service-disabled-veteran-owned small business concerns.		X
FAR 22.101-1(e)	Designate programs or requirements for which it is necessary that contractors be required to notify the Government of actual or potential labor disputes that are delaying or threaten to delay the timely contract performance		X
AGAR 422.302	Review Determinations of Liquidated Damages (as AH)		X
AGAR 422.404-6	Request an extension from DOL Administrator (as AH)		X
AGAR 422.406-8	Report violations of labor standards (as AH)		X
AGAR 422.604-2	Prepare exemption request for ASA (as AH) signature		X
AGAR 422.8	Perform HCA tasks in this subpart as defined by AGAR		X
FAR 22.805(a)(8)	Decision to award contract without OFCCP pre-award clearance		X
AGAR 422.13	Perform HCA tasks in this subpart as defined by AGAR		X
AGAR 422.14	Perform HCA tasks in this subpart as defined by AGAR		X

FAR/AGAR Reference	Role/Responsibility	Responsible	
		HCA	MA-SCO
FAR 22.1802(d)	Waive E-Verify requirement. <b>This authority is not delegable per FAR</b>	X	
AGAR 423.601	Establish instructions to identify protection officer		X
FAR 25.103(b)(2)(i)	Determine that an article, material or supplies are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality under the Buy American Act.		X
FAR 25.202(a)(2)	Determine that a construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality under the Buy American Act.		X
FAR 27.404-5(a)(2)(ii)(B)	Approve final determination regarding unauthorized, omitted, or incorrect markings.		X
FAR 28.105	Approve using other types of bonds in connection with acquiring particular supplies or services.		X
FAR 28.106-2(a)	Approve substitution of bonds		X
AGAR 428.106-6	Furnish certified copy of bonds (as AH)		X
AGAR 432.003	Approve contract financing for SAP contract		X
AGAR 432.007	Prescribe a shorter period for financing payments (as AH)		X
AGAR 432.102	Authorize progress payments based on percentage or stage		X
AGAR 432.114	Approve unusual contract financing (as AH)		X
FAR 32.202-1(d)	Approve unusual contract financing		X
AGAR 432.3	All HCA requirements in this subpart. <b>This authority is not delegable (as AH)</b>	X	
AGAR 432.402	Approval of advance payments		X
AGAR 432.406	Coordinate on letters of credit		X
AGAR 432.407	Authorize advance payments without interest for FAR 32.407(d)(1), (2), (3), and (4)		X
FAR 32.501-2(3)	Approve unusual progress payments		X
AGAR 432.803	Determination to include no setoff commitment (as AH)		X
AGAR 33.102(b)	Resolve protests (as AH)		X

FAR/AGAR Reference	Role/Responsibility	Responsible	
		HCA	MA-SCO
FAR 33.102(b)(3)(ii)	Review contractor's debt to the government if requested by contractor		X
FAR 33.104(b)(1), 33.104(c)(2)	Determine that the contracting process may continue after the Government Accountability Office (GAO) has received a protest when urgent and compelling circumstances exist. <b>This authority is not delegable per FAR.</b>	X	
FAR 33.104(g)	Report to GAO when the agency has not fully implemented the GAO recommendations with respect to a solicitation for a contract or an award or a proposed award of a contract within 60 days of receiving the GAO recommendations.		X
AGAR 434.003(d)	AH tasks regarding Major Systems	X	
FAR 36.208	Approve instances where cost-plus-fixed-fee, price incentive, or other types of contracts with cost variation or cost adjustment features are permitted concurrently, at the same work site, with firm-fixed-price, lump sum, or unit price contracts.		X
AGAR 436.209	Approve contract to firm who designed the project (as AH authorized representative)		X
FAR 36.213-2	Waive presolicitation notices on any construction requirement when the proposed contract is expected to exceed the simplified acquisition threshold (AH designee)		X
FAR 36.301(b)(3)(vi)	Establish criteria for two phase build design decision		X
FAR 36.303-1(a)(4)	Approve determination for number of offerors to be selected to submit phase two proposals is greater than five		X
FAR 36.602-1(b)	Approve use of design competition (as AH)		X
AGAR 436.602-2	Establish procedures for evaluation boards		X
AGAR 436.602-3	Approve selection report		X
AGAR 436.602-4	Serve as Source Selection Authority (as AH)		X
AGAR 436.602-5	Establish procedures for evaluation boards;		X
AGAR 436.603	Establish procedures to maintain data on architect-engineer firms		X

FAR/AGAR Reference	Role/Responsibility	Responsible	
		HCA	MA-SCO
FAR 36.609(c)(1)	Determines in writing that cost limitations are secondary to performance considerations <b>(Delegable only to official authorized to commit funds)</b>	X	
AGAR 437.204	Authorize use of non-government evaluators in proposal evaluations (as AH)		X
AGAR 441-201(d)(2)(i) and FAR 41.201(d)(3)	Enter into shared energy savings contract or purchase or transfer of electricity (as AH)		X
FAR 41.202(c)(2)	Determines that a contract cannot be executed by the Government for utilities services		X
FAR 41.204(c)(1)(ii)	Determines that use of the area-wide contract is not advantageous to the Government		X
FAR 42.202(c)(2)	Approve delegation of authority to issue orders under provisioning procedures in existing contracts and under basic ordering agreements for items and services identified in the schedule		X
FAR 45.102(e)	Approve government property installed permanently in contractor facility is in the best interest of the government		X
FAR 45.301(f)	Approve contractor use of government property for commercial use where nongovernment use is expected to exceed 25 percent of the total use of government and commercial work performed.		X
FAR 48.104-3	Make determination that the cost of calculating and tracking collateral savings will exceed the benefits to be derived.		X
AGAR 449.106	Initiate suspension and debarment procedures based on OIG findings of fraud		X
AGAR 449.501	Approve special purpose termination clauses		X
FAR 52.222-16	Approve straight time wage rates that exceed wage determination		X

#### Chief of the Contracting Office

The Chief of the Contracting Office (COCO) is the MASCO unless the HCA has delegated authority to the MASCO to designate COCO. If the MASCO wishes to request COCO designation authority, a business case detailing the need, planned responsibilities and oversight should be submitted to the HCA. Any COCO designations will be approved by the HCA.

#### 401.601-71 Career Development

##### GS-1102 Qualifications

The Office of Personnel Management (OPM) outlines the *Qualification Standards*, which includes educational requirements for GS-1102 Personnel, at <http://www.opm.gov/policy-data-oversight/classification-qualifications/general-schedule-qualification-standards/1100/contracting-series-1102/>. In exceptional and compelling situations when a GS-1102 candidate fails to meet the specifications in the Qualification Standards for GS-1102s, the SPE may consider waiving: (i) one or more requirements from the *Qualification Standards* for GS-1102s; or (ii) the Federal Acquisition Certification (FAC)-C requirement for hire, reassignment, or promotion. Prior to consideration, the SPE and Acquisition Career Manager (ACM) must receive a formal Waiver Request from the applicable MASCO that includes, at a minimum, the following information:

- A copy of the position description and vacancy announcement, location, grade and anticipated procurement workload/warrant level;
- Adherence to the Agency's Human Capital Plan and the recruiting strategy used;
- Description of the recruiting efforts undertaken by the organization and the results of those efforts including the sources used for recruiting for the position;
- A plan of the candidate's efforts to meet the standard and the estimated timeframe for completion agreed to by the tentatively selected candidate and the supervisor; The plan should be finalized and signed by both parties after the waiver is granted and selection has taken place and shall identify actions that will be taken if the conditions of the waiver are not met. A copy of the final plan shall be provided to the ACM within 5 days of entry on duty;
- Narrative from the MASCO describing how the candidate shows potential for advancement to levels of greater responsibility and authority based on demonstrated analytical and decision-making capabilities, job performance, qualifying experience, etc.;
- The impact on the agency should the SPE not issue a waiver for the candidate; and
- A request that the SPE certify the candidate's potential for advancement to levels of greater responsibility and authority based on demonstrated analytical and decision-making capabilities, job performance, and qualifying experience.

Waiver authority cannot be delegated and will only be granted for exceptional and compelling circumstances of a specific hiring action. There are no "blanket" waivers for an individual or an organization. Following receipt of a waiver request which discusses the seven areas mentioned above, and any other requested information, the SPE will determine if the Waiver Request should be approved. Hire or promotion of a GS-1102 is only permissible if the candidate meets the requirements outlined in the Qualification Standards for GS-1102s, or if the MASCO receives a waiver signed by the SPE prior to hire, reassignment, or promotion. **The waiver request must be approved by the SPE prior to making an offer.**

##### Contracting Officer's Representative (COR) Qualifications

Contracting Officer's Representatives (CORs) ensure that contractors meet the commitments of their contracts. CORs are often the first to recognize when a program or contract is under-performing, and are increasingly being asked to manage high-value, complex contracts that involve varying degrees of risk. It is important that mission areas: (1) select the appropriate individual to be a COR, (2) ensure that the COR has technical knowledge of the requirement(s), (3) ensure the COR understands the importance of his/her role, (4) provide the individual adequate time and resources to perform the COR function, and (5) build a culture of effective collaboration and communication between the Contracting Officer and COR.

CORs are often called upon to perform significant program management activities and should be trained accordingly.

#### Program Manager Qualifications

Program/Project Managers(P/PMs) who are skilled, competent, and professional are essential to the success of critical agency missions. P/PMs ensure that requirements are appropriately written, performance standards are established, and contractors deliver what they promise. P/PMs develop requirements, lead integrated project teams (IPTs), and oversee budgeting and governance processes, all of which are critical to ensuring that agency mission needs are filled and expected outcomes achieved.

Program managers assigned to programs considered major acquisitions, as defined by OMB Circular A-11 or named by the SPE, must be senior-level FAC-P/PM. Project managers assigned to lead projects within programs identified as major acquisitions must, at a minimum, possess a mid-level FAC-P/PM. Reference OMB memorandum dated December 16, 2013

<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/procurement/memo/fac-ppm-revised-dec-2013.pdf> and USDA Departmental Regulation DR 3130-011 dated February 4, 2016 for additional details.

#### 401.601-72 Federal Acquisition Certification

Mission Areas shall provide AW employees opportunities to complete government-wide training for creating and maintaining the skills necessary to deliver best value supplies and services, to find the best business solutions, and to provide strategic business advice to accomplish agency missions. On behalf of the SPE, each MASCO is responsible for developing and maintaining an acquisition career management program that is in compliance with mandatory acquisition training and experience standards as outlined in this PGI.

All certifications are processed and managed through Federal Acquisition Institute Training Application System (FAITAS) <https://faitas.army.mil/Faitas/External/Login/?ReturnUrl=%2ffaitas%2f>. Certification and training information may be found at the FAI, <https://www.fai.gov/>. The USDA ACM reviews FAC applications and makes the final approval determination. Review of applications will generally occur within 30 calendar days of receipt of an application.

#### Federal Acquisition Certification in Contracting (FAC-C)

The FAC-C program is founded upon formal education, acquisition-related training, and experience to develop core contracting competencies. The general requirements for FAC-C certification are outlined in OMB's FAC-C memorandum dated May 7, 2014. There is an On the Job Training (OJT) Toolkit, [http://www.dm.usda.gov/procurement/policy/docs/OJT\\_Contracting\\_Competency\\_Experience\\_Assessment.xls](http://www.dm.usda.gov/procurement/policy/docs/OJT_Contracting_Competency_Experience_Assessment.xls), which must be completed to document experience for FAC-C certification requests. Once completed, upload the OJT Toolkit and Resume in the FAITAS FAC-C application under the "Experience" tab. The experience requirement is generally based on the OPM GS-1102 qualification standard. Experience may be time spent on the job in a contracting-related job assignment, either in the private or public sector that reflects a full comprehension of the required contracting knowledge, skills and abilities.

Under the "Education" tab of the FAC-C application, it is the employee's responsibility to provide a copy of their official diploma from a four-year accredited college or university or course transcript from an accredited college or university, highlighted to identify completion of the 24 semester hours of business credits. The

education documentation is required for all applications, including those based on reciprocity with other certification including a Defense Acquisition Workforce Improvement Act (DAWIA). An individual who has obtained DAWIA certification in contracting at any time during their career is eligible to obtain a USDA issued FAC-C at the same certification level, provided the education criteria for the FAC-C are satisfied as well as if continuous learning requirements have been maintained and can be documented. It is the employee's responsibility to provide the necessary documentation of the DAWIA certification, education requirements, and the appropriate continuous learning history to ensure validity and currency of the certification.

USDA allows FAC-C candidates to complete a FAITAS issued request for equivalency as evidence of completion of mandatory courses toward certification. Any such equivalent training class taken for certification purposes must be taken from a commercial vendor, a college or university, or another organization whose class is still actively determined to be Defense Acquisition University (DAU) equivalent or has been verified by FAI. A course equivalent request must be submitted to the USDA ACM within five years of course completion date. Available active DAU equivalent vendors and classes can be found in DAU's iCatalog under Equivalent Providers available at <http://icatalog.dau.mil/appg.aspx>. A list of active FAI verified vendors and classes can be found on the FAI Verification Program page at <https://www.fai.gov/drupal/resources/fai-verification-program>. Review of FAC-C equivalency requests will generally occur within 30 calendar days of receipt of the request and must occur prior to submission of a FAC-C certification application. Equivalency is limited to the FAC-C core certification classroom courses.

#### Federal Acquisition Certification in Contracting (FAC-C) Core-Plus Specialization

The purpose of the FAC-C Core-Plus specialization is to establish additional training, experience, and continuous learning requirements for contracting professionals who are FAC-C certified and manage specific investments requiring specialized knowledge, skills, and abilities. To learn more about the general requirements for FAC-C Core-Plus specialization certification refer to the OFPP Memorandum dated May 18, 2018 [https://www.whitehouse.gov/wp-content/uploads/2018/05/fac\\_c\\_digital\\_services\\_05\\_12\\_18.pdf](https://www.whitehouse.gov/wp-content/uploads/2018/05/fac_c_digital_services_05_12_18.pdf). USDA follows the guidance from FAI on how the FAC-C Core-Plus specialization can be earned. The FAC-C-Digital Services (DS) specialization will only be granted to those holding Level II or Level III FAC-C certification. Contracting professionals holding the FAC-C-DS specialization must achieve 20 continuous learning points (CLPs) of their overall FAC-C 80 CLPs (required every two years) within the area of digital services to maintain their certification. For application and training requirements, see the FAI at <https://www.fai.gov/drupal/certification/contracting-fac-c>.

#### Federal Acquisition Certification for Contracting Officer's Representatives (FAC-COR)

The general requirements for FAC-COR certification are available in the OMB Memorandum regarding the FAC-COR, dated September 6, 2011, [https://www.fai.gov/pdfs/FAC-COR\\_20Sep2011.pdf](https://www.fai.gov/pdfs/FAC-COR_20Sep2011.pdf). At USDA, employees designated/appointed to serve as CORs must first show as being FAC-COR certified in FAITAS. In addition, at USDA, to satisfy FAC-COR Experience requirements, an individual must have served as the primary COR on one or more contracting actions for a period that totals at least one year (for Level II certification) or at least two years (for Level III certification). Examples of adequate experience documentation include (1) Appointment/Designation memorandums signed by the Contracting Officer or (2) a letter from, and signed by, a Contracting Officer. Either form of documentation shall include at a minimum: contract number, who the COR was, COR duties performed and the time period.

If an individual from DoD has obtained a valid, current COR certification under DoDI 5000.72, an equivalent FAC-COR may be granted at the same certification level, provided the FAC-COR experience and continuous learning requirements have been met and the agency ACM approves the certification. When applying for a FAC-COR, the individual is responsible for providing their agency ACM with the documentation supporting their DoD COR certification, experience, and continuous learning history.

USDA follows the training guidance available on the FAI website at <https://www.fai.gov/drupal/certification/fac-cor> for each COR level. Although there is no mandatory training curriculum, initial training must be from FAI, DAU, or a FAI verified training provider. Training must cover COR roles and responsibilities as well as fundamental contract rules and regulations and must have been completed not more than 24 months prior to the employee's FAC-COR application date. Within reason, the USDA ACM may use discretion in determining suitable timeframes for accepting training. Assignment specific training may be completed to supplement the core business and technical competencies. Based on competency assessments and skills gap analysis, the MASCO may establish additional agency specific requirements for the FAC-COR program. The MASCO issued requirements may not change, lessen, or eliminate any of the core requirements prescribed by the OMB memorandum, FAI, or this document. Any additional requirements for a mission area should be included in the PGI.

#### Federal Acquisition Certification for Program and Project Managers (FAC-P/PM)

The FAC-P/PM is critical in fostering enhanced program outcomes through, among other things, improved: (i) development of Government requirements, (ii) definition/measurement of performance standards, (iii) management of life-cycle activities, and (iv) management of budgeting and governance processes. The general requirements for FAC-P/PM are outlined in the OMB memorandum dated December 16, 2013, <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/procurement/memo/fac-ppm-revised-dec-2013.pdf>. USDA follows the FAC-P/PM program guidance available on the FAI website at <https://www.fai.gov/drupal/certification/program-and-project-managers-fac-ppm> for each P/PM level. FAC-P/PM certification is based on gaining required competencies, training, and experience. USDA employees must provide documentation to support the FAC-P/PM experience and training requirements with the submission of their application. Employees may not substitute academic degrees, experience or training toward fulfillment of the FAI verified training curriculum requirement. Request for fulfillment will not be considered.

Application packages for certification shall include:

- a. Application for certification through FAITAS;
- b. The *USDA Federal Acquisition Certification for Program and Project Manager Employee Self-Assessment* available at <https://www.dm.usda.gov/procurement/career/index.htm> to document training or demonstrated knowledge, skills, and abilities (i.e., certificates, transcripts, comparable education or certification programs, and/or essays);
- c. resume; and
- d. Any previously issued FAC-P/PM or DAWIA certifications (if applicable) uploaded into FAITAS.

USDA will recognize the certifications from DAWIA where the P/PM has maintained certification currency with documented CLP accruals toward the 80 CLPs in a two-year period. Individuals claiming this reciprocity must enter their DAWIA certificates, qualifying courses, and experience in FAITAS when applying for equivalent FAC-P/PM certification at USDA.

#### Federal Acquisition Certification for FAC-P/PM Core-Plus Specialization

The purpose of the FAC-P/PM Core-Plus specialization is to establish the additional training, experience and continuous learning requirements for FAC-P/PM certified personnel who manage specific investments requiring specialized knowledge, skills and abilities. The first core-plus area to be addressed in this certification program is for Information Technology (FAC-P/PM-IT) project and program managers. New core-plus areas will be recommended by the P/PM Functional Advisory Board, approved by OFPP, and maintained by FAI. Employees are encouraged to bookmark the FAI website to stay abreast of changes.

FAC-P/PM IT core-plus specialization requires Mid or Senior level FAC-P/PM certification plus mastery of the additional core-plus specialty training, experience and continuous learning requirements. The FAI developed a Competency Model for the FAC-P/PM-IT specialization that identifies the minimum competencies required for the core-plus specialization in information technology. The detailed FAC-P/PM-IT Competency Model is available on FAI's website at: [www.fai.gov](http://www.fai.gov) under the certification tab.

Program and project manager professionals holding the FAC-P/M IT core-plus specialization must achieve 20 CLPs of their overall FAC-P/PM 80 CLPs (required every two years) within professional activities of information technology as identified by the Department's Chief Information Officer, with emphasis directed toward key issues affecting information technology Program and Enterprise Architectural success, to maintain their certification.

#### *401.601-73 Continuous Learning*

The FAI website contains information on point allocations for acceptable CL events, <https://www.fai.gov/drupal/certification/certification-and-career-development-programs>.

FAITAS will indicate when employees complete the required number of CLPs for maintaining certification. The employee must then submit a CL Achievement Request for their supervisor's approval; once approved, the request will be reviewed for approval by the Bureau CL Manager (BCLM). The BCLM is the final approver for accepting CL events and their associated CLPs. CLPs will not be accepted for attending duplicative events (courses, seminars, conferences, etc.) within a four-year period.

If the training certificate does not indicate the number of CLPs or Continuing Education Units (CEUs) earned, the attendee is responsible to upload supporting documentation indicating the number of CLPs earned for the event.

USDA also requires any GS-1102 or GS-1105 who is not warranted or does not have a FAC-C certification to complete 80 CLPs every two years and adhere to their Bureau CL Manager's guidance on tracking CL. Eligibility for reappointment/redesignation will not occur until CL requirements are met.

Requests for extensions of the two-year certification period are not granted.

#### *401.601-74 Responsibility for the Acquisition Workforce Career Management Program*

OCP/PPD shall develop and issue policies, procedures, training plans, and other guidance for implementation of acquisition workforce mandates. As the oversight authority for USDA's AW programs,

OCP/PPD shall:

Make final determinations on applicability of mandates;

HCA shall:

Manage Contracting Officer appointments;

Ensure Contracting activities require their AW to use FAITAS;

MASCO shall:

Establish and prescribe an AW accountability system that:

Sets a performance standard;

Includes an adequate set of checks and balances;

Includes external and internal review coverage;

Involves annual appraisals;

Identifies effective and ineffective performance;

Ensure supervisors and Acquisition Career Manager Designees (ACMDs) are fully knowledgeable of the program requirements and comply with the provisions.

Ensure supervisors or ACMDs schedule and evaluate training.

Review certification requests;

Manage continuous learning completion;

Review Contracting Officer requests.

Approve Contracting Officer Certificates of Appointment, as appropriate;

Supervisors or ACMDs shall:

Assess needs and, as appropriate, recommend employees for Contracting Officer appointments;

Assist AW in planning and scheduling appropriate training;

Assist MASCO in preparation and submission of warrant and waiver requests;

Review/approve certification and CLP requests;

Monitor and evaluate employees' progress in completion/maintenance of training standards;

Ensure Contracting Officers properly display the Certificates;

Employees shall:

Make a personal effort to take maximum advantage of developmental experiences, and training opportunities, as required and as authorized by supervisors;

Actively participate with supervisors and ACMDs in discussing, developing, and preparing training plans;

Maintain an updated personal file in FAITAS containing certifications, CO warrants, training certificates and other relevant information;

Consistently monitor acquisition workforce related competencies and actively work to achieve and maintain proficiency; and

Ensure all training is completed, submitted in FAITAS and approved prior to the end of the two-year CL period.

#### 401.602 Contracting Officers.

##### *401.602-1 Limitations on Authority*

Contracting Officers shall not sign actions with values or estimated values exceeding their delegated warrant authority.

Warranted Contracting Officers may use Government-wide purchase cards as a payment mechanism for contractual actions or invoices over the micro-purchase threshold and up to their delegated warrant authority after confirming the receipt of goods and services.

Contracting Officers are legally responsible for their signed procurement documents. Contracting Officers cannot sign “for” or over the name of another Contracting Officer.

*401.602-2 Responsibilities.*

*Legal Advice*

Contracting officers are encouraged, on a case-by-case basis, to request legal advice at any phase of the acquisition process. Contracting officers must submit sufficient information to facilitate legal review to the Office of the General Counsel (OGC) via the MASCO, unless otherwise directed. OGC contact information is at: <http://www.usda.gov/wps/portal/usda/usdahome?navid=OGC>

OGC shall review the package and determine if it is legally sufficient. If OGC is unable to provide a determination within ten working days from receipt of request, the contracting officer may annotate the file and continue the procurement process without OGC review or advice. Urgent requests should be escalated to the HCA. Recommendations received from OGC are advisory. Final disposition rests with the Contracting Officer. Contracting officers shall document the file if there are major differences between OGC’s recommendations and their final decisions or actions. As appropriate, contracting officers shall include a brief statement in the contract file describing the reason for their decision not to obtain legal review.

However, for documents submitted to the HCA/SPE, OGC review is required. Recommendations (or OGC declination of review) should be submitted with the package.

*Designate Contracting Officer’s Representative*

The CO will consider the risk factors (e.g. complexity, contract type) to help determine the appropriate COR level for a specific contract during the acquisition planning. The CO may find the COR Appointment Criteria Matrix helpful to determine if a COR is need and what level.

*COR Appointment Criteria Matrix*

<b>Risk Factor</b>	<b>Little or no risk associated with project</b>	<b>Significant or high risk associated with project</b>
Sensitivity or Complexity of What is Being Procured	Oversight confined to basic inspection and acceptance (e.g., COTS or standard supplies)	Highly complex requirements; professional and technical services closely associated with inherently governmental functions; critical function; continuous oversight or technical direction required (e.g., developmental; new or emerging technologies; poor or no performance history)

Number and Location of Performance Sites	Noncomplex shipping/delivery at a single domestic delivery site	Highly complex shipping/packaging/delivery (e.g., requiring export; staging of shipments; multiple customers with competing requirements; multiple deliverables or sites; foreign performance site(s)) (span of control)
Impact of Delay	If project is delayed, no serious impact to mission that cannot be easily alleviated	Serious impact on mission; high degree of impact on follow on or interdependent projects; time is critical due to urgency, weather, or long lead time items in critical path (e.g., contingency contract)
Visibility	Little or no internal or external interest anticipated	High degree of internal or external interest anticipated (e.g., GAO oversight; congressional engagement; other special interests)
Contract Type/Structure	Firm fixed price contracts with basic provisions	Contracts other than firm fixed price (e.g., letter contract; cost-type contract; contract financing provisions required; hybrid contract; incentives; time and materials contract)
Special Considerations	No rights in data or government property required; No Personally Identifiable Information (PII) or security concerns	High level of oversight required to assure government/contractor rights in data or government property; Significant security concerns relating to contract classification or PII data
<b>Certification</b>	<b>Contract Risk</b>	
<b>Level I</b>	Low-risk contracts, e.g., supply contracts and orders	
<b>Level II</b>	Perform general project management activities/ moderate to high complexity contracts for supply and service contracts	
<b>Level III</b>	Perform significant program management activities/ moderate to high complexity with significant/major acquisition investment as defined by OMB Circular A-11/agency-mission critical contracts	

Effective November 1, 2018, COR nominations for Information Technology (IT) contracts and contracts for professional services or advisory and assistance services will not be accepted by the CO unless a member of the SES in the nominated COR's supervisory chain signs the nomination letter, making the appropriate certifications. At a minimum, those CORs for major investments, as defined by OMB Circular A11, shall generally be designated as Level III CORs. For Blanket Purchase Agreements or Indefinite Delivery Indefinite Quantity awards, where one COR is assigned to multiple BPA call orders or Delivery/Task Orders, only one nomination form at the award level is necessary.

The Nomination of Contracting Officer's Representative (COR) template may be used for other COR nominations at the discretion of the responsible MASCO. If a COR is to be named for a commercial off-the-shelf IT supply items with an estimated value under \$7 million or for services with an estimated value under the simplified acquisition threshold, only the signature of the COR's supervisor is required.

#### Nomination of Contracting Officer's Representative (COR)

##### *401.602-3 Ratification of Unauthorized Commitments.*

Unauthorized commitments occur when Contracting Officers, or any other individual, makes an agreement on behalf of the Government that is not binding because they lack authority to enter into an agreement, i.e., there is a lack of sufficient funding, use of funds is not approved, the warrant authority does not allow for the award made, etc. USDA HCA and MASCOs are responsible for taking positive actions such as training, robust pre-award review procedures, etc. to preclude the occurrence of unauthorized commitments. MASCOs must maintain a record of ratifications and submit it at the end of each quarter to OCP-PPD.

Ratifications to approve unauthorized commitments should be conducted in accordance with FAR 1.602-3, utilizing the Unauthorized Commitment Procedures in Appendix B and approved at a level no lower than the MASCO unless otherwise authorized by the HCA or SPE. Ratifications may only be approved if it meets the limitations described in FAR 1.602-3(c).

There are two procedures by which an unauthorized commitment may be ratified. The first procedure as described in FAR Subpart 1.603-3 (b)(2), involves stand-alone unauthorized procurement actions committed whereas, no contractual arrangement already exists.

The second procedure as described in FAR Subpart 1.602-3 (b)(5) involves claims that are subject to resolution under the Contract Disputes Act of 1978. These types of claims shall be processed in accordance with FAR Subpart 33.2, Disputes and Appeals. An example of such an action would be the request for payment from a contractor/vendor for additional work, within the general scope of an existing contract, directed by the Contracting Officer's Technical Representative.

Some types of unauthorized procedures are not simply prescribed by or interpreted for either ratification procedure. In these cases, Contracting Officers shall contact their Policy and/or the Office of General Counsel for assistance.

##### *401.603 Selection, Appointment, and Termination of Appointment for Contracting Officers.*

Contracting authority is generally reserved for employees working within a USDA contracting activity. Factors such as volume of actions, complexity of work, and organizational structure shall be major considerations when determining whether to grant a warrant request. Appointing officials must only issue warrants when there is an organizational need for a Contracting Officer. Warrant authority for a federal employee outside of a contracting activity (i.e. Program Office) or not otherwise within the supervisory chain of command of the MASCO will generally not be considered unless there is a very compelling and demonstrated organizational need and with approval via a waiver in writing, from the SPE. The request should be addressed to the SPE from the MASCO. The waiver authority is not delegable or transferable.

As part of the responsibility of oversight of the AW, the MASCO should perform an annual review of all delegations of authority issued to validate the continued need for each warrant and determine if Contracting Officers have maintained professional proficiency to maintain their appointment.

#### *401.603-2 Selection*

The appointing official must ensure the applicant has demonstrated an ability to apply applicable procurement laws, regulations, policies, and sound business judgment. Limitations of warrant authority are set for each Contracting Officer based on factors such as experience in acquisition, education, knowledge of acquisition methods, satisfactory completion of required acquisition training courses and continuous learning, understanding of acquisition laws and regulations, and personal integrity and professional conduct in exercising acquisition responsibilities. Warrants are not issued solely based on certification achievement. Warrant and waiver requests must be completed on the Warrant or Waiver Request template.

#### *Warrant or Waiver Request*

#### *401.603-3 Appointment*

Authority to enter into contractual relationships and commit the Government to the expenditure of public (taxpayer) funds is a delegated authority, which must be issued in writing to the individual. Unless otherwise authorized by the SPE in writing, the HCA and MASCO, if delegated, are the agency's appointing officials for Contracting Officers. The HCA and MASCO shall determine if the appointment is consistent with applicable requirements of the AGAR, the FAR and other delegations of authority.

Appointing officials shall review warrant requests, issue, and manage Contracting Officer warrants through the Warrant Module in the FAITAS. The Certificate of Appointment in FAITAS is generated on a Standard Form (SF) 1402 (warrant) and states the employee's name (not a position); limitations on the scope of appointment authority; and shall be displayed openly to the general public and agency personnel. The authority authorizes the employee to commit the Government to buy goods and services and obligate funds subject to any limitations as stated in the warrant.

Contracting Officers have authority to sign contract actions or estimated values up to their delegated warrant authority as specified on the SF-1402. When assigning work, supervisors are advised to utilize this authority for the most efficient and effective use of resources. The maximum warrant authority shall remain within the limitations specified below:

<b>Contracting Officer Warrant Authority For GS-1102/1105 Personnel and Mission Area Senior Contracting Official (MASCO)</b>			
The following chart contains information on the <u>minimum</u> requirements for issuing contracting officer warrants. Appointing Officials may further limit authority as necessary. Before granting any warrant authority above the Commercial Item Threshold but below \$50 million, the Appointing Official must receive HCA concurrence. Warrant authority of \$50 million or above must have the concurrence of the SPE prior to issuance.			
Level	FAC-C Level	Approval Level	Maximum Warrant Authority
Level A	N/A but must complete 100 hours of procurement related courses from FAI, DAU or FAI qualified training vendor to include CON 237 or similar course; or be FAC-C certified	MASCO	Simplified Acquisition Threshold
Level B	I	HCA	Commercial Item Threshold in FAR 13.500(a) (currently \$7M)
Level C	II	HCA	\$50M
Level D	III	SPE	Unlimited
MASCO	III	SPE	Unlimited

In order to maintain an appointment, all warranted Contracting Officers are required to complete at least 80 hours of continuous education or training every two years. If this condition is not met, the SPE, HCA, MASCO, ACM or ACMD shall revoke or suspend the appointment. If the Contracting Officer continues to perform contract functions after the non-compliance of the continuous education requirement, it may result in unauthorized commitments as the employee will be acting without authority.

*401.603-4 Suspension/Termination*

The SPE, HCA, MASCO, ACM, or ACMD may terminate or suspend a Contracting Officer warrant at any time. Termination/suspension is appropriate for the following situations:

- Failure to comply with applicable laws and regulations;
- Violation of the Standards of Conduct for Employees of the Executive Branch. (See C.F.R. Part 2635);
- Failure to maintain training standards after appointment;
- Failure to maintain a satisfactory performance rating;
- Reassignment to a non-1102 or non-1105 position;

- Reassignment to a position not requiring a warrant;
- Discontinuance of the organization's need for the appointment; or
- Separation from the organization (Automatic Termination).

Warrants do not automatically terminate when an individual is detailed or temporarily reassigned to another Agency/Location. Individuals should not change or update their agency profile in FAITAS to reflect their temporary status since changing or updating the FAITAS agency profile will trigger automatic termination of the warrant.

#### *401.603-70 Existing Warranted Non-FAC-C Certified Contracting Officers*

The mission area's ACM or ACMD shall maintain official files documenting each Contracting Officer's qualification and completed training for those that cannot be tracked in FAITAS. Such files shall be available for oversight reviews by the USDA ACM. Each agency's ACM or ACM/D shall submit an annual report to the USDA ACM by the 30th of April each year. The report shall be submitted electronically to: and include, at a minimum, the following information for all warrants:

- a. Name of Appointee;
- b. Grade and series;
- c. Mission Area;
- d. Warrant Level;
- e. Date of Appointment;
- f. Any limitation on the warrant;
- g. Certification Level and CL status, if applicable; and
- h. Any other related items upon USDA ACM request.

#### *401.670 Roles and Responsibilities of Acquisition Team*

The MASCO and the Mission Area Senior Acquisition Program Manager (MASAPM) oversee the acquisition system within each mission area. The acquisition team at USDA has many responsibilities. These responsibilities are performed by different roles depending on the value, complexity and content of the requirement. These roles can be filled by a variety of staff within the mission areas based on the same types of characteristics. Traditional agency operating requirements (e.g. office furniture and supplies, janitorial services, lab equipment, vehicles and equipment) can typically be performed by staff who have received general training in the procurement process. More complicated requirements (professional services, basic construction, specialized training, maintenance and repair services) require more training to adequately protect the governments interests. The most complex requirements (e.g. major construction, aviation, information technology development, research) require highly certified program managers, specialized contracting officers and experienced contracting officer representatives. Below are the roles and examples of positions who may fill that role.

<b>Acquisition Role</b>	<b>Examples of Mission Area Staff/Series/Title</b>
PROGRAM/PROJECT MANAGER (P/PM)	Any mission area personnel who have technical knowledge of the requirement and have the authority to make decisions on what can be purchased. May need to be certified as a P/PM
CONTRACTING OFFICER'S REPRESENTATIVE (COR)	Any mission area personnel who have technical knowledge of the requirement and have been certified as a COR
CONTRACT SPECIALIST	Contract Coordinator, Procurement Technician, Purchasing Agent, Contract Specialist
CONTRACTING OFFICER	Warranted Purchasing Agent, Contract Specialist

Responsibility for the decision of what to buy and when to buy rests mainly with program and certain staff offices. Responsibility for determining how to buy, the conduct of the buying process, and execution of the contract rests with the contracting officer.

Program personnel, using the contracting process to accomplish their programs, shall ensure that: (1) Advanced Acquisition/Forecasts and Acquisition Plans are completed, as required; (2) Requirements are clearly defined and specified; (3) Quality standards are prescribed and met; (4) Performance or delivery is timely; and (5) Files are documented to substantiate the judgments, decisions, and actions taken.

The processes are generally defined for USDA however the mission area may have additional requirements for some roles and document routing and approvals based on the complexity of the requirement. The roles and responsibilities listed are provided as a guideline for the typical acquisition. This is not an exhaustive list of responsibilities. The specific role named is not necessarily responsible for an action however the office listed is responsible. See the Federal Acquisition Institute (FAI) site for competencies (and actions) required for each role. <https://www.fai.gov/certification/certification-and-career-development-programs>

USDA PROCEDURES, GUIDANCE AND INFORMATION - OCTOBER 2018 v.1.20

ACQUISITION PROCESS ROLES AND RESPONSIBILITIES			
REQUIRING OFFICE		CONTRACTING OFFICE	
PROGRAM/PROJECT MANAGER	CONTRACTING OFFICER'S REPRESENTATIVE	CONTRACT SPECIALIST	CONTRACTING OFFICER
<b>PRE-AWARD</b>			
Nominate COR	Serve on the Acquisition Team as a technical representative on behalf of their Program and in support of the Contracting Officer.	Serve as Business Advisor on the Acquisition Team	Serve as Business Advisor on the Acquisition Team; is the <b>ONLY INDIVIDUAL AUTHORIZED</b> to bind the Government contractually through their <b>WARRANT</b>
Provide Funding	Identify Need/Funding – Enter in Workplan (Enter in AgMax, if required)	Prepare Source Selection Plan	Approve Acquisition Plan/Checklist
			Concurrence final PWS/Statement of Work
Concurrence Acquisition Plan/Checklist	Acquisition Plan/Checklist	Prepare Solicitation	Approve Solicitation
Approve final PWS/Statement of Work	Prepare Statement of Work	Issue Request for Proposals	Oversee Solicitation Process
May participate in the evaluation of Proposals/SSEB	Collaborate on evaluation factors and proposal information	Receive Proposals	Receive Proposals
Approve award decision (if appointed as SSA)	Evaluation of Proposals/SSEB and produce the required documentation	Prepare SSEB Report	Approve SSEB Report
	Support Debriefs	Prepare SSA Final Decision/Award Recommendation Documentation	Approve SSA Final Decision/Award
		Prepare documentation for execution of Awards	Execute Awards
		Prepare documentation for notification to unsuccessful Offerors	Approve documentation for Notification to unsuccessful Offerors
		Prepare documentation for Debriefs	Hold Debriefs
		Conduct fact finding for legal concerns	Coordinate Legal Consultation
<b>POST AWARD</b>			
Coordinate technical interfaces with contractor through COR.CS/CO	Provide technical guidance to the contractor	Prepare documentation and schedule post award orientations	Conduct post award orientations
Responsible for overall program compliance with contract and safety requirements	Monitor Contractor compliance with contract and safety requirements	Prepare documentation to address changes to the contract	<b>ONLY INDIVIDUAL AUTHORIZED</b> to make changes to the contract's terms and conditions
Oversee program responsibilities for contractor services performed by ensuring COR interfaces with CS/CO.	Monitor and evaluate the contractor's performance and make timely reports of your findings to the Contracting Officer	Prepare documentation for proper contract modifications	<b>Execute</b> contract modifications
Ensure COR compliance with Inspection of invoices	Provide the Contracting Officer with copies of all written correspondence (including electronic communications) with the contractor	Fact finding and prepare documentation for CO review of delays to the contract, disputes, termination	Address delays to the contract, disputes, termination
Ensure compliance with COR reporting requirement for interim and final contractor performance evaluations (CPARS)	Inform the Contracting Officer of substantive oral communications (e.g., telephone conversations) with the contractor and provide notes and/or summaries of them as requested	Support the COR with overall administration including invoices and contractor evaluations	Support the COR with overall administration including invoices and contractor evaluations

USDA PROCEDURES, GUIDANCE AND INFORMATION - OCTOBER 2018 v.1.20

ACQUISITION PROCESS ROLES AND RESPONSIBILITIES			
REQUIRING OFFICE		CONTRACTING OFFICE	
PROGRAM/PROJECT MANAGER	CONTRACTING OFFICER'S REPRESENTATIVE	CONTRACT SPECIALIST	CONTRACTING OFFICER
Ensure COR maintains technical records and contract files	Inspect and evaluate products (including reports and drafts) and services delivered by the contractor, and make recommendations to the Contracting Officer regarding their acceptability	Maintain Contract file	Responsible for overall contract file
Ensure COR/Program compliance with Prompt Payment Act requirements	Review and approve/reject contractor's invoices in accordance with agency and Prompt Payment Act requirements	Promptly notify the Contracting Officer immediately of any:	Ensure timely deobligation of funds.
Address concerns on Contractor employee qualifications to CS/CO through COR	Monitor the contractor's use of key personnel and notify the Contracting Officer of any changes in key personnel proposed by the contractor	Actual or potential contractor performance problems;	Oversee contract closeout.
Address concerns on Contractor/sub-contractor performance to CS/CO through COR	Review the qualifications of proposed subcontractors and the appropriateness of subcontracting contract work, and make recommendations to the Contracting Officer regarding consent to the placement of subcontracts	Action or inaction by USDA personnel that may affect the contractor's ability to perform; and	Ensure timely completion of interim and final contractor performance evaluations (CPARS)
Overall program responsibility for Government- furnished property	Provide the contractor with, monitor the use of, and report on Government- furnished property	Inappropriate action on the part of USDA personnel with regard to the contract (e.g., any action that creates a conflict of interest on the part of the contractor or causes the contractor to perform inherently governmental functions).	
Promptly notify the COR so that they can immediately notify the Contracting Officer of any:	Complete timely interim and final contractor performance evaluations (CPARS)	As requested by the Contracting Officer, provide him/her with technical assistance on contract-related matters (e.g., disputes, settlements, litigation, patent and copyright issues, final payment during closeout, etc.);	
Actual or potential contractor performance problems;	Maintain a complete working file for the assigned contractual instrument		
Action or inaction by USDA personnel that may affect the contractor's ability to perform; and	Promptly notify the Contracting Officer immediately of any:		
Inappropriate action on the part of USDA personnel with regard to the contract (e.g., any action that creates a conflict of interest on the part of the contractor or causes the contractor to perform inherently governmental functions).	Actual or potential contractor performance problems;		
As requested by the Contracting Officer, provide him/her with high level technical assistance on contract-related matters (e.g., disputes, settlements, litigation, patent and copyright issues, final	Action or inaction by USDA personnel that may affect the contractor's ability to perform; and		

ACQUISITION PROCESS ROLES AND RESPONSIBILITIES			
REQUIRING OFFICE		CONTRACTING OFFICE	
PROGRAM/PROJECT MANAGER	CONTRACTING OFFICER'S REPRESENTATIVE	CONTRACT SPECIALIST	CONTRACTING OFFICER
payment during closeout, etc.);			
	Inappropriate action on the part of USDA personnel with regard to the contract (e.g., any action that creates a conflict of interest on the part of the contractor or causes the contractor to perform inherently governmental functions). The COR should concurrently notify the program office of any such action.		
	As requested by the Contracting Officer, provide him/her with technical assistance on contract-related matters (e.g., disputes, settlements, litigation, patent and copyright issues, final payment during closeout, etc.);		
	Provide timely reports on contractor performance to the Contracting Officer and other interested parties; and		
	Ensure proper distribution of final products and other information resulting from the contract.		
	Assist in contract closeout.		

#### 401.671 Performance Plan Standards

To promote integrity and accountability in the acquisition system, supervisors of the acquisition workforce should include performance standards similar to the following in annual performance plans. The MASCO and MASPM should provide feedback on performance as appropriate.

##### *401.671-1 Program Manager or Contracting Officer Representative*

Suggested performance standards for a Program Manager or Contracting Officer Representative who spends a significant amount of time on procurement responsibilities:

Consistently prepares requirements documents by or under any prescribed time limits. Prepared documents reflect a thorough understanding of the requirements, are complete, and are prepared in accordance with established agency formats and policies. Requirements are documented and described from an outcomes perspective and identify distinctive definable/measurable outcomes as triggers for when, and to what extent, payment should occur. Proposal evaluations are completed in a timely manner and are substantive, well-documented, and consistent with agency policies and established procedures. Participates in negotiations as part of technical team. Communicates regularly with the contracting officer and others in a positive, cooperative, and professional manner.

Understands the contract's technical requirements as well as the terms and conditions. Tracks and inspects contract deliverables/services to ensure timeliness and conformity with contract requirements. Performs acceptance in a timely manner. Resolves technical issues in a timely manner using professional judgment and analytical ability. Documents actions in accordance with agency policies. Evaluates contractor's performance in a timely manner and in accordance with established agency format and procedures. Required submissions to the contracting officer are accurate and complete. Regularly communicates with the contracting officer, contractor, and others in a positive, cooperative, and professional manner.

#### *401.671-2 Contract Specialist or Contracting Officer*

Consistently performs according to law, regulations, procedures and guidance in meeting customer's requirements. Market research and evidence of competition is conducted and documented. All pre award clearance forms, determinations, and memorandums are completed. Small Business Subcontracting Plans are reviewed and submitted as applicable. AARs are included for applicable IT purchases. Selection and Price reasonableness is documented. CORs are assigned to applicable contracts. Completes Contractor Performance Assessment Reporting Systems on all applicable procurements. Contracts are closed out including deobligation of funds within required timeframes.

Ability to successfully take on complicated, high dollar, or high-volume procurements. Overall stakeholder (internal and external) satisfaction with the pre-contract formation process including managing expectations, proactive communication, and innovative solutions to needs. Overall stakeholder satisfaction with the administration process including funding issues and exercising options. Effectively communicates with stakeholders in writing; providing timely response to inquiries. Keeps customer informed on status of contract action; coordinates key milestone dates; works with customer to resolve issues encountered during contract life cycle; maintains good working relationship with program and COR.

#### *401.672 Selection, Appointment and Termination of Non-Warranted Ordering Officials*

This policy applies only to non-warranted, non-GS-1102/1105 ordering officials placing orders in excess of the micro-purchase threshold. Contracts must have established fixed terms and prices, as ordering officials are not authorized to negotiate, determine price reasonableness or determine best value.

If the HCA (or written designee) determines that the appointment of ordering officials is essential for the operation of the contracting mission, for contract actions deemed appropriate, a non-warranted federal employee may be appointed as an ordering official to place delivery orders for supplies and services against indefinite delivery contracts and blanket purchase agreements (BPAs), that were awarded by USDA contracting officers, provided the contract terms permit placement of the orders and orders placed are within monetary limitations specified in the contract.

Requests to utilize ordering officials are on a case-by-case basis and the business case should be addressed in the acquisition plan or other planning document for approval by the HCA (or written designee).

The HCA (or designee identified in writing) has the authority to require an eligible ordering official to complete additional specialized training, which is considered relevant to a particular contract for assignment. This specialized training is in addition to any certification requirements and may be required for the ordering official to meet the needs of the appointment.

The HCA (or designee identified in writing) shall provide technical supervision of ordering officials and shall annually review activities of ordering officials by physical inspection of purchase documents and records to ensure compliance with policies and demonstration of sound judgment.

The HCA (or designee identified in writing) may terminate ordering officer authority at any time.

## PART 402--DEFINITIONS OF WORDS AND TERMS

### 402.101 Definitions.

“Chief of the Contracting Office” (COCO) has overall responsibility for contracting services in their designated office and for the quality, accuracy, and completeness of documents submitted by their offices to the MASCO. The degree of COCO authority will vary, depending on organizational workload, breadth of responsibility, Federal Acquisition Certification in Contracting (FAC-C) certification level, warrant authority, and individual experience.

The COCO must be appointed in writing by the MASCO.

The COCO is required to maintain at least a Simplified B warrant and Level III FAC-C certification.

FAR 2.101 is changed to read, "Emergency" as used in 6.208, 13.201, 13.500, 18.001, 18.202, 18.203 and subpart 26.2 means an occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States (42 U.S.C. 5122)."

“Level above the contracting officer” means a supervisory contracting officer. If the contracting officer is the highest level contract specialist or purchasing agent on the unit, this term means the warranted acquisition employee in charge of the procurement function at the next higher organizational level within the acquisition organizational levels of authority.

“Level higher than the contracting officer” is the same as "level above the contracting officer".

FAR 2.101 is changed to read, "Major disaster" as used in 6.208, 13.201, 13.500, 18.001, 18.202, 18.203 and subpart 26.2 means any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the United States, which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Stafford Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby (42 U.S.C. 5122)."

FAR 2.101 is changed to read, “Micro-purchase threshold” means ~~\$3,500~~ **[\$10,000]**, except it means—

(1) For acquisitions of construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), \$2,000;

(2) For acquisitions of services subject to 41 U.S.C. chapter 67, Service Contract Labor Standards, \$2,500;

**and**

**([3])** For acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or ; **[to]** facilitate defense against or recovery from **[cyber]**, nuclear, biological, chemical or radiological attack; **[to support a request from the Secretary of State or the**

**Administrator of the United States Agency for International Development to facilitate provision of international disaster assistance pursuant to 22 U.S.C. 2292 et seq.; or to support response to an emergency or major disaster (42 U.S.C. 5122),]** as described in 13.201(g)(1), except for construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction) (41 U.S.C. 1903)—

(i) \$20,000 in the case of any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) \$30,000 in the case of any contract to be awarded and performed, or purchase to be made, outside the United States. [; and]

**[(4) For acquisitions of supplies or services from institutions of higher education 20 U.S.C. 1001(a) or related or affiliated nonprofit entities, or from nonprofit research organizations or independent research institutes—**

**(i) \$10,000; or**

**(ii) A higher threshold, as determined appropriate by the head of the agency and consistent with clean audit findings under 31 U.S.C. chapter 75, Requirements for Single Audits; an internal institutional risk assessment; or State law.]”**

“Mission Area Senior Contracting Official” (MASCO) is the single senior staff official for a contracting activity responsible for the performance of contracting functions delegated by the Senior Procurement Executive (SPE). The MASCO was previously known as the Head of the Contract Activity Designee (HCAD).

FAR 2.101 is changed to read, “Simplified acquisition threshold” means ~~\$150,000~~ **[\$250,000]** (41 U.S.C. 134), except for—

(1) Acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation; **[to] facilitate defense against or recovery from [cyber,] nuclear, biological, chemical, or radiological attack; [to support a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate provision of international disaster assistance pursuant to 22 U.S.C. 2292 et seq.; or to support response to an emergency or major disaster (42 U.S.C. 5122),]** (41 U.S.C. 1903), the term means—

(i) \$750,000 for any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) \$1.5 million for any contract to be awarded and performed, or purchase to be made, outside the United States; and

(2) Acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a humanitarian or peacekeeping operation (10 U.S.C. 2302), the term means ~~\$300,000~~ **[\$500,000]** for any contract to be awarded and performed, or purchase to be made, outside the United States.”

## PART 403--IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

### SUBPART 403.1--SAFEGUARDS

#### 403.101 Standards of Conduct.

The standards of conduct for USDA procurement officials are the uniform standards established by the Office of Government Ethics in 5 CFR Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch, and FAR 3.104, Procurement Integrity.

## SUBPART 403.2--CONTRACTOR GRATUITIES TO GOVERNMENT PERSONNEL

403.203 Reporting suspected violations of the gratuities clause.

A suspected violation of the contract clause, FAR 52.203-3, Gratuities, shall be reported immediately to the cognizant Contracting Officer in writing, stating the circumstances surrounding the incident(s), the date(s), and names of all parties involved. The Contracting Officer shall review the report for completeness, add any additional information deemed necessary and a recommendation for action, and submit the report to the HCA.

403.204 Treatment of violations.

The HCA shall review the report and consult with the Offices of General Counsel and Inspector General to determine whether further action should be pursued. If it is found that the facts and circumstances warrant further action, the HCA shall give the contractor a formal written notice which summarizes the reported violation and affords the contractor the opportunity to make a written or oral response within a reasonable, specified period after receipt of the notice. The notice shall be sent by certified mail with return receipt requested. Oral presentations shall follow the procedures outlined in FAR 3.204(b). The HCA shall furnish copies of any adverse determination to the MASCO, the Contracting Officer and the Department Debarring Officer for their subsequent considerations under FAR 3.204(c) (1) and (2), respectively.

## SUBPART 403.3--REPORTS OF SUSPECTED ANTITRUST VIOLATIONS

403.303 Reporting suspected antitrust violations.

Contracting Officers shall report the circumstances of suspected violations of antitrust laws to the Office of Inspector General in accordance with procedures in Departmental Regulations (1700 series).

## SUBPART 403.4--CONTINGENT FEES

403.405 Misrepresentations or violations of the Covenant against Contingent Fees.

(a) A suspected misrepresentation or violation of the Covenant against Contingent Fees shall be documented in writing by the Contracting Officer and reported immediately to the chief of the contracting office. The chief of the contracting office shall determine if a violation has occurred and report any violation to the Office of Inspector General. The chief of the contracting office shall take action in accordance with FAR 3.405(b).

(b) If the chief of the contracting office decides to refer the case to the Department of Justice, it should be referred through the Office of Inspector General with a copy of the report and referral submitted through the HCA to the Senior Procurement Executive.

## SUBPART 403.5--OTHER IMPROPER BUSINESS PRACTICES

403.502 Subcontractor kickbacks.

Contracting Officers shall report the circumstances of suspected violations of the Anti-Kickback Act (41 U.S.C. 51- 58) to the Office of Inspector General in accordance with procedures in Departmental Regulations (1700 series).

## SUBPART 403.6--CONTRACTS WITH GOVERNMENT EMPLOYEES OR ORGANIZATIONS OWNED OR CONTROLLED BY THEM

403.603 Responsibilities of the Contracting Officer.

The Contracting Officer, when requesting authorization under 403.602, shall prepare a written determination and findings for the signature of the HCA. The determination shall document compliance with FAR 3.603, specifying the compelling reason(s) for award, and shall be placed in the contract file.

## SUBPART 403.8--LIMITATION ON THE PAYMENT OF FUNDS TO INFLUENCE FEDERAL TRANSACTIONS

403.806 Processing suspected violations.

Suspected violations of the requirements of 31 U.S.C. 1352 shall be referred to the Office of Inspector General in accordance with procedures in Departmental Regulations (1700 series)

## PART 404--ADMINISTRATIVE MATTERS

### SUBPART 404.2--CONTRACT DISTRIBUTION

404.203 Taxpayer Identification Information.

(a) If the contractor furnishes taxpayer identification number (TIN) and type of organization information pursuant to solicitation provision 52.204-3 or 52.212-3, and the USDA Office of the Chief Financial Officer, Controller Operations Division, New Orleans will be the payment office, that information will be entered into the Foundation Financial Information System (FFIS) in accordance with FFIS Vendor Table Maintenance Procedures set forth in FFIS Bulletins issued by the Office of the Chief Financial Officer and AGAR Advisories issued by the Office of Procurement and Property Management.

(b) Separate submission of the TIN or type of organization information, in accordance with 52.204-3 or 52.212-3, is not required for contractors registered in the Central Contractor Registration (CCR) database.

### SUBPART 404.4—SAFEGAURDINGCLASSIFIED INFORMATION WITHIN INDUSTRY

404.403 Responsibilities of Contracting Officers.

When a proposed solicitation is likely to require access to classified information, the Contracting Officer shall consult with the Information Security Staff, Personnel and Document Security Division, Office of Procurement and Property Management, regarding the procedures that must be followed.

**Procurement Advisory 61, Safeguarding Classified National Security Information,**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2061B.pdf>.

### SUBPART 404.5—ELECTRONIC COMMERCE IN CONTRACTING

**Procurement Advisory 105, Use of Automated Procurement Systems,**

<https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory%20105C%20Final.pdf>.

## SUBPART 404.6--CONTRACT REPORTING

404.602 Federal Procurement Data System.

(a) Contracting activities shall report contract actions into the Federal Procurement Data System in accordance with the instructions issued or distributed by the SPE.

(b) The unique identifier for each contract action reported to the Federal Procurement Data System shall begin with the two-letter USDA Agency Prefix "12".

**Procurement Advisory 87, USDA Federal Procurement Data Quality Plan,**

<https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory%2087D.pdf>.

**Procurement Advisory, 135 FAR Class Deviation – Removal of Best Procurement Approach Determination for Interagency Acquisitions**

[https://www.dm.usda.gov/procurement/policy/docs/PA135-](https://www.dm.usda.gov/procurement/policy/docs/PA135-RemovalofBestProcurementApproachDeterminationRequirementtoUseanIA.pdf)

[RemovalofBestProcurementApproachDeterminationRequirementtoUseanIA.pdf](https://www.dm.usda.gov/procurement/policy/docs/PA135-RemovalofBestProcurementApproachDeterminationRequirementtoUseanIA.pdf)

## SUBPART 404.8—GOVERNMENT CONTRACT FILES

404.804 Closeout of Contract Files

**Procurement Advisory 93, Contract Closeout Procedures,**

[https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory%2093C\\_Contract%20Closeout%20Procedures\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory%2093C_Contract%20Closeout%20Procedures_Final.pdf).

404.870 Document Numbering System.

The SPE shall issue AGAR Advisories to establish and maintain a numbering system for USDA contracts, modifications, and delivery/task orders. USDA contracting offices shall number contracts, modifications, and orders in accordance with this numbering system.

## SUBPART 404.10—UNIFORM USE OF LINE ITEMS

404.1000 Establishing.

*LINE ITEMS (LIN):*

- a. Identify the items or services to be acquired
- b. Impose duties, responsibilities and obligations upon the contractor

LINs have all of the following characteristics:

- a. Single unit price/extended amount. NSP (Not Separately Priced), and pricing at contract level for cost contracts is acceptable
- b. Separately identifiable
  1. Supplies: no more than one National Stock Number (NSN), item description, or manufacturer part number
  2. Services: no more than one scope of work or description of services
- c. Separate delivery schedule, period of performance or completion date. If a contract line item has more than one destination or delivery date, the contracting officer may create individual contract line items for the different destinations or delivery dates

#### *SUBLINE ITEMS (SLIN)<sup>a</sup>*

- a. Provide flexibility to identify elements within a SLIN for tracking performance or for simplifying administration
- b. Two types:
  1. Deliverable subline items
  2. Informational subline items

SLINs have all of the following characteristics:

- a. Single unit price/extended amount
- b. Separately identifiable
- c. Separate delivery schedule, period of performance or completion date
- d. Single contract pricing type

SLINs shall be used when items bought under one contract line item number:

- a. Are to be paid for from more than one accounting classification (shorthand code)
- b. Are to be packaged in different sizes, each represented by its own National Stock Number (NSN)
- c. Have collateral costs, such as packaging costs, but those costs are not a part of the unit price of the LIN
- d. Have different delivery dates, destinations and/or requisitions. OR,
- e. Identify parts of an assembly or kit which:
  1. have to be separately identified at the time of shipment or performance; and
  2. are separately priced

#### *LINE ITEMS NUMBERING PROCEDURES*

- a. Line items shall consist of four numeric digits 0001 through 9999. Do not use numbers beyond 9999.
- b. Within a given contract, the item numbers shall be sequential but need not be consecutive.
- c. The contract line item number shall be the same as the solicitation line item number unless there is a valid reason for using different numbers.
- d. Once a contract line item number has been assigned, it shall not be assigned to another, different, contract line item in the same contract.

#### *LINE ITEM STRUCTURE*

In structuring line items, due consideration shall be given to the effect of the chosen units of measure on administration and payment. Contracting officers shall consider the need for periodic deliveries and payments in selecting a unit of measure. Included in this analysis shall be the applicability of any financing arrangements under FAR part 32.

---

<sup>a</sup> Subline item capabilities will be available in IAS no later than October 1, 2019, per FAR 4.10.

- a. **Supplies:** Line item quantities shall match the actual count of the supplies to be provided. For instance, if more than one delivery is expected, the quantity cannot be “1”.
- b. **Services:** Line item quantities should match the frequency with which performance will be reviewed, and on fixed-price line items, payments made, at the maximum extent possible. For example, a contract with a twelve-month period of performance should have a quantity and unit of measure suited to how the contract will be managed. If the intent is to review, accept, and pay for the services monthly, then the quantity should be 12, with a unit of measure such as “Months” or “Lots”. If the intent is to review, accept, and pay for the services quarterly, then the quantity should be 4, with a unit of measure such as “Lot”. If the quantity used is 1, then no payment for delivery can occur until the end of the period of performance. The total price shall be equally divisible by the unit of measure. For example, a total price of \$75,000 divided by 12 months is \$6,250 per month. Services with tangible deliveries, such as repairs, shall be structured like supply line items.

*OPTION LINE ITEMS*

- a. Option line items shall be created at the time of solicitation/award, when applicable.
- b. Option line items shall consist of four numeric digits with the beginning number aligning with the option year. For example, line item 1001, is option year 1; 2001 is option year 2, etc.

Best practice for option year line items is to include the option year period of performance in the line item description. For example, “Option year 1, October 1, 2019 through September 30, 2020.”

*SUBLINE ITEMS NUMBERING PROCEDURES*

- a. Number subline items by adding either two numeric characters or two alpha characters to the basic contract line item number. Use alpha characters only for separately identified subline items, running AA through ZZ. Do not use spaces or special characters to separate the subline item number from the contract line item number that is its root. For example, if the contract line item number is 0001, the first three subline items would be 0001AA, 0001AB, and 0001AC.
  - 1. Do not use the letters I or O as alpha characters.
  - 2. Use all 24 available alpha characters in the second position before selecting a different alpha character for the first position. For example, AA, AB, AC, through AZ before beginning BA, BB, and BC.
- b. Within a given line item, the subline item numbers shall be sequential but need not be consecutive.
- c. If a line item involves ancillary functions, like packaging and handling, transportation, payment of state or local taxes, or use of reusable containers, and these functions are normally performed by the contractor and the contractor is normally entitled to reimbursement for performing these functions, do not establish a separate subline item solely to account for these functions. However, do identify the functions in the contract schedule. If an offeror separately prices these functions, the contracting officer may establish separate line or subline items for the functions.

*EXAMPLE OF LINE ITEM AND SUBLINE ITEM STRUCTURE:*

Item	Supplies/Services	Qty	Unit of Issue	Unit Price	Total Price
0001	<b>1<sup>st</sup> line item, Supplies</b>				
0001AA	<b>1<sup>st</sup> line item, 1<sup>st</sup> subline item</b>	500	EA	\$100.00	\$50,000.00
0001AB	<b>1<sup>st</sup> line item, 2<sup>nd</sup> subline item</b>	<b>100</b>	<b>EA</b>	<b>\$50.00</b>	<b>\$5,000.00</b>
0002	<b>2<sup>nd</sup> line item, Services</b>				

0002AA	<b>2<sup>nd</sup> line item, 1<sup>st</sup> subline item</b>	12	MO	\$1100.00	\$13,200.00
000201	<b>2<sup>nd</sup> line item, 1<sup>st</sup> informational subline item</b>				
0003	<b>3<sup>rd</sup> line item</b>				
1001	<b>Option Period 1, POP, 1<sup>st</sup> line item</b>				
1002	<b>Option Period 1, POP, 2<sup>nd</sup> line item</b>				
2001	<b>Option Period 2, POP, 1<sup>st</sup> line item</b>				

*INTEGRATED ACQUISITION SYSTEM (IAS) PROCEDURES*

Indefinite Delivery-Indefinite Quantity (IDIQ) Contracts In IAS

- (a) The “Primary Type of Contract” field under General, Additional Info, shall be identified as “Indefinite-quantity”. The “Contract Type” field under Line Item, General, shall be identified as “Indefinite-quantity”.
- (b) At least one line item must be created on the base contract for delivery orders to be issued from it. The “Allow Delivery/Task Order” field under Line Item, General must be checked Yes.
- (c) The Contracting Officer shall enter the maximum amount to be ordered, including all orders placed against the contract.
- (d) Supplies or Services, select the appropriate selection. For Supplies enter the Type of Supply applicable to the purchase – Intellectual, Personal or Real Property.

Qualifier:

- (a) By Quantity – when the Qualifier is By Quantity, there will be a Quantity field and Unit of Issue field.
- (b) By Dollars – used for purchases for a one time/lump sum payment. When the Qualifier is By Dollars, there will be an Amount field only.
- (c) Not Separately Priced – used when the price is included in the unit price of another LIN.

Unit of Measure is “Unit of Issue” in IAS.

IAS is currently testing a 4 digit line item structure. 3 digits will be used and accepted in IAS until the 4 digit structure is fully tested and implemented.

**SUBPART 404.11—SYSTEM FOR AWARD MANAGEMENT**

404.1103 Procedures.

- (a) Contracting Officers and other USDA employees shall not enter information into the Central Contractor Registration (CCR) database on behalf of prospective contractors. Prospective contractors who are unable to register on-line at the CCR website should be advised to submit a written application to CCR for registration into the CCR database. USDA employees may assist prospective contractors by downloading the registration template, CCR handbook and other information from the CCR website and providing copies of that material to requesters. Written applications for registration may be submitted to Department of Defense Central Contractor Registration, 74 Washington Ave., Suite 7, Battle Creek, MI 49017-3084.
- (b) Verification that the prospective contractor is registered in the CCR database shall be done via the CCR Internet website <http://www.ccr.gov>.  
This verification process using the CCR website applies both to acquisitions executed using USDA legacy procurement systems and the USDA Integrated Acquisition System.

(c) AGAR Advisories issued by the Office of Procurement and Property Management will address internal procedures for integration of contractor information in the CCR database with the USDA FFIS payment system.

## SUBPART 404.13—PERSONAL IDENTITY VERIFICATION

404.1301 Policy

**Procurement Advisory 81, Common Identification Shared for Contractors,**

<https://www.dm.usda.gov/procurement/policy/docs/Proc%20Adv%20081%20C.pdf>.

**Procurement Advisory 115, Continued Implementation of LincPass at USDA,**

[https://www.dm.usda.gov/procurement/policy/Advisory%20115\\_Continued%20Implement%20of%20LincPass%20at%20USDA\\_08-07-2013.pdf](https://www.dm.usda.gov/procurement/policy/Advisory%20115_Continued%20Implement%20of%20LincPass%20at%20USDA_08-07-2013.pdf).

## SUBPART 404.16—UNIQUE PROCUREMENT INSTRUMENT IDENTIFIERS

404.1603 Procedures.

**Procurement Advisory 126, Use of Unique Procurement Instrument Identifiers,**

[https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory%20126A\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory%20126A_Final.pdf).

## PART 405 PUBLICIZING CONTRACT ACTIONS

### SUBPART 405.4 RELEASE OF INFORMATION

405.404 Release of long-range acquisition estimates.

The MASCO will establish written procedures to control the release of long-range acquisition estimates as authorized under FAR 5.404-1.

Sensitive Security and Classified information must be released in accordance with Departmental Manuals and Regulations (3400 series).

### SUBPART 405.5--PAID ADVERTISEMENTS

405.502 Authority.

Policies and procedures regarding approval for Communications/Information Products and Services (CIPS) over \$25,000 other than newspapers are contained in USDA Departmental Regulations 1400 series. Approval must be obtained prior to submission of a purchase request(s).

Communications/Information Services and Products means the following services and products:

- a. Communications Research and Planning is the full range of communications and social marketing research services
- b. Integrated Marketing
- c. Outreach and Engagement
- d. Media Relations

- e. Communications Materials and Product Development
- f. Web Design, Development, and Management
- g. Social marketing

## PART 406--COMPETITION REQUIREMENTS

### SUBPART 406.1—FULL AND OPEN COMPETITION

#### 406.101 Policy.

Contracting officers should consider the following techniques to increase competition:

1. Requirements Development - Ensure work statement is not unduly restrictive and specifications are not unnecessarily detailed, and ensure commercial items are acquired to the maximum extent practicable. The acquisition team will work collaboratively to apply their respective skill sets to understand the market, how industry is structured, potential cost drivers, and the competition state;
2. Performance Based Acquisition - Allow vendors the opportunity to offer innovative solutions to meet the Government's performance needs and to offer market-tested commercial solutions at competitive pricing with risks that can be reasonably managed under a fixed-price contract;
3. Strategic Sourcing - Use an existing Departmental or Federal Strategic Sourcing Initiative when the requirement can be satisfied under the contract vehicle(s). USDA-wide contract sources can be found at <https://www.hqnet.usda.gov/oppm/usdaconts/index.htm>. Additional resources are located at <https://www.dm.usda.gov/procurement/toolkit/orderingtools.htm>.
4. Task and Delivery Orders - Ensure acquisitions have meaningful competition. State significant technical factors and subfactors and the relative importance of the factors when conducting the "fair opportunity process."

### SUBPART 406.3—OTHER THAN FULL AND OPEN COMPETITION

#### 406.303 Justifications.

[Template for Justification for Other than Full and Open Competition](#)

#### 406.304 Approval of the Justification

Contracting officers are reminded that the value of options, including an option to extend, is to be included in the value of the justification needing to be approved.

The contracting officer shall amend a justification and obtain the required approvals when any of the following occur prior to award of a contract action:

- (1) The dollar value of the prospective contract action increases beyond the authority of the previous approving official.
- (2) A change in the competitive strategy further reduces competition.
- (3) A change in requirements affects the basis for the justification.

## SUBPART 406.5—ADVOCATES FOR COMPETITION

The Chief, Procurement Policy Division, Office of Contracting and Procurement, has been designated as the Competition Advocate for USDA. The MASCO has been designated the Competition Advocate for the mission area.

## PART 407--ACQUISITION PLANNING

### SUBPART 407.1--ACQUISITION PLANS

407.170 Advance acquisition plans.

(f) A written Acquisition Plan (AP) under FAR Part 7 shall be prepared for each acquisition meeting or exceeding the dollar value, or designated to be a major system, pursuant to AGAR 434.001 and shall, to the greatest extent practicable, be written on a systems versus individual contract basis. Without power of delegation the AP shall be signed by and include the concurrence or non-concurrence of the HCA, the Program Manager and the Contracting Officer and others as determined by the HCA. The AP shall be submitted to the USDA Procurement Policy Division (PPD) at [procurement.policy@dm.usda.gov](mailto:procurement.policy@dm.usda.gov) and OCIO Capital Planning and IT Governance Division (CPITGD) [capitalplanningdivision@ocio.usda.gov](mailto:capitalplanningdivision@ocio.usda.gov) in sufficient time to allow review and coordination by the Secretary and Assistant Secretary for Administration and their staffs. The Senior Procurement Executive (SPE) has approval authority of the AP and no solicitation shall be released prior to SPE approval or SPE waiver.

(g) Except as found appropriate in writing by the HCA, without delegation, no written AP under FAR Part 7 is required for any proposed action when the contract file evidences each of the following: (1) that market research supports the expectation that offers will be received from at least two responsible firms; (2) the action does not exceed the dollar values specified in AGAR 434.001(a); and (3) award will be Firm Fixed Price.

(h) For any Information Technology action that is estimated to meet or exceed \$25,000, the Contracting Officer shall not issue a solicitation unless an AAR number has been granted for the full estimated price of the action or the Chief of the OCIO has granted a written waiver which must be placed in the file.

**Procurement Advisory 130, Acquisition Planning and Major System Reviews,**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory-%20130A.pdf>.

### SUBPART 407.5--INHERENTLY GOVERNMENTAL FUNCTIONS

407.503 Policy.

(a) HCA's shall establish procedures to ensure that requesting activities provide the written determination required by FAR 7.503(e), when submitting requests for procurement of services.

(b) In the event of a disagreement as to whether the functions to be performed are inherently governmental, the HCA may refer the matter to the Senior Procurement Executive (SPE) for resolution. When submitting

disagreements to the SPE for resolution the HCA shall provide a summary of the areas of disagreement, supported by the following:

- (1) the HCA's assessment of whether the services are "inherently governmental";
  - (2) the basis for that assessment (include references to the definition and policy in FAR subpart 7.5 and/or Office of Federal Procurement Policy letter 92-1);
  - (3) a copy of the statement of work; and,
  - (4) the requesting activity's written determination in accordance with FAR 7.503(e).
- (c) Such disagreements shall be resolved prior to issuance of the solicitation.

## PART 408--REQUIRED SOURCES OF SUPPLIES AND SERVICES

### 408.002 Priorities for Use of Mandatory Sources.

The General Services Administration, through the Federal Strategic Sourcing Initiative (FSSI) has awarded Indefinite Delivery, Indefinite Quantity (IDIQ) contracts for office supplies. This FSSI initiative is called Office Supplies 3 (OS3) and it is a mandatory source for office supplies for the USDA. <https://www.gsa.gov/buying-selling/purchasing-programs/federal-strategic-sourcing-initiative/third-generation-fssi-office-supply-solution>. Any USDA employee with a Contracting Officer's Warrant or the authority to acquire office supplies by purchase card may use the IDIQ contracts within purchase limits without the need for further authorization. No additional competition is required.

### 408.003 Use of Other Mandatory Sources.

The Office of Management and Budget (OMB) Memorandum M-17-29 mandates the use of the Next Generation Delivery Services (NGDS) contract and directs all Federal agencies to use the new government-wide contract to meet their global air and ground small package delivery services.

Copies of each contract and attachments (to include pricing sheets) are posted on the Acquisition Gateway. If currently not registered, Agency users may have to register for a Max.gov account to access the Acquisition Gateway. Once logged into the Acquisition Gateway, scroll down and select Transportation and Logistics Services Hallway, then go to the Package Delivery and Packaging Sub-hallway to find helpful information on contracts and rates. To determine the applicable pricing rates for your agency, please note your pricing profile.

Prices, terms and conditions are negotiated up front with the contractor (vendor). No further price reductions, waiving of accessorial, or changes to terms and conditions can be negotiated at the shipper level. Overhead fees are paid by the contractor on a transactional basis and embedded with their rate (~1.3% of shipment cost). If a shipper already ships under DDS3, TDS, DLA's SSP, or a surface ground tender account(s), previously established accounts will be carried over to the NGDS contract(s).

[https://www.dm.usda.gov/procurement/toolkit/docs/1\\_Aug\\_2017\\_NGDS\\_Shippers\\_Guide.pdf](https://www.dm.usda.gov/procurement/toolkit/docs/1_Aug_2017_NGDS_Shippers_Guide.pdf)

Ordering contracting officers are responsible to know agency-specific policies for issuing orders on contract vehicles and to ensure fair opportunity in accordance with the Federal Acquisition Regulation (FAR) Subsection 8.405-3(c)(2).

- a. Gather and assess your agency's requirements for delivery services.

- b. Provide Fair Opportunity and select the proper ordering procedure based on the dollar value of the order. If the order is above the micro-purchase threshold, agencies must provide equal consideration for contractors.
- c. Evaluate quotes, evaluate information from each contractor, in light of your agency's needs, and make a best value award decision.
- d. Make the award and manage the task order.

No further competition is required with non-NGDS contractors. Aggregate shipping totals for the fiscal year that exceed the micro-purchase threshold require Fair Opportunity/competition among the three contractors that received the NGDS award only (i.e., Federal Express Corporation, United Parcel Service, and Polar Air Cargo (DHL subcontractor)).

USDA agencies can submit a waiver to the Procurement Policy Division, Office of Contracting and Procurement (OCP) at [Procurement.Policy@dm.usda.policy](mailto:Procurement.Policy@dm.usda.policy) for approval to obtain another delivery service provider where there is a significant cost savings for not using NGDS. The NGDS waivers must provide:

- a. Substantial evidence/determination of a cost benefit;
- b. Pertinent background information (market research/justification); and
- c. Copy of the waiver request signed by the Mission Area Senior Contracting Official (MASCO).

## SUBPART 408.4--FEDERAL SUPPLY SCHEDULES

408.405 Ordering Procedures for Federal Supply Schedules.

### FAR DEVIATION

8.404 Use of Federal Supply Schedules.

\*\*\*

(b)(1) \*\*\*

3

(2) For orders over \$550,000, see subpart 17.5 for additional requirements for interagency acquisitions. or example, the requiring agency shall make a determination that use of the Federal Supply Schedule is the best procurement approach, in accordance with 17.502-1(a).

\*\*\*\*\*

### 408.405-6 Limiting Sources

Contracting officers are reminded that the value of options, including an option to extend, is to be included in the value of the justification needing to be approved.

The contracting officer shall amend a justification and obtain the required approvals when any of the following occur prior to award of a contract action:

- (1) The dollar value of the prospective contract action increases beyond the authority of the previous approving official.
- (2) A change in the competitive strategy further reduces competition.
- (3) A change in requirements affects the basis for the justification.

[Template for Limited Sources Justification under SAT.](#)

[Template for Limited Sources Justification over SAT.](#)

## SUBPART 408.7--ACQUISITION FROM NONPROFIT AGENCIES EMPLOYING PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

408.703 Procurement List.

USDA has mandatory items on the list. [https://www.abilityone.gov/procurement\\_list/index.html](https://www.abilityone.gov/procurement_list/index.html)

## SUBPART 408.8--ACQUISITION OF PRINTING AND RELATED SUPPLIES

408.802 Policy.

Prior to contracting for any of the items defined in FAR 8.801, the Contracting Officer should make sure that the procedures in PGI 405.502 have been followed, if applicable.

### *Business Cards*

Source of Business Cards: The U. S. General Services Administration (GSA) has issued a Federal Supply Schedule contract to Envision Print, 2301 S. Water St., Wichita, Kansas, 67213. Step-by-step instructions can be found at <http://www.envisionbusinesscards.com>

Funds Available: The U. S. Department of Justice's (DOJ) Office of Legal Counsel, along with the U. S. General Accounting Office (GAO) has determined and affirmed that appropriated funds can be used to obtain business cards for Government employees who regularly deal with the public or organizations outside their immediate office (B-280759).

## SUBPART 408.11--LEASING OF MOTOR VEHICLES

408.1103 Contract Requirements.

If the requirement includes the need for the vendor to provide operational maintenance such as fueling, lubrication, or other fluid changes or replenishment, the Contracting Officer shall include in the contract:

- (1) a requirement for the use of fluids and lubricants containing the maximum available, amounts of recovered materials and alternative fuels whenever available; and
- (2) a preference for retreaded tires meeting the Federal retread specifications, tires with the maximum recovered material content, or retreading services for the tires on the vehicle.

## PART 409--CONTRACTOR QUALIFICATIONS

### SUBPART 409.2—QUALIFICATIONS REQUIREMENTS

#### 409.202 Policy.

USDA activities have a variety of needs for which it is critical that vendors provide products of the highest quality and reliability. These products must be capable of being used with products already in USDA's inventory, and with products supplied by other vendors. Accordingly, qualification requirements (QRs) may be defined for USDA Activities including systems of application, testing and record keeping, to assure that products, vendors, or manufacturers are tested and qualified prior to contract award. The imposition of a QR can restrict competition and as a result is strictly managed.

For each Mission Area, the information in FAR Subpart 9.2 is to be prepared and submitted to the Under Secretary, who may re-delegate no lower than a sub-agency head (e.g. Chief of the FS, Administrator Farm Service Agency) without further delegation, for approval to establish or change a QR. Copies of the delegations must be provided to the Chief, Procurement Policy Division (PPD) as do any written justifications approved per FAR 9.202(a)(1). For each Mission Area, the Under Secretary will maintain information on the QRs established by USDA.

QRs that are applicable to requirements managed or directed by USDA activities (such as wildfire suppression programs) must be approved and posted to <http://www.dm.usda.gov/procurement/business/qualifications.htm>. QRs not posted will not be enforceable by a USDA activity for its acquisitions or the acquisitions of others.

Each Mission Area is responsible for maintaining data that supports the need for a QR, and for making this data available to the public. The Under Secretary must submit the data to complete the listing matrix in adequate time for the Office of Contracting and Procurement (OCP) to update the matrix on the Acquisition Toolkit. All data necessary for the update must be submitted at one time to the Chief, Procurement Policy Division. The posting will require approximately 20 calendar days to accomplish. In the case of deficient data, the Under Secretary will be notified of the deficiencies and the QR will not be posted.

If only one vendor (other than a mandatory source) is qualified to provide a product or service under a QR, the agency shall publish a notice at least annually in FedBizOpps to seek additional sources.

### SUBPART 409.4--DEBARMENT, SUSPENSION AND INELIGIBILITY

#### 409.404 System for Award Management Exclusions.

The Department Debarring Officer, the Director of Contracting and Procurement, is USDA's single point of contact with GSA for debarment and suspension actions taken under this subpart. The debarring official for each mission area shall notify the Department Debarring Officer of each debarment and suspension action by promptly submitting a copy of the debarment or suspension notice and any later changes to the debarment or

suspension status. The Department Debarring Officer will forward a copy of each notice to GSA for inclusion in the Government-wide list.

#### 409.405 Effect of Listing

The Head of the Contracting Activity has redelegated authority in this subsection to the MASCO.

### SUBPART 409.5--ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST

#### 409.503 Waiver.

(b) Each request for waiver shall include:

- (1) The general rule or procedure proposed to be waived;
- (2) An analysis of the potential conflict, including the benefits and detriments to the Government and prospective contractors;
- (3) A discussion of why the conflict cannot be avoided, neutralized, or mitigated; and
- (4) Advice of counsel obtained under FAR 9.504(b).

## PART 410—MARKET RESEARCH

#### 410.001 Policy.

In addition to those uses listed in FAR 10.001, agencies must use the results of market research to—

- (a) Ensure the minimum use of hazardous or toxic materials;
- (b) Ensure the maximum use of biobased products and biofuels; and
- (c) Identify products and services on or eligible for addition to the Javits-Wagner-O’Day Act Procurement List in order to achieve USDA’s goal to increase participation in this program.

#### FAR DEVIATION

FAR 10.001(a)(2)(vi)(A) is changed to read “A contingency operation or defense against or recovery from [cyber,] nuclear, biological, chemical, or radiological attack;...”.

#### 410.002 Procedures.

Market research must include obtaining information on the commercial quality assurance practices as an alternative for Government inspection and testing prior to tender for acceptance.

## PART 411--DESCRIBING AGENCY NEEDS

### SUBPART 411.1--SELECTING AND DEVELOPING REQUIREMENTS DOCUMENTS

#### 411.101 Order of precedence for requirements documents.

The head of the contracting activity (HCA) has redelegated the authority to the MASCO to submit the determination required by OMB Circular A-119.

#### 411.103 Market Acceptance.

The head of the contracting activity (HCA) has redelegated the authority to the MASCO to make a determination that offerors must demonstrate, in accordance with FAR 11.103(a), the market acceptability of their items to be offered.

The Contracting Officer shall place a copy of this determination, signed by the MASCO, in the solicitation file.

411.106 Purchase Descriptions for Service Contracts.

When contract personnel are to be used, the requiring official shall record on the requisition and/or the Statement of Work or Performance Work Statement, his or her determination whether harm to the Government might occur should contractor personnel fail to identify themselves as non-Government officials.

## SUBPART 411.6---PRIORITIES AND ALLOCATIONS

411.600 Scope of Subpart.

The Defense Priorities and Allocation System (DPAS) excludes USDA activities (see 15 CFR 700.18(b)). USDA Contracting Officers are not authorized to place rated orders under DPAS.

## PART 412--ACQUISITION OF COMMERCIAL ITEMS

### SUBPART 412.1—ACQUISITION OF COMMERCIAL ITEMS—GENERAL

412.101 Policy.

**Procurement Advisory 73, Purchase of Online Courseware Libraries and Learning Management Systems or Services,**

<https://www.dm.usda.gov/procurement/policy/docs/Proc%20Adv%20073.pdf>.

412.102 Applicability.

FAR 12.102(f)(1) changed to read “Contracting officers may treat any acquisition of supplies or services that, as determined by the head of the agency, are to be used to facilitate defense against or recovery from [cyber,] nuclear, biological, chemical, or radiological attack as an acquisition of commercial items....”.

**Procurement Advisory 129, FAR Class Deviation to Exercise Special Emergency Procurement Authorities,**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%20129%20-%20FAR%20Class%20Deviation%20to%20Exercise%20Special%20Emergency%20Procurement%20Authorities.pdf>.

## PART 413--SIMPLIFIED ACQUISITION PROCEDURES

413.003 Policy.

**Procurement Advisory 132, FAR Class Deviation to Increase the Micro-Purchase and the Simplified Acquisition Thresholds,**

[https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds_Final.pdf).

### SUBPART 413.201—GENERAL

FAR 13.201(G)(1) changed to read “For acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from **[cyber,] nuclear, biological, chemical, or radiological attack, [; international disaster assistance; an emergency or major disaster,]** the micropurchase threshold is -

(i) \$20,000 in the case of any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) \$30,000 in the case of any contract to be awarded and performed, or purchase to be made, outside the United States.

(2) Purchases using this authority must have a clear and direct relationship to the support of a contingency operation or the defense against or recovery from **[cyber,] nuclear, biological, chemical, or radiological attack [; international disaster assistance; or an emergency or major disaster].”**

**Procurement Advisory 129, FAR Class Deviation to Exercise Special Emergency Procurement Authorities,** <https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%20129%20-%20FAR%20Class%20Deviation%20to%20Exercise%20Special%20Emergency%20Procurement%20Authorities.pdf>.

## SUBPART 413.3--SIMPLIFIED ACQUISITION METHODS

413.301 Governmentwide commercial purchase card.

USDA policy and procedures on use of the Government-wide commercial purchase card are established in Departmental Regulation Series 5000.

**Procurement Advisory 116, Interim Purchase Authority for Fuel,**

[https://www.dm.usda.gov/procurement/policy/Fuel%20Advisory%20116A\\_04022015.pdf](https://www.dm.usda.gov/procurement/policy/Fuel%20Advisory%20116A_04022015.pdf).

**Procurement Advisory 123, Acquiring Rental Storage Space Short and Long Term with USDA Purchase Card,**

<https://www.dm.usda.gov/procurement/policy/Procurment%20Advisory%20123-Storage%20space.pdf>.

**Procurement Advisory 125, USDA Purchase Card Program – Mandatory, Annual Refresher Training Requirements,** <https://www.dm.usda.gov/procurement/policy/Procurment%20Advisory125.pdf>.

413.306 SF 44, Purchase Order-Invoice-Voucher.

The Standard Form 44 (and the previously prescribed USDA Form AD-744) is not authorized for use within USDA.

413.307 Forms.

Form AD-838, Purchase Order, is prescribed for use by USDA in lieu of Optional Forms (OFs) 347 and 348, except that use of the OF 347 and OF 348 is authorized when utilizing the USDA Integrated Acquisition System.

## SUBPART 413.5--SIMPLIFIED PROCEDURES FOR CERTAIN COMMERCIAL ITEMS

413.500 General.

FAR 13.500 (c) changed to read “Under 41 U.S.C. 1903, the simplified acquisition procedures authorized in this subpart may be used for acquisitions that do not exceed \$13 million when-

(1) The acquisition is for commercial items that, as determined by the head of the agency, are to be used in support of a contingency operation or to facilitate the defense against or recovery from **[cyber,] nuclear,**

biological, chemical, or radiological attack[; **international disaster assistance; or an emergency or major disaster,];** or

(2) The acquisition will be treated as an acquisition of commercial items in accordance with 12.102(f)(1)."

**Procurement Advisory 129, FAR Class Deviation to Exercise Special Emergency Procurement Authorities,**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%20129%20-%20FAR%20Class%20Deviation%20to%20Exercise%20Special%20Emergency%20Procurement%20Authorities.pdf>.

**Procurement Advisory 132, FAR Class Deviation to Increase the Micro-Purchase and the Simplified Acquisition Thresholds,**

[https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds_Final.pdf).

## PART 414--SEALED BIDDING

RESERVED

## PART 415--CONTRACTING BY NEGOTIATION

### SUBPART 415.2--SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION

415.207 Handling proposals and information.

(a) Throughout the source selection process, agency personnel and non-Government evaluators with access to proposal information shall disclose neither the number of offerors nor their identity except as authorized by FAR subpart 15.5. (See also FAR 5.403)

(b) The Contracting Officer shall obtain the following written agreement from the non-Government evaluator prior to the release of any proposal to that evaluator.

#### AGREEMENT GOVERNING THE USE AND DISCLOSURE OF PROPOSALS

RFP# \_\_\_\_\_

Offeror \_\_\_\_\_

1. To the best of my knowledge and belief, no conflict of interest exists that may diminish my capacity to perform an impartial and objective review of the offeror's proposal, or may otherwise result in a biased opinion or an unfair advantage. If a potential conflict of interest arises or if I identify such a conflict, I agree to notify the Government promptly concerning the potential conflict. In determining whether any potential conflict of interest exists, I agree to review whether my or my employer's relationships with other persons or entities, including, but not limited to, ownership of stocks, bonds, other outstanding financial interests or commitments, employment arrangements (past, present, or under consideration), and, to the extent known by me, all financial interests and employment arrangements of my spouse, minor children, and other members of my immediate household, may place me in a position of conflict, real or apparent, with the evaluation proceedings

2. I agree to use proposal information only for evaluation purposes. I understand that any authorized restriction on disclosure placed upon the proposal by the prospective contractor or subcontractor or by the Government shall be applied to any reproduction or abstracted information of the proposal. I agree to use my

best effort to safeguard such information physically, and not to disclose the contents of, or release any information relating to, the proposal(s) to anyone outside of the Source Evaluation Board or other panel assembled for this acquisition, the Contracting Officer, or other individuals designated by the Contracting Officer.

3. I agree to return to the Government all copies of proposals, as well as any abstracts, upon completion of the evaluation.

(Name and Organization)

(Date)

(End of provision)

(c) The release of a proposal to a non- Government evaluator for evaluation does not constitute the release of information for purposes of the Freedom of Information Act (5 U.S.C. 552).

(d) The Contracting Officer shall attach a cover page bearing the following notice: GOVERNMENT NOTICE FOR HANDLING PROPOSALS - This proposal shall be used and disclosed for evaluation purposes only. Attach a copy of this Government notice to every reproduction or abstract of the proposal. Any authorized restrictive notices which the submitter places on this proposal shall be strictly complied with.

Disclosure of this proposal outside the Government for evaluation purposes shall be made only to the extent authorized by, and in accordance with, FAR 3.104- 4, FAR 15.207, and AGAR 415.207.

## SUBPART 415.4--CONTRACT PRICING

415.403 Obtaining certified cost or pricing data.

### *415.403-4 Requiring Certified Cost or Pricing Data*

**Procurement Advisory 133, FAR Class Deviation to Increase the Threshold for Requiring Certified Cost or Pricing Data,**

[https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory133FAR\\_Class\\_Deviation\\_to\\_Increase\\_the\\_Threshold\\_for\\_Requiring\\_Certified\\_Cost\\_andPricingData.pdf](https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory133FAR_Class_Deviation_to_Increase_the_Threshold_for_Requiring_Certified_Cost_andPricingData.pdf).

415.404 Proposal Analysis.

### *415.404-4 Profit.*

(a) (1) USDA will use a structured approach to determine the profit or fee pre-negotiation objective in acquisition actions when price negotiation is based on cost analysis. (2) The following types of acquisitions are exempt from the requirements of the structured approach, but the Contracting Officer shall comply with FAR 15.404-4(d) when analyzing profit for these contracts or actions:

- (i) Architect-engineer contracts;
- (ii) Construction contracts;
- (iii) Contracts primarily requiring delivery of material supplied by subcontractors;
- (iv) Termination settlements; and
- (v) Cost-plus-award-fee contracts;

(b) Unless otherwise restricted by contracting activity procedures, the Contracting Officer may use another Federal agency's structured approach if that approach has been formalized and is maintained as part of that Agency's acquisition regulations (i.e., included in that Agency's assigned chapter of Title

48 of the Code of Federal Regulations).

(c) The HCA is responsible for establishing procedures to ensure compliance with this subpart.

## PART 416--TYPES OF CONTRACTS

### SUBPART 416.4--INCENTIVE CONTRACTS

416.405 Cost-reimbursement incentive contracts.

#### *416.405-2 Cost-plus-award-fee contracts.*

The HCA may designate an acquisition official other than the contracting officer as the fee determination official (FDO) to make the final determination of the award fee. The designated official must have warranted contracting authority at the same level as the contracting officer or higher, and shall not have participated in preparing the contractor performance evaluation. If the HCA does not designate an FDO, the chief of the contracting office shall act as the FDO.

### SUBPART 416.5--INDEFINITE DELIVERY CONTRACTS

416.505 Ordering.

The Chief, Procurement Policy Division, Office of Procurement and Property Management, has been designated as the Departmental Task Order Ombudsman. Contracting activity ombudsmen shall review and resolve complaints from contractors concerning task or delivery orders placed by the contracting activity. Any contractor who is not satisfied with the resolution of a complaint by a contracting activity ombudsman may request the Departmental Task Order Ombudsman to review the complaint.

Contracting officers are reminded that the value of options, including an option to extend, is to be included in the value of any justification needing to be approved.

The contracting officer shall amend a justification and obtain the required approvals when any of the following occur prior to award of a contract action:

- (1) The dollar value of the prospective contract action increases beyond the authority of the previous approving official.
- (2) A change in the competitive strategy further reduces competition.
- (3) A change in requirements affects the basis for the justification.

### SUBPART 416.7--AGREEMENTS

416.702 Basic Agreements.

**Procurement Advisory 101, Shared First Policy in USDA Contracts,**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%20101B.pdf>.

## PART 417--SPECIAL CONTRACTING METHODS

### SUBPART 417.2--OPTIONS

#### 417.202 Use of Options.

Effective immediately, contracting officers shall not use unpriced options in contracts. All options must be priced at the time of the original contract award.

**Procurement Advisory 117, Prohibition on Use of Unpriced Options,**

<https://www.dm.usda.gov/procurement/policy/Proc%20Adv%20117%20Unpriced%20Options%2005-15-2014.pdf>.

### SUBPART 417.5—INTERAGENCY ACQUISITIONS

#### 417.502 Procedures

##### *417.502-1 General.*

**Procurement Advisory 98, USDA Mandatory Source for Small Package Delivery Services-Next Generation Delivery Services (NGDS),**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2098D,%20Next%20Generati on%20Delivery%20Services.pdf>.

**Procurement Advisory 101, Shared First Policy in USDA Contracts,**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%20101B.pdf>.

**Procurement Advisory No. 135, FAR Class Deviation – Removal of Best Procurement Approach Determination for Interagency Acquisitions**

<https://www.dm.usda.gov/procurement/policy/advisories.htm>

## PART 418—EMERGENCY ACQUISITIONS

#### 418.001 Definition.

##### FAR DEVIATION

FAR 18.001 changed to read, "Emergency acquisition flexibilities", as used in this part, means flexibilities provided with respect to any acquisition of supplies or services by or for an executive agency that, as determined by the head of an executive agency, may be used-

(a) In support of a contingency operation as defined in 2.101;

(b) To facilitate the defense against or recovery from [**cyber,**] nuclear, biological, chemical, or radiological attack against the United States; or

**[(c) In support of a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate the provision of international disaster assistance; or]**

**(~~e~~)[d])** When the President issues an emergency declaration or a major disaster declaration."

### SUBPART 418.2 EMERGENCY ACQUISITION FLEXIBILITIES

#### 418.202 Defense or Recovery from Certain Attacks.

## FAR DEVIATION

FAR 18.202 changed to read, “Defense or recovery from certain attacks **[events]**.”

(a) Micro-purchase threshold. The threshold increases when the head of the agency determines the supplies or services are to be used to facilitate defense against or recovery from **[cyber,] nuclear, biological, chemical, or radiological attack[; International disaster assistance; or an emergency or major disaster]**. (See 2.101.)

(b) Simplified acquisition threshold. The threshold increases when the head of the agency determines the supplies or services are to be used to facilitate defense against or recovery from **[cyber,] nuclear, biological, chemical, or radiological attack[; international disaster assistance; or an emergency or major disaster]**. (See 2.101.)

(c) Commercial items to facilitate defense and recovery. Contracting officers may treat any acquisition of supplies or services as an acquisition of commercial items if the head of the agency determines the acquisition is to be used to facilitate the defense against or recovery from **[cyber,] nuclear, biological, chemical, or radiological attack**. (See 12.102(f)(1) and 13.500(c)**[2]**.)

(d) Simplified procedures for certain commercial items. The threshold limits authorized for use of this authority may be increased when it is determined the acquisition is to facilitate defense against or recovery from **[cyber,] nuclear, biological, chemical, or radiological attack [; international disaster assistance; or an emergency or major disaster]**. (See 13.500(c).)”

## PART 419--SMALL BUSINESS PROGRAMS

### SUBPART 419.2—POLICIES

#### 419.201 General Policy.

It is the policy of USDA to provide maximum practicable contracting and subcontracting opportunities to small business (SB), small disadvantaged business (SDB), HUBZone small business, women-owned business (WOB), veteran-owned small business (VOSB), and service-disabled veteran-owned small business (SDVOSB) concerns.

#### *419.201-70 Office of Small and Disadvantaged Business Utilization (OSDBU).*

The Office of Small and Disadvantaged Business Utilization (OSDBU) develops rules, policy, procedures and guidelines for the effective administration of USDA’s small business program that includes all categories named under Part 419.201.

#### *419.201-71 Small Business Coordinators.*

Supervisors of small business coordinators are encouraged to provide sufficient time for the coordinators to carry out their small business program duties. Coordinators’ duties shall include, but not be limited to, the following:

(a) Reviewing each proposed acquisition expected to exceed the simplified acquisition threshold prior to its solicitation. The coordinator shall:

(1) Recommend section 8(a), HUBZone, or SDVOSB action and identify potential contractors, or

(2) Identify available SDB, WOB, and VOSB to be solicited by competitive procedures. Coordinators shall document the contract file with recommendations made and actions taken.

(b) Participating in goal-setting procedures and planning activities and establishing aggressive SDB, WOB, and SDVOSB goals based on the annual review of advance acquisition plans.

(c) Participating in the review of those contracts which require the successful offeror to submit written plans for the utilization of small businesses as subcontractors to include all preference program areas in 419.201.

- (d) Ensuring that purchases exceeding \$2,500 and not exceeding the simplified acquisition threshold are reserved exclusively for small businesses, including all preference program areas named in 419.201. This policy shall be implemented unless the Contracting Officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods or services being purchased.
- (e) Maintaining comprehensive source listings of small businesses.
- (f) Upon written request, providing small businesses (in the preference program areas named in 419.201) the bidders' mailing lists of individuals receiving solicitations which will contain the subcontracting clause entitled "Utilization of Small Business Concerns" (FAR 52.219-8). These lists may be limited to those supplies or services of major interest to the requesting firms.
- (g) Developing a program of contacts with local, small (to include all preference program areas named in 419.201) trade, business, and professional associations and organizations and Indian tribal councils to apprise them of USDA's program needs and recurring contract requirements.
- (h) Periodically meeting with program managers to discuss requirements of the small business preference program, to explore the feasibility of breaking large complex requirements into smaller lots suitable for participation by small firms, and to encourage program managers to meet with these firms so that their capabilities can be demonstrated.
- (i) Establishing internal operating procedures which implement the requirements of the regulations as set forth in this Part 419.
- (j) Compiling data and preparing all reports pertaining to the small business program activities, and ensuring that these reports are accurate, complete and up-to-date.
- (k) Assisting and counseling small business firms.
- (l) Reviewing proposed large contract requirements that may be bundled to determine the potential for breaking out components suitable for purchase from small business firms.
- (m) Ensuring that the SBA Resident Procurement Center Representative (PCR) is provided an opportunity and reasonable time to review any solicitation that meets the dollar threshold for small business (including all preference program areas named in 419.201) subcontracting plans.

#### 419.203 Relationship Among Small Business Programs.

#### **Procurement Advisory 132, FAR Class Deviation to Increase the Micro-Purchase and the Simplified Acquisition Thresholds,**

[https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds_Final.pdf).

### SUBPART 419.4—COOPERATION WITH THE SMALL BUSINESS ADMINISTRATION

#### 419.401 General.

#### **Procurement Advisory 71, Partnership Agreement between The US Small Business Administration and the US Department of Agriculture,**

<https://www.dm.usda.gov/procurement/policy/docs/Proc%20Adv%20071%20C.pdf>.

### SUBPART 419.5--SET-ASIDES FOR SMALL BUSINESS

#### 419.502 Setting Aside Acquisitions

**Procurement Advisory 132, FAR Class Deviation to Increase the Micro-Purchase and the Simplified Acquisition Thresholds,**

[https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds_Final.pdf).

#### 419.508 Solicitation provisions and contract clauses.

**Procurement Advisory 132, FAR Class Deviation to Increase the Micro-Purchase and the Simplified Acquisition Thresholds,**

[https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds_Final.pdf).

### SUBPART 419.6—CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF RESPONSIBILITY

#### 419.602 Procedures.

*419.602-1 Referral.*

Contracting Officers shall refer determinations of non-responsibility regarding small businesses directly to the SBA Regional Office servicing the location where the contractor's office (home) is located.

## PART 422--APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

### SUBPART 422.1--BASIC LABOR POLICIES

#### 422.103 Overtime.

*422.103-4 Approvals.*

Requests for the use of overtime shall be approved by an acquisition official at a level above the contracting officer in accordance with the procedures in FAR 22.103-4(a) and (b).

### SUBPART 422.8--EQUAL EMPLOYMENT OPPORTUNITY

#### 422.803 Responsibilities.

The contracting office shall submit questions involving the applicability of Executive Order 11246 and FAR subpart 22.8 through the HCA to the SPE for resolution.

#### 422.807 Exemptions.

The Contracting Officer shall submit requests for exemptions under FAR 22.807(a)(1), (a)(2), and (b)(5) through the HCA to the SPE for determination by the Assistant Secretary for Administration or referral to the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor, as appropriate.

## SUBPART 422.10—SERVICE CONTRACT LABOR STANDARDS

### 422.1003 Applicability.

When purchasing services that are exempt from Service Contract Labor Standards, micro-purchase procedures are authorized up to the threshold in FAR 2.101 as authorized by the MASCO.

In accordance with FAR 22.1003-4(d), the buyer of exempted services must include in the transaction file information in the Service Contract Labor Standards Exemption Documentation template, signed by the vendor certifying exemption conditions are met.

[Template for Service Contract Labor Standards Exemption Documentation](#)

## SUBPART 422.13—EQUAL OPPORTUNITY FOR VETERANS

### 422.1305 Waivers.

(b) The Contracting Officer shall submit requests for exemptions under FAR 22.1305(a) and (b) through the HCA to the SPE for determination by the Assistant Secretary for Administration or referral to the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor, as appropriate.

### 422.1308 Complaint Procedures.

The Contracting Officer shall forward complaints received about the administration of the Vietnam Era Veterans Readjustment Assistance Act directly to the Department of Labor as prescribed in FAR 22.1308.

## SUBPART 422.14--EMPLOYMENT OF WORKERS WITH DISABILITIES

### 422.1403 Waivers.

(b) The Contracting Officer shall submit requests for waivers through the HCA to the SPE for determination by the Assistant Secretary for Administration.

### 422.1406 Complaint Procedures.

The Contracting Officer shall forward complaints received about the administration of Section 503 of the Rehabilitation Act of 1973, as amended, directly to the OFCCP as prescribed in FAR 22.1406.

## PART 423--ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

### SUBPART 423.2--ENERGY AND WATER EFFICIENCY AND RENEWABLE ENERGY

#### 423.202 Policy.

Information on Energy Star, energy efficient, water efficient, and low standby products covered by this policy is available via the Internet at <http://www.eere.energy.gov/femp/technologies/eeproducts.cfm>.

### SUBPART 423.4--USE OF RECOVERED MATERIALS

#### 423.403 Policy.

It is the policy of USDA to acquire and use Environmental Protection Agency (EPA) designated recycled content products.

#### 423.405 Procedures

(a) The threshold of purchase for EPA designated items is \$10,000 per year at the USDA departmental, not individual agency, level. Therefore, the APP requirements above, including the 100% purchase requirement, apply at the individual agency and staff office level.

(b) Contracting Officers should refer to EPA's list of designated products and products identified as recycled content when purchasing supplies or services. Information on EPA designated products is available at: [www.epa.gov/cpg/products.htm](http://www.epa.gov/cpg/products.htm).

(c) All agencies and USDA Contracting Officers must take necessary actions to carry out the provisions of the USDA APP policy described in this subpart.

#### **Procurement Advisory, 82, USDA BioPreferred Program – Designated Biobased Items for Contract Requirements,**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2082A-Final.pdf>.

### SUBPART 423.5--DRUG-FREE WORKPLACE

423.506 Suspension of payments, termination of contract, and debarment and suspension actions.

(a) The contracting officer may recommend waiver of the determination to suspend payments, to terminate a contract, or to debar or to suspend a contractor.

(b) The recommendation shall be submitted through the HCA to the SPE and shall include a full description of the disruption of USDA operations should the determination not be waived.

### SUBPART 423.7--CONTRACTING FOR ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES

#### 423.703 Policy.

(a) USDA's Affirmative Procurement Program promotes energy-efficiency, water conservation, and the acquisition of environmentally preferable products and services. In its acquisitions, USDA will support federal "green purchasing" principles in the acquisition of products and services that are environmentally preferable or that are biobased content products and services.

(b) USDA agencies will actively promote this preference for environmentally preferable products and biobased products in contacts with vendors, in written materials, and other appropriate opportunities.

## PART 424--PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

### SUBPART 424.1--PROTECTION OF INDIVIDUAL PRIVACY

#### 424.103 Procedures.

USDA regulations implementing the Privacy Act are found in 7 CFR, Subtitle A, Part 1, Subpart G. Contracting Officers shall follow these regulations when responding to requests for information or awarding contracts that will involve the design, development, or operation of a system of records on individuals to accomplish agency functions.

### SUBPART 424.2--FREEDOM OF INFORMATION ACT

#### 424.203 Policy.

USDA regulations implementing the Freedom of Information Act are found in 7 CFR, Subtitle A, Part 1, Subpart A. Contracting Officers shall follow these regulations when responding to requests for information.

## PART 425--FOREIGN ACQUISITION

### SUBPART 425.1--BUY AMERICAN--SUPPLIES

#### 425.103 Exceptions.

Copies of determinations of non-availability in accordance with FAR 25.103(b)(2) or 25.202(a)(2), for articles, material or supplies not listed in FAR 25.104, may be submitted to the SPE for submission to the Civilian Agency Acquisition Council (CAAC).

#### 425.104 Nonavailable Articles.

Information required by FAR 25.104(b) shall be submitted to the SPE for submission to the CAAC.

#### 425.105 Determining Reasonableness of Cost.

Requests for determination by the SPE shall be submitted by the HCA, in writing, and shall provide a detailed justification supporting why evaluation factors higher than those listed in FAR 25.102(b)(1) and (2) should be applied to determine whether the offered price of a domestic end product is unreasonable.

### SUBPART 425.2--BUY AMERICAN--CONSTRUCTION MATERIALS

#### 425.202 Exceptions.

If a Contracting Officer proposes that the use of a particular domestic construction material should be waived for a contract on the grounds that its use would be impracticable, the Contracting Officer shall submit a proposed determination with supporting information through the HCA to the SPE for approval or disapproval.

## PART 426—OTHER SCIOECONOMIC PROGRAMS

### SUBPART 426.2—DISASTER OR EMERGENCY ASSISTANCE ACTIVITIES

426.202 Local Area Preference.

#### FAR DEVIATION

FAR 26.202 changed to read, “[a)] When awarding emergency response contracts during the term of a major disaster or emergency declaration by the President of the United States under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, et seq.), preference shall be given, to the extent feasible and practicable, to local firms. Preference may be given through a local area set-aside or an evaluation preference.

[(b) When using the authority under the Stafford Act, see 2.101 for the authority to increase the micro-purchase and simplified acquisition thresholds.]”

## PART 427--PATENTS, DATA AND COPYRIGHTS

RESERVED

## PART 428--BONDS AND INSURANCE

### SUBPART 428.2--SURETIES AND OTHER SECURITY FOR BONDS

428.202 Acceptability of Corporate Sureties.

The Department of the Treasury listing of approved sureties is available at:  
[https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm).

428.203 Acceptability of Individual Sureties.

Evidence of possible criminal or fraudulent activities by an individual surety shall be reported to the Office of Inspector General in accordance with Departmental Regulations (1700 series).

### SUBPART 428.3--INSURANCE

428.307 Insurance Under Cost-Reimbursement Contracts. Under cost-reimbursement contracts, before buying insurance under a group insurance plan, the contractor shall submit the plan to the contracting officer for review. During review, the contracting officer shall use all sources of information available, such as audits, industry practice, or other sources of information, to determine whether acceptance of the plan submitted would be in the Government's best interest.

428.370 Government-Owned Vehicles Operated In Foreign Countries.

USDA is authorized to obtain insurance to cover liability incurred by any of its employees while acting within the scope of their employment and operating a Government-owned vehicle in a foreign country. (7 U.S.C. 2262).

## PART 429--TAXES

RESERVED

## PART 430---COST ACCOUNTING STANDARDS ADMINISTRATION

### SUBPART 430.2--CAS PROGRAM REQUIREMENTS

430.201 Contract Requirements.

*430.201-4 Contract Clauses.*

#### FAR DEVIATION

FAR 30.201-4 (b)(1) changed to read, "Insert the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, in negotiated contracts when the contract amount is over ~~\$750,000~~ [\$2,000,000], but less than \$50 million, and the offeror certifies it is eligible for and elects to use modified CAS coverage (see 48 CFR 9903.201-2 (FAR Appendix)), unless the clause prescribed in paragraph (c) of this subsection is used."

430.201-5 Waiver.

Contracting Officers shall prepare waiver requests in accordance with 48 CFR Chapter 99 (Appendix B, FAR loose-leaf edition), Subsection 9903.201-5, and submit them to the SPE through the Head of the Contracting Activity (HCA).

430.202 Disclosure Requirements.

*430.202-2 Impracticality of Submission.*

(a) The request for this determination is to be prepared in accordance with FAR Part 99 (Appendix B), Subsection 9903.202-2 and is to contain the proposed report to the CASB.

(b) Requests for a determination under paragraph (a) of this section shall be prepared by the Contracting Officer and submitted through the HCA to the SPE for concurrence and submittal to the Secretary.

*430.202-8 Subcontractor Disclosure Statements.*

Requests for this determination are to be prepared and forwarded as described in 430.202-2.

## PART 431--CONTRACT COST PRINCIPLES AND PROCEDURES

### SUBPART 431.1--APPLICABILITY

431.101 Objectives.

Requests for advance approval of class deviations concerning cost principles must be submitted to the SPE through the HCA.

## PART 432--CONTRACT FINANCING

432.003 Simplified acquisition procedures financing.

(a) The chief of the contracting office may approve contract financing on a contract to be entered under the simplified acquisition procedures. Class approvals may not be made.

(b) The signed approval must contain the supporting rationale for the action and an estimate of the cost and/or risk to the government.

432.006 Reduction or suspension of contract payments upon finding of fraud.

#### *432.006-3 Responsibilities.*

When a contracting officer suspects that a request for advance, partial, or progress payment is based on fraud, the request shall be referred directly to the Office of Inspector General (OIG) in accordance with their instructions. A copy of the referral shall be submitted through the Head of the Contracting Activity (HCA) to the Senior Procurement Executive (SPE).

#### *432.006-4 Procedures.*

- (a) Immediately upon submittal of the referral described in 432.006-3, the HCA and the Contracting Officer shall confer with the SPE and representatives of the OIG to discuss the potential for reduction or suspension of further payments based on the considerations listed in FAR 32.006-4(d)(1) through (5).
- (b) The SPE will determine whether the contractor has contracts with other Departments or contracting activities and will involve them, as necessary, in the decision making process.
- (c) The OIG will determine the need for and the extent of an investigation.
- (d) Immediately upon completion of the OIG investigation (or, if deemed necessary by the OIG and the SPE, before completion of the investigation) the SPE, in coordination with the HCA, the Contracting Officer, and the OIG, shall make a report on the action to the RCO.
- (e) Upon receipt of the report, the RCO will submit a recommendation to the Secretary.
- (f) Upon receipt of the RCO's report the Secretary will:
  - (1) notify the contractor in writing, allowing 30 calendar days after receipt of the notice, that the contractor may submit in writing information and arguments in opposition to the recommendation; and
  - (2) consider the RCO's recommendation, the SPE's report, the response of the contractor, and any other relevant information in order to make an appropriate final determination.
- (g) This determination will be provided to the contractor and to the SPE for distribution to the agencies involved and for appropriate action under the determination.
- (h) The determination and the supporting documentation will be placed in the contract file(s) and a copy will be maintained by the SPE.
- (i) The Contracting Officer will advise the SPE of the actual date of the reduction or suspension action.
- (j) Not later than 150 calendar days after the actual date of the reduction or suspension action, the SPE will prepare for the RCO a review of the agency head's determination, and will propose a recommendation from the RCO to the agency head as to whether the reduction or suspension action should continue. The RCO will submit the recommendation (including a recommendation for the time period of a follow up review) to the agency head. This recommendation will be considered by the Secretary and handled as a final action described in paragraph (f) of this section.
- (k) The contract may not be closed nor final payment made prior to a final determination by the Secretary.

### **SUBPART 432.1--NON-COMMERCIAL ITEM PURCHASE FINANCING**

#### *432.102 Description of contract financing methods.*

Progress payments based on a percentage or stage of completion are authorized for use as a payment method under USDA contracts or subcontracts for construction, alteration or repair, and shipbuilding and conversion. Such payments also are authorized for service contracts, if the Contracting Officer determines that progress payments based on costs are not practicable and adequate safeguards are provided to administer progress payments based on a percentage or stage of completion. For all other contracts, progress payment provisions shall be based on costs except that the HCA may authorize progress payments based on a percentage or stage of completion on a case-by-case basis. Each authorization by the HCA shall include a determination and

finding that progress payments based on costs cannot be employed practically and that there are adequate safeguards provided for the administration of progress payments based on a percentage or stage of completion.

#### 432.103 Progress payments under construction contracts.

(a) When approving a progress payment under a construction contract, the contracting officer shall indicate the amount to be paid by the payment office and include in the contract file the rationale in support of the payment.

(b) When a retainage is made on a progress payment under a construction contract, the contracting officer shall place in the contract file a written determination stating the reason(s) for the retainage.

(c) When a progress payment under a construction contract has been approved, the amount to be paid, the amount of any retainage withheld, and the reason(s) for the retainage shall be provided to the contractor by the contracting officer in writing before the payment due date.

(d) When the contractor, under a fixed-price construction contract, furnishes evidence to the contracting officer that the surety has been paid in full for bond premiums and requests reimbursement, the first subsequent progress payment shall include the total amount attributable to such bond premiums and the Government shall pay that amount in full. This amount paid for the bond premiums is not an amount in addition to the stated contract price.

#### 432.113 Customary contract financing.

The contracting officer may determine the necessity for customary contract financing. The determination and finding that customary contract financing is needed shall be placed in the contract file.

#### 432.114 Unusual contract financing.

The signed determination and finding supporting this approval shall be included in the contract file.

### SUBPART 432.2--COMMERCIAL ITEM PURCHASE FINANCING

#### 432.202 General.

##### *432.202-1 Policy.*

In the case of unusual contract financing, the approval by the HCA shall be recorded in a determination and finding and maintained in the contract file.

##### *432.202-4 Security for Government financing.*

Prior to determining that an offeror's financial condition is adequate security, the Contracting Officer must obtain the concurrence of the funding activity in the proposed determination.

#### 432.207 Administration and payment of commercial financing payments.

The responsibility for receiving, reviewing, and approval of contract financing requests may not be transferred from the contracting officer.

## SUBPART 432.4--ADVANCE PAYMENTS FOR NON-COMMERCIAL ITEMS

432.407 Interest.

The signed determination and findings supporting these authorizations shall be included in the contract files.

## SUBPART 432.6—CONTRACT DEBTS

432.601 Definition.

"Responsible official" means the contracting officer.

432.616 Compromise actions.

Compromise of a debt within the proceedings under appeal to the Board of Contract Appeals is the responsibility of the Contracting Officer.

## SUBPART 432.7—CONTRACT FUNDING

32.703 Contract funding requirements.

**Procurement Advisory 134, Incrementally Funded Fixed-Price Contracts,**

<https://www.dm.usda.gov/procurement/policy/advisories.htm>

32.706 Contract clauses.

LIMITATION OF GOVERNMENT'S OBLIGATION (SEPT 2018)

**Procurement Advisory 134, Incrementally Funded Fixed-Price Contracts,**

<https://www.dm.usda.gov/procurement/policy/advisories.htm>

## SUBPART 432.8--ASSIGNMENT OF CLAIMS

432.805 Procedure.

The information described in FAR 32.805 shall be filed with the Contracting Officer.

## SUBPART 432.10---PERFORMANCE-BASED PAYMENTS

432.1007 Administration and payment of performance-based payments.

The responsibility for receiving, reviewing, and approval of performance-based payment requests may not be transferred from the contracting officer.

## SUBPART 432.11---ELECTRONIC FUNDS TRANSFER

432.1108 Payment by Governmentwide Commercial Purchase Card.

Agencies and cardholders may not use convenience checks for purchases or payments unless an applicable Treasury check waiver allows such use.

**Procurement Advisory 52, Prohibitions on Using Convenience Checks for Purchases or Payments,**  
<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2052A.pdf>.

USDA procurement personnel are reminded to ensure that appropriate information is entered into the Electronic Access System (EAS) (i.e., the correct accounting code(s) and Budget Object Classification Code (BOC)).

**Procurement Advisory 55, Reminder Regarding the Use of Purchase Cards to Acquire Personal Property Costing \$5,000 or More and Agency-Determined Sensitive Property,**  
[https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2055A\\_Final07102017.pdf](https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2055A_Final07102017.pdf).

## PART 433--PROTESTS, DISPUTES AND APPEALS

### SUBPART 433.1--PROTESTS

433.102 General.

433.103 Protests to the agency.

When a protest is received, the adjudicating official shall take prompt action towards resolution and notify the protester in writing of the action taken. The written final decision shall include a paragraph substantially as follows:

This decision shall be final and conclusive unless a further written notice of protest is filed with the Government Accountability Office in accordance with 4 CFR Part 21. Neither the filing of a protest with USDA nor the filing of a protest with the Government Accountability Office affects your right to file an action in a district court of the United States or the United States Court of Federal Claims.

### SUBPART 433.2--DISPUTES AND APPEALS

433.209 Suspected fraudulent claims.

The Contracting Officer shall refer all matters related to suspected fraudulent claims by a contractor under the conditions in FAR 33.209 to the Office of Inspector General for additional action or investigation.

## PART 434--MAJOR SYSTEM ACQUISITION

### SUBPART 434.0--GENERAL

434.002 Policy.

**Procurement Advisory 130, Acquisition Planning and Major System Reviews,**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory-%20130A.pdf>.

434.004 Acquisition Strategy.

(a) The program manager will develop, in coordination with the Acquisition Executive or Major Information Technology Systems Executive, a written charter outlining the authority, responsibility, accountability, and budget for accomplishing the proposed objective.

(b) The program manager will develop, subject to the approval of the Acquisition Executive or Major Information Technology Systems Executive, a project control system to schedule, monitor, and regularly report on all aspects of the project. The control system shall establish reporting periods and milestones consistent with the key decisions listed in paragraph 9 of A-109.

(c) Upon initiation of the project, the program manager will report regularly to the Acquisition Executive or Major Information Technology Systems Executive.

(d) Specific procedures and requirements for information technology systems are included in the USDA Information Technology Capital Planning and Investment Control Guide which can be accessed on the USDA OCIO Website at <http://www.ocio.usda.gov>.

## SUBPART 434.2—EARNED VALUE MANAGEMENT SYSTEM

**Procurement Advisory 80, Requirement for User of an Earned Value Management System (EVMS),**

<https://www.dm.usda.gov/procurement/policy/docs/Proc%20Adv%20080.pdf>.

## PART 435--RESEARCH AND DEVELOPMENT CONTRACTING

### SUBPART 435.017 FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

#### FAR DEVIATION

FAR 35.017-3 changed to read, "(b) Where the use of the FFRDC by a nonsponsor is permitted by the sponsor, the sponsor shall be responsible for compliance with paragraph (a) of this subsection.

(1) The nonsponsoring agency shall ~~prepare a determination in accordance with 17.502-1(a) and~~ provide the documentation required by 17.503(e) to the sponsoring agency.

(2) When a D&F is required pursuant to 17.502-2(c), the nonsponsoring agency ~~may incorporate the determination required by 17.502-1(a) into~~ **[shall prepare]** the D&F and provide the documentation required by 17.503(e) to the sponsoring agency.

(3) When permitted by the sponsor, a Federal agency may contract directly with the FFRDC, in which case that Federal agency is responsible for compliance with part 6."

## PART 436--CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

### SUBPART 436.2—SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION

#### 436.201 Evaluation of contractor performance.

Preparation of performance evaluation reports. In addition to the requirements of FAR 36.201, performance evaluation reports shall be prepared for indefinite-delivery type contracts when either the contract maximum or the contracting activity's reasonable estimate of services to be ordered exceeds \$500,000.00. For these contracts, performance evaluation reports shall be prepared for each order at the time of final acceptance of the work under the order.

#### 436.203 Government estimate of construction costs.

For acquisitions using sealed bid procedures, the Contracting Officer may disclose the overall amount of the Government's estimate of construction costs following identification of the responsive bid most advantageous to the Government; verification of that bid's price reasonableness; and verification of the bidder's responsibility. For acquisitions using other than sealed bid procedures (e.g., negotiation), the Contracting Officer may disclose the overall amount of the estimate after contract award.

#### 436.204 Disclosure of the magnitude of construction projects.

In the case of indefinite-delivery type contracts, the reasonable estimate of work to be done or the maximum in the solicitation, both including all options, is to be used to select the price range. Contracting Officers may elect to use both a price range for the base period of services and the total, inclusive of options, to best describe the magnitude of the solicitation.

### SUBPART 436.5--CONTRACT CLAUSES

#### 436.575 Maximum workweek-construction schedule.

**Procurement Advisory 113, Discontinuance of a Provision and a Clause from the AGAR,**  
<https://www.dm.usda.gov/procurement/policy/docs/Proc%20Adv%20113.pdf>.

### SUBPART 436.6--ARCHITECT- ENGINEER SERVICES

#### 436.601 Policy.

##### *436.601-3 Applicable contracting procedures.*

The technical official's listing of areas where recovered materials cannot be used shall be referred to the contracting activity's official designated in accordance with FAR 23.404. A copy of the listing and of any approval or disapproval by that official is to be retained in the solicitation file.

#### 436.602 Selection of firms for architect-engineer contracts.

##### *436.602-2 Evaluation boards.*

The procedures may provide for the appointment of private practitioners of architecture, engineering, or related professions when such action is determined by the HCA to be essential to meet the Government's minimum needs.

*436.602-3 Evaluation board functions.*

The selection report required in FAR 36.602-3(d) shall be prepared for the approval of the HCA. The HCA may authorize an acquisition official above the level of the Contracting Officer to execute the required approval.

*436.602-4 Selection authority.*

A copy of the final selection, inclusive of the supporting documents, shall be provided to the Contracting Officer and maintained in the solicitation file.

*436.603 Collecting data on and appraising firms' qualifications.*

The procedures shall include a list of names, addresses, and phone numbers of offices or boards assigned to maintain architect-engineer qualification data files. The list shall be updated annually.

*436.604 Performance evaluation.*

Preparation of performance evaluation reports. (a) In addition to the requirements of FAR 36.604, performance evaluation reports shall be prepared for indefinite-delivery type contracts when either the contract maximum or the contracting activities reasonable estimate of services to be ordered exceeds \$25,000.00. For these contracts, performance evaluation reports shall be prepared for each order at the time of final acceptance of the work under the order. (b) The Contracting Officer may require a performance evaluation report on the work done by the architect-engineer after the completion of or during the construction of the designed project.

*436.605 Government cost estimate for architect-engineer work.*

The Contracting Officer may release the Government's total cost estimate in accordance with FAR 36.605(b).

*436.609 Contract clauses.*

*436.609-1 Design within funding limitations.*

A copy of the determinations described in paragraphs (a) and (b) of this section of the AGAR shall be maintained in the contract file.

## PART 437--SERVICE CONTRACTING

### SUBPART 437.2--ADVISORY AND ASSISTANCE SERVICES

*437.203 Policy.*

Contracting for advisory and assistance services is subject to the policy and procedures in Departmental Regulations (5000 series).

**Procurement Advisory 91, Review of Advisory and Assistance Services and All Professional Services,**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2091D.pdf>.

**Procurement Advisory 91, Attachment A,**

<https://www.dm.usda.gov/procurement/policy/docs/Attach%20A%20to%20Proc%20Adv%2091C%20%2062014.pdf>.

437.204 Guidelines for determining availability of personnel.

Each such decision shall be supported by a written determination in accordance with FAR 37.204.

## PART 438—FEDERAL SUPPLY SCHEDULE CONTRACTING

RESERVED

## PART 439—ACQUISITION OF INFORMATION TECHNOLOGY

### SUBPART 439.1--GENERAL

439.101 Policy.

(a) In addition to policy and regulatory guidance contained in the FAR and AGAR:

(1) The USDA Information Technology Capital Planning and Investment Control Guide (CPIC) establishes requirements for the acquisition of information technology.

(2) Specific thresholds at which USDA Office of the Chief Information Officer Information Technology Acquisition Approval is required have been established.

(3) The procurement authority delegated to USDA Agencies is established in Departmental Regulations 5000 series.

(4) The CPIC Guide and USDA CIO policy and procedural guidance are available on the USDA OCIO Website at <http://www.ocio.usda.gov>. Notices of changes in the Information Technology Acquisition Approval Thresholds are also promulgated by AGAR Advisory.

(b) Acquisition of on-line courseware libraries and learning management system services requires specific approval of the ASA and CIO. Information regarding the specific approval requirements and processes is promulgated by AGAR Advisory.

**Procurement Advisory 49, Implementation of Section 508 of the Rehabilitation Act of 1973, as Amended,** <https://www.dm.usda.gov/procurement/policy/docs/AGARAD49.pdf>.

**Procurement Advisory 53, Procurement Procedure for Information Technology Acquisition Approval Request (AAR),** <https://www.dm.usda.gov/procurement/policy/docs/Proc%20Advisory%2053A.pdf>.

**Procurement Advisory 58, Partially Removes the Prohibition on Use of the Purchase Card To Acquire Telecommunications,** <https://www.dm.usda.gov/procurement/policy/docs/Proc%20Advisory%2058B%2006-05-2014%20.pdf>.

**Procurement Advisory 121, Procurement of Communications / Information Products and Services,** <https://www.dm.usda.gov/procurement/policy/Proc%20Advisory%20121%20Communication%2012-19-2014.pdf>.

**Procurement Advisory 127, Acquiring Information Technology - Recommended Language to Comply with Internet Protocol version 6 (IPv6),** <https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory127.pdf>.

## PART 441--ACQUISITION OF UTILITY SERVICES

RESERVED

## PART 442--CONTRACT ADMINISTRATION AND AUDIT SERVICES

### SUBPART 442.1--INTERAGENCY CONTRACT ADMINISTRATION AND AUDIT SERVICES

#### 442.102 Procedures.

- (a) The Office of Inspector General (OIG), Audit Division, has established a cross-servicing arrangement with the Defense Contract Audit Agency (DCAA) to provide contract audit services required by the FAR.
- (b) All contract audit services required by Contracting Officers, except those which can be accomplished in-house, shall be coordinated through the cognizant OIG Regional Inspector General--Auditing (RIG-A). Cognizance is determined on the basis of the contractor's location. There is no charge for DCAA audit services coordinated through OIG.
- (c) In order to ensure compliance with this requirement and to evaluate the results of audits, Contracting Officers shall forward to the RIG-A copies of all price negotiation memoranda prepared for contracts and contract modifications in excess of \$500,000.

### SUBPART 442.7—INDIRECT COST RATES

#### 442.703 General

##### *42.703.2 Certificate of Indirect Costs.*

**Procurement Advisory 133, FAR Class Deviation to Increase the Threshold for Requiring Certified Cost or Pricing Data,**

[https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory133FAR\\_Class\\_Deviation\\_to\\_Increase\\_the\\_Threshold\\_for\\_Requiring\\_Certified\\_Cost\\_andPricingData.pdf](https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory133FAR_Class_Deviation_to_Increase_the_Threshold_for_Requiring_Certified_Cost_andPricingData.pdf).

#### 442.708 Quick Closeout Procedure.

**Procurement Advisory 93, Contract Closeout Procedures,**

[https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory%2093C\\_Contract%20Closeout%20Procedures\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory%2093C_Contract%20Closeout%20Procedures_Final.pdf).

### SUBPART 442.15--CONTRACTOR PERFORMANCE INFORMATION

#### 442.1502 Policy.

The Contractor Performance System (CPS), developed by the National Institutes of Health, is designated as the single USDA-wide system for maintaining contractor performance/ evaluation information. Use of the CPS is mandatory. As a minimum, the CPS shall be accessed for contractor past performance information as part of proposal evaluation in accordance with FAR part 15.3, and information resulting from the evaluation of contractor performance in accordance with FAR part 42.15 shall be entered into and maintained in this system. The CPS is part of the USDA Acquisition Toolkit which can be accessed from the USDA Procurement Homepage at <http://www.usda.gov/procurement/>.

**Procurement Advisory 96, Contractor Performance Information and Contractor Performance Assessment Reporting System (CPARS) Evaluations,**

[https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2096B\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2096B_Final.pdf).

## PART 443--CONTRACT MODIFICATIONS

### SUBPART 443.1--GENERAL

#### 443.102 Policy.

1. Do not grant time extensions for the contractor's convenience or without justification. Consider the effect of all contract modifications on contract performance time and document the reasons for any time extension in the contract file. Granting additional contract time has value to the contractor and is also a change to contract terms and conditions; therefore, grant only in exchange for consideration to the Government.
2. If a time extension was granted on a contract, negotiate a price reduction or another form of consideration.
3. When negotiating the reduction, calculate additional Contracting Officer and Contracting Officer Representative (COR) costs; include travel expenses to administer the contract and any direct costs incurred to the government due to the time extension.
4. Contracting Officers (COs) have authority to grant time extensions but may not delegate this authority to others.
5. The COR reviews the written requests from the contractor; ensures requests specify the length of time, and the stated circumstances warrant an extension.
6. The COR forwards the requests, along with the COR's recommendation, to the CO for a determination.

### SUBPART 443.2—CHANGE ORDERS

#### 443.201 General

A constructive change occurs when a contractor performs work different from what is prescribed by the terms of the contract, and the government ordered such work by other than formal change order, or such work was the result of an error by the CO or designated representative. The COR shall immediately forward the CO any written notification from the contractor, which indicates the contractor considered an oral order to be a change.

## PART 445--GOVERNMENT PROPERTY

### SUBPART 445.1—GENERAL

#### 445.103 General

**Procurement Advisory 55, Reminder Regarding the Use of Purchase Cards to Acquire Personal Property Costing \$5,000 or More and Agency-Determined Sensitive Property,**

[https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2055A\\_Final07102017.pdf](https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%2055A_Final07102017.pdf).

**Procurement Advisory 93, Contract Closeout Procedures,**

[https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory%2093C\\_Contract%20Closeout%20Procedures\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/Procurement%20Advisory%2093C_Contract%20Closeout%20Procedures_Final.pdf).

## PART 446--QUALITY ASSURANCE

## PART 447—TRANSPORTATION

RESERVED

## PART 449--TERMINATION OF CONTRACTS

### SUBPART 449.1--GENERAL PRINCIPLES

449.106 Fraud or Other Criminal Conduct.

(a) If the Contracting Officer suspects fraud or other criminal conduct a written report documenting the facts shall be submitted by the head of the contracting activity (HCA) to the Office of Inspector General. Copies of documents or other information connected with the suspected fraud or criminal conduct shall be provided with the report. Concurrently, a copy of the report shall also be submitted to the Senior Procurement Executive.

(b) Depending on the findings of the Office of Inspector General, the HCA may initiate suspension or debarment action as prescribed in FAR 9.4 and AGAR 409.4.

449.111 Review of Proposed Settlements.

Proposed settlement agreements shall be reviewed and approved by the Mission Area Senior Contracting Official.

### SUBPART 449.4--TERMINATION FOR DEFAULT

449.402 Termination of Fixed-Price Contracts for Default. In addition to the requirements of FAR 49.402-3(g), the notice of termination shall contain instructions regarding the disposition of any Government property in the possession of the contractor (see FAR 45.602-1) and, in the case of construction contracts, such materials, appliances, and structures as may be on the site of the construction work. The notice shall also contain a statement concerning the liability of the contractor or its surety for any liquidated damages (see FAR 49.402-7).

## PART 450--EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

RESERVED

## PART 451—USE OF GOVERNMENT SOURCES BY CONTRACTORS

RESERVED

## PART 452--SOLICITATION PROVISIONS AND CONTRACT CLAUSES

**Procurement Advisory 80, Requirement for Use of an Earned Value Management System (EVMS),**

<https://www.dm.usda.gov/procurement/policy/docs/Proc%20Adv%20080.pdf>.

**Procurement Advisory 113, Discontinuance of a Provision and a Clause from the AGAR,**

<https://www.dm.usda.gov/procurement/policy/docs/Proc%20Adv%20113.pdf>.

**Procurement Advisory 129, FAR Class Deviation to Exercise Special Emergency Procurement Authorities,**

<https://www.dm.usda.gov/procurement/policy/docs/Procurement%20Advisory%20129%20-%20FAR%20Class%20Deviation%20to%20Exercise%20Special%20Emergency%20Procurement%20Authorities.pdf>.

**Procurement Advisory 132, FAR Class Deviation to Increase the Micro-Purchase and the Simplified Acquisition Thresholds,**

[https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds\\_Final.pdf](https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory132,FARClassDeviationtoIncreaseTheMicro-PurchaseandSimplifiedAcquisitionThresholds_Final.pdf).

**Procurement Advisory 133, FAR Class Deviation to Increase the Threshold for Requiring Certified Cost or Pricing Data,**

[https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory133FAR\\_Class\\_Deviation\\_to\\_Increase\\_the\\_Threshold\\_for\\_Requiring\\_Certified\\_Cost\\_andPricingData.pdf](https://www.dm.usda.gov/procurement/policy/docs/ProcurementAdvisory133FAR_Class_Deviation_to_Increase_the_Threshold_for_Requiring_Certified_Cost_andPricingData.pdf).

## AGAR PGI APPENDIX A- UNAUTHORIZED COMMITMENT PROCEDURES

### **BACKGROUND:**

FAR 1.602-3(b) requires agencies to take positive action to preclude the need for ratification actions. Although procedures are available in cases where it is necessary to ratify an unauthorized commitment, these procedures may not be used in a manner that encourages such commitments being made by Government personnel.

FAR 1.602-3(c) further stipulates that ratification authority may be exercised only when the following conditions are met:

- (1) Supplies or services have been provided to and accepted by the Government, or the Government otherwise has obtained or will obtain a benefit resulting from performance of the unauthorized commitment;
- (2) The ratifying official has the authority to enter into a contractual commitment;
- (3) The resulting contract would otherwise have been proper if made by an appropriate contracting officer;
- (4) The contracting officer reviewing the unauthorized commitment determines the price to be fair and reasonable;
- (5) The contracting officer recommends payment and legal counsel concurs in the recommendation, unless agency procedures expressly do not require such concurrence;
- (6) Funds are available and were available at the time the unauthorized commitment was made; and
- (7) The ratification is in accordance with any other limitations prescribed under agency procedures.

Examples of unauthorized commitments include: (a) Government purchase cardholder makes a purchase over their single purchase limit. (b) Commitment for construction, alteration or renovation.

(c) Commitment for continuation of services or research, or delivery of supplies under an expired contract, purchase order, or delivery order. (d) Commitment for performance of work or delivery of supplies prior to issuance of a contract, purchase order, or delivery order. (e) Commitment which exceeds the call order limit on a blanket purchase agreement. (f) Commitment under a blanket purchase agreement by a person who is not delegated authority. (g) Commitment which continues contract services over and above the original scope and dollar amount; or a commitment made by an otherwise authorized contracting officer. (h) Government purchase cardholder makes multiple purchases from the same vendor on the same day, the total of which exceeds the single purchase limit and the total requirement was known at the time of the first purchase.

### **Non-Ratifiable Commitments**

While GAO is clear that improper actions may not be ratified, they are also clear that the Government is liable for the reasonable value of any goods or services received by the Government. In such cases, the CO should document that although the UAC cannot be ratified, the vendor is entitled to fair and reasonable payment for goods and services accepted (not necessarily the same amount as the UAC). The CO should resolve the UAC in a different manner by contacting the mission area finance office.

If it is determined the non-ratifiable commitment should not be paid (i.e., the Government did not receive and accept services) and/or the vendor seeks review of a disallowance (in full or in part) the CO should seek legal advice.

**PROCESS:**

a. Responsibility of the Employee who made the Unauthorized Commitment:

1. Complete the "Request to Ratify an Unauthorized Commitment," (*Attachment 1*) and include all the facts and pertinent documentation to support the ratification request.
2. Consult with the Contracting Officer (CO) if you have any questions concerning the information required to complete the request to ensure the accuracy of the information being submitted; and provide an editable copy of the request to the CO so comments/changes can be recommended.
3. Ensure the request to ratify is signed by the budget official and all managers in the employee's supervisory chain, ending with the signature of employee's Line Officer.
4. Send the completed "Request to Ratify an Unauthorized Commitment," (*Attachment 1*) to the CO.
5. If the request is approved by the Ratifying Official, and over the micro purchase threshold then submit a funded requisition in the Integrated Acquisition System (IAS) to the contracting office so that the CO can issue the proper contract document. The vendor must be registered in the System for Award Management (SAM).
6. If the request is approved by the Ratifying Official and does not exceed the micro purchase threshold and payment has not been made, then either; (a) submit a "no-commit" requisition in IAS, create an IAS record of the transaction and specify that payment will be made by the GPC or; (b) submit a funded requisition in IAS and the CO can issue the proper contract document.
7. Government Purchase Card (GPC) and fleet cardholders who exceed their micro-purchase authority while using purchase cards or checks are also subject to these procedures. All purchase card or convenience check unauthorized commitments over the micro-purchase threshold shall have a "no-commit" requisition created in IAS and then an IAS record created for the ratification specifying that payment will be made by the GPC.

*Note: If the unauthorized commitment is not ratified (approved) by the Ratifying Official, the employee making the unauthorized commitment may be held personally liable for payments of the supplies/services.*

b. Responsibility of the Supervisor and Senior Executive Service (SES) member for the Employee who made the Unauthorized Commitment

1. Unauthorized commitments violate federal laws and regulations and may result in personal liability or adverse personnel action for the employee(s) found to be responsible. The supervisor shall take positive action to prevent unauthorized commitments and ensure this policy is communicated to employees within their organization.
2. Ensure the employee who made the unauthorized commitment provides information that is accurate and complete, and includes facts and pertinent records or documentation, if applicable, to support the ratification request.
3. Ensure the budget official and all appropriate managers in the employee's supervisory chain, including the line officer signs the ratification request.
4. Disciplinary actions are at the discretion of the individuals' supervisor and line officer. The supervisor should consider factors such as the dollar value of the unauthorized commitment

action; whether the individual has repeatedly committed unauthorized actions; nature of the action, i.e. due to lack of knowledge or training, or pressure by someone else.

c. Responsibility of the CO:

When contracting personnel learn that an unauthorized commitment has occurred or the vendor is performing services due to the actions of a government official that lacked the authority to bind the government, the CO is required to:

1. Immediately notify the vendor and the government officials (*employee who made the unauthorized commitment **and** the employee's supervisor*) to immediately discontinue performance. Any verbal notifications must be followed-up in writing (*email or letter*) and include at the minimum:

- i. Summary of the verbal discussion instructing the vendor to immediately discontinue performance, which shall include the date and time.
- ii. Description of the services being performed subjected to the unauthorized commitment.
- iii. Statement - "*A claim for payment for any future unauthorized commitment action will be subject to resolution of the Federal Acquisition Regulation (FAR) 1.602-3(b)(5) under the Contract Disputes Act of 1978, and should be processed in accordance with FAR Subpart 33.2, Disputes and Appeals. This regulation is found at <https://www.acquisition.gov/browsefar>."*
- iv. Vendor's invoice.

*Note: An invoice submitted prior to ratification is not considered proper because no contract was in place at the time of the unauthorized commitment. If the unauthorized commitment action is ratified (approved), the CO will issue the contract and will instruct the contractor to submit a proper invoice through the Invoice Processing Platform (IPP). If paying with GPC, see paragraphs a.6 and a.7 above. If the unauthorized commitment cannot be ratified and the CO determines payment is due, the CO will request a revised invoice.*

2. Place the written notification in reference c(1)(i) above in the contract file with the Request to Ratify an Unauthorized Commitment.
3. Contact the MASCO to obtain an assigned control # and provide pertinent tracking information (see f.4 below).
4. Provide the "Request to Ratify an Unauthorized Commitment," (*Attachment 1*) to the employee making the unauthorized commitment action.
5. Assist the employee who made the unauthorized commitment with addressing the data and information needed in the request for ratification, as appropriate.

6. Ensure the accuracy and completeness of the information received from the employee who made the unauthorized commitment; and also ensure the appropriate supervisor and line officer have approved (signed) the ratification request.
7. Complete the CO Determination and Findings (*Attachment 2*) to support the CO's decision to recommend approval or disapproval of the request to ratify the unauthorized commitment. If the UAC cannot be ratified but the government has received and accepted goods or services, the CO should determine fair and reasonable payment due, and resolve the UAC (FAR 1.602-1 authority to 'make related determinations and findings') by contacting your mission area finance office for payment processes. Notify the employee who made the unauthorized commitment.
8. If ratification is appropriate, submit the request for review and approval through the supervisory chain to the MASCO.
9. Immediately advise the employee who made the unauthorized commitment of the decision of the Ratifying Official to ratify or not to ratify.
10. Maintain a copy of the CO's recommendation and Ratifying Official decision in the contract file.
11. Issue the appropriate contract document and associate the proper requisition received in IAS. On the contract document, include:
  - i. Statement below in the *description fields* in IAS and in the Federal Procurement Data System - Next Generation (FPDS-NG) record:  
***"This Action is a Ratification of an Unauthorized Commitment"***
  - ii. Instruct the contractor to submit a proper invoice with the appropriate contract number and any other revised invoice information through IPP.  
  
*Note: An invoice submitted prior to the ratified approval of an unauthorized commitment is not considered proper because there was no contract issued prior to the unauthorized action. The Prompt Payment Act authorizes interest after a properly completed invoice is submitted and a specified time has elapsed without payment. Interest cannot accrue until the ratified action is authorized and a proper invoice is submitted.*
- d. Responsibility of Contracting Supervisors
  1. Ensure the information in the ratification request is accurate and complete, and includes facts and pertinent records or documentation, if applicable. To include:
    - a. Supplies or services have been provided to and accepted by the Government, or the Government otherwise has obtained or will obtain a benefit resulting from the performance of the unauthorized commitment.
    - b. The action would have been proper if made by an appropriate contracting officer.
    - c. The contracting officer reviewing the unauthorized commitment determines the price is fair and reasonable.

2. Ensure the budget official and all appropriate managers in the employee's supervisory chain, to include the SES, sign the request.

e. Responsibility of the Ratifying Officials:

1. Review the ratification document and if changes are required or additional documentation needed return the documents to the CO.
2. Approve or disapprove the Request to Ratify, depending on the circumstances and the supporting data (*Attachment 2*).
3. Provide a copy of the approved/disapproved Request to Ratify to the appropriate contracting officer and the procurement analyst.

f. Official Unauthorized Commitment Log and Control Number

MASCO are required to maintain a log and files of unauthorized commitments and provide quarterly updates to OCP.

Control #: \_\_\_\_\_

REQUEST TO RATIFY AN UNAUTHORIZED COMMITMENT

This action is the result of an unauthorized commitment as defined in the Federal Acquisition Regulation (FAR) 1.602-3.

**Employee who made the Unauthorized Commitment**

<i>Print Name</i>	<i>Title</i>	<i>Office</i>	<i>Email</i>	<i>Phone No.</i>
-------------------	--------------	---------------	--------------	------------------

- 1. Nature of Action:** *(Explain who, how and when the events that led to the unauthorized commitment occurred, including the conversation(s) with the vendor, and describe the supplies/services rendered.)*
  
- 2. Name of Vendor:** *(List the name, address, and DUNS number for the vendor that provided the supplies/services and confirm active registration in SAM.)*
  
- 3. Estimated Amount:** *(List the dollar amount of the supplies/services.)* \$ \_\_\_\_\_  
*(Explain how the parties settled on the amount.)*
  
- 4. Competition Effort:** *(Explain how the vendor was selected and provide a list of other vendors that were considered to provide the supplies/services.)*
  
- 5. Contracting Process:** *(Explain why the contracting process requiring an approved requisition be sent to the contracting office and a valid contract to be issued by the Contracting Officer prior to obtaining the supplies/services was not followed.)*

Control #: \_\_\_\_\_

6. **Date Accepted:** *(List the date the supplies/services were accepted.)* \_\_\_\_\_

List the official that accepted the supplies/services:

_____	_____	_____	_____
Name	Title	Email	Phone

7. **Benefits:** *(Explain benefit(s) received (FAR 1.602-3(c)(1)) from the supplies/services received.)*

8. **Funds Availability:** *(Explain data used to verify that funds were available at the time of the unauthorized commitment and that funds are available if the action is ratified (FAR 1.602-3(c)(6)).*

Accounting code(s):

Budget object codes:

9. **Preventive Actions:** *(Explain in detail actions taken to prevent recurrence of unauthorized commitments as well as disciplinary action taken. If this is a repeat offense, address what actions taken.)*

10. **Other Supporting Facts:** *(Provide other pertinent facts.)*

### REVIEW AND APPROVAL

➤ **Fund/Budget Official**

I certify that funds were available at the time of the unauthorized commitment and that funds are currently available to ratify the unauthorized commitment.

_____	_____	_____	_____	_____
Signature	Print Name	Title	Office	Date

➤ **Employee who made the Unauthorized Commitment**

By signing this document I confirm that the facts and circumstances provided above are accurate and complete.

Control #: \_\_\_\_\_

\_\_\_\_\_  
*Signature*                      *Print Name*                      *Title*                      *Office*                      *Date*

➤ **Immediate Supervisor of Employee who made the Unauthorized Commitment**

To the best of my knowledge, the facts and circumstances of the information above is believed to be accurate and complete. This is the \_\_\_ (**1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, etc.**) unauthorized commitment initiated by the individual; and I have had \_\_\_ (**0, 1, 2, etc.**) unauthorized commitments previously initiated by other staff in my office. I have taken the corrective actions (**employee/staff training, internal controls, etc. provide details of what, when, who**) below to preclude unauthorized commitments from recurring within my office:

\_\_\_\_\_  
*Signature*                      *Print Name*                      *Title*                      *Office*                      *Date*

➤ **Employee's Second and Third Level Supervisor (as applicable)**

Based on the facts and circumstances, I determined the information above to be accurate and complete.

2<sup>nd</sup> line Supervisor: Concur \_\_\_ Do Not Concur \_\_\_

\_\_\_\_\_  
*Signature*                      *Print Name*                      *Title*                      *Office*                      *Date*

3<sup>rd</sup> Line Supervisor: Concur \_\_\_ Do Not Concur \_\_\_

\_\_\_\_\_  
*Signature*                      *Print Name*                      *Title*                      *Office*                      *Date*

➤ **Senior Executive Service member**

Concur \_\_\_ Do Not Concur \_\_\_

Additionally, I propose the following plan of actions to prevent reoccurring unauthorized commitments within my organization: (*Give explanation*)

\_\_\_\_\_  
*Signature*                      *Print Name*                      *Title*                      *Office*                      *Date*

Control #: \_\_\_\_\_

UAC -- CONTRACTING OFFICER'S DETERMINATION AND FINDINGS

1. Date the Contracting Officer (CO) became aware of the unauthorized commitment action:

\_\_\_\_\_  
**Month / Day / Year**

2. Describe the action to immediately inform the Vendor to discontinue performance:

3. Statement that the price is fair and reasonable (provide explanation/basis).

4. Funds were available at the time of the unauthorized commitment and are available to pay for the ratified action.

Yes \_\_\_ No \_\_\_      Accounting Code: \_\_\_\_\_

5. The resultant contract would otherwise have been proper if made by an appropriate contracting officer.

Yes \_\_\_ No \_\_\_

6. Confirm the Government has obtained or will obtain a benefit resulting from performance of the unauthorized commitment.

Yes \_\_\_ No \_\_\_

**Determination:**

After review of the facts and circumstances that led to the unauthorized commitment, I have determined the circumstances leading up to this action were:

Satisfactorily explained? Yes \_\_\_ No \_\_\_

Control #: \_\_\_\_\_

Procedures to prevent reoccurrence were in place? Yes \_\_\_ No \_\_\_

Resulting contract would have been proper? Yes \_\_\_ No \_\_\_

No conflicts of interest or laws were violated and that the vendor is not debarred or ineligible for award as shown for award in System for Award Management? Yes \_\_\_ No \_\_\_ Date Verified in SAM  
\_\_\_\_\_

Check one:

\_\_\_\_\_ I recommend ratification.

\_\_\_\_\_ Unauthorized commitment cannot be ratified because *{insert rationale}*; however, the government did receive and accept goods and services. Payment \_\_\_ was \_\_\_ was not made by government purchase card prior to the ratification request. If payment is due, follow mission area procedures. No further elevation is required.

\_\_\_\_\_ I do not recommend ratification.

**Comments** (\*If unauthorized commitment cannot be ratified, but payment is due, use this space to further document findings as appropriate):

\_\_\_\_\_  
**Contracting Officer Signature**

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Date*

**REVIEW AND RECOMMEND**

**NOTE: No one should recommend approval if the action was not "otherwise proper".**



**Attachment A, Animal & Plant Health Inspection Service (APHIS)**

**Quality Assurance Memorandums (QAM)**

Number	Title/Description
	Establishment of QAMs
A-1	Contract File Index
A-2	Contract Closeout Procedures
A-3	Contract File Structure and Location
A-4	Background Investigation and Clearance Procedures for Contracts
A-5	Foreign Vendor Award Instructions
AW-1	Delegation of CORs
P-1	Ratification of an Unauthorized Commitment
P-2	Competition Advocacy
P-2	Service Contract Awards – Guidance on pre-award activities for services
P-3	Intra-Governmental Payment & Collection (IPAC) Award Instructions
P-4	System of Records Notice (SORN)
P-5	Equipment Leasing and Rental
PC-1	Use of Purchase Card and Fleet Charge Card for Requirements above the Micro-Purchase Threshold
PS-1	Contractor Performance Assessment Reporting System (CPARS) Evaluations
SB-1	Marketing and Regulatory programs (MRP) Vendor Communication Plan

**Attachment B, Agricultural Research Service (ARS)**

**Acquisition Programs and Oversight Branch (APOB)**

Number	Title/Description
01	Contract Checklists
02	Acquisition Quick Reference Guide
01_157.0M	Major Facilities Construction – Managing and executing.
02_157.2	Facilities Construction Authorities
03_210.1.v3	Acquisition and Property Management Reviews
04_210.8v2	Procurement Preference Program
05_210-9v2	Central Contact for Activity Address Code Maintenance
06_210.10v2	Internal Control Plan for REE Acquisition Program
07_212-9	Review and Approval of Contracts for Advisory and Assistance Services
08_212.16v13	Approval for Acquisition Ratifications
09_212-17	Unsolicited Proposals
10_213.4v5	Procedures for Paying for Off-the-Shelf Training

**Checklists**

01	A&E Contract Checklists
02	Construction Contract Checklist
03	Service Supply Contract Checklist
04	Simplified Acquisition Checklist
09	Personal Property Management Review
10	Property File Checklist
	PCard Transaction Review Criteria Checklist Approving Official
	PCard Transaction Review Criteria Checklist LAPC AAPC
	PCard Transaction Review Criteria Checklist Procurement
	PCard Transaction Review Criteria Checklist Non-Procurement

**Acquisition Workforce**

01	Guidance on Maintenance Training Dates for Non FAC-C and FAC-C Members
02	Acquisition Workforce On Boarding Checklist
03	Acquisition Workforce Off Boarding Checklist
04	APD Alert 2015-03 - Suggested training for REE CORs
05	APD Alert 2015-06 - REE Supplement to PA 85A and 100D

**Acquisition Alerts**

2018-01	Design Build Selection Procedures
2018-02	AGAR Deviation 18-01, HCAD – MASCO
2018-03	CO Responsibility to Seek Efficiencies
2018-04	Mandatory Approval For Any Proposed Removal From the Abilityone or 8(a) Business Development Programs
2018-05	Miscellaneous Approvals
2018-06	Contract Checklists
2018-07	Accountable Property Purchases Greater Than or Equal to \$5K

**Links and Information for Acquisition Customers**

<b>Number</b>	<b>Title/Description</b>
01	APD Alert 2015-03 - Suggested training for REE CORs
02	APD Alert 2015-06 – REE Supplement to PA 85A and 100D
03	APD Alert 2013-14 – IPP Responsibilities
04	APD Alert 2011-05 – Save Research Dollars, Pay Invoices on Time!!
05	Procurement Request Package List of Items
06	APD Alert 2011-16 – Preparation and Approval of JOFOC/Sole Source Justification
07	Sole Source Justification Tips
08	Sole Source Justification under the Simplified Acquisition Threshold Template
09	SAT SSJ Examples
10	Research paper Publication Sole Source Justification Template
11	Service Requirements
12	Supply Requirements

**Purchase Card Program and Oversight Branch (PCPOB)**

**GPC On Boarding and Off Boarding**

01	Purchase Card Approving Official Onboarding Checklist
02	Purchase Card Approving Official Training Directions
03	Approval Official Appointment-Maintenance Request Form
04	Purchase Cardholder Onboarding Checklist
05	Purchase Cardholder Training Directions
06	Request for Purchase Card Form
07	Purchase Card Approving Official Off Boarding Checklist
08	Purchase Card off Boarding Checklist
09	Card Check Destruction Form

**GPC Policy**

01	Purchase Card Program Manual
02	Blank Funds Authorization Template
03	Convenience Check New Procedures
04	Cardholder Fraud Email Alert Instructions
05	USDA Budget Object Classification (BOC) Guide
06	BOC Personal Property Quick Guide
06(2)	Accountable Property BOC Quick Reference Guide
07	How to Determine if a Transaction is Construction

**Attachment C, Food & Nutrition Service (FNS)**

**Acquisition Operating Policy and Procedure (AOPP)**

<b>Number</b>	<b>Title/Description</b>
1	Price Reasonableness Determination
2	Contract File Management
3	Procurement Acquisition Lead Time (PALT)
4	Negotiated Acquisition – Commercial Simplified Acquisitions Checklist
5	GSA Checklist
6	Negotiated Acquisitions Checklist
7	Non-Competitive Sole Source Procurements Checklist
8	Contract Modification Checklist
9	CPARS Checklist Policy
12	Contract Closeout Procedures Policy and Procedures
13	Performance-Based Payment Schedules Policy for Firm Fixed Price Procurements
14	Contract Award File Peer Review Policy Standard Operating Procedures
15	Quality Assurance Surveillance Plan Policy and Procedures

**Attachments**

1	Acquisition Process Roles and Responsibilities
2	Total Acquisition Approach (TAA)
3	TAA Roadshow
4	FAR Acquisition Processes
5	Acquisition Clearances Guide
6	FNS Letterhead
8	Signing Authority Guide
9	Guidance for Communicating with Contractors Pre and Post Award
10	Request for Legal Opinion
11	Request for Approval of Unauthorized Commitments
12	CMD Orientation –New Employee
13	CMD Shutdown Policy
14	CMD Multiple Award BPAs
15	End of Year Close out Procedures
16	Customer Request Form (CREF)
17	CREF Guide Revised 2018

**Pre-Solicitation**

18	PALT
19	Acquisition Checklist (COR)
20	Acquisition Plan Preparation Guide
21	Acquisition Plan over \$1Million
22	Acquisition Strategy (\$100K – \$1)
23	Acquisition Strategy Worksheet
24	PWS Template
25	PWS Supplies Template
26	PWS BPA/IDIQ
27	Checklist PWS
28	SOO Sample
29	SOW Construction
31	IGCE Services
33	QASP Template
34	D&F Single Award BPA
35	D&F Option
36	D&F Time and Material
37	Non-Competitive Sole Source Checklist
41	Market Research Memo Sample
42	Sources Sought Unsuccessful Memo
43	Sources Sought Successful Memo
44	GSA Competition and Evaluation Plan
45	Source Selection Plan
47	COR Handbook

**Solicitation**

48	RFQ Part 8 Sample
50	RFP IDIQ Hybrid
51	RFP Parts 12 & 13
52	RFP Parts 12&15
53	RFP SAPs
54	LPTA Language
55A	RFQ GSA BPA
55B	Past Performance Questionnaire

**Evaluation**

56	Statement of Non-Interest
58	Briefing Script for Government Evaluators
59	SSEB Instructions Guide
60	SSEB Evaluation Definitions
61	Consensus Form
62	How to Earn an Exceptional Evaluation Rating
63	Source Selection Decision Memo
64	Exclusive from Competitive Range Letter
65	SSEB Electronic

**Award**

66	PreNegotiation Memo Sample
67	Unsuccessful Offeror Letter
68	Post Negotiation Memo for Noncompetitive Awards
69A	Price Negotiation Memo for Noncompetitive Award
69B	Pre/Post Negotiation Memorandum
70	SAP Basis of Award
71	Congressional Notification

**Post Award**

72	COR Designation Letter
73	COR Appointment and Designation Memo
74	Post Award Orientation Meeting Sample
75	Debriefing Template
76	Roles and Responsibilities Letter to Contractor
77	Protest – CO Statement of Facts Sample

**Contract Administration**

78	Contract Modification Checklist
79	Contractor’s Evaluation Form for CPARS
80	Options Checklist Memo
81	Notice to Not Exercise Option
82	Deliverable Cover Sheet
83	Complete Stop Work Order
84	Partial Stop Work Order
85	Claims Finding Letter
86	Novation Agreement
87	Guidance for Changing COR

**Systems**

88	Electronic Contract Guide (ECF)
----	---------------------------------

**Attachment D, Forest Service (FS)**

**Forest Service Acquisition Regulation (FSAR)**

<b>Number</b>	<b>Title/Description</b>
4G01	Forest Service Acquisition Regulation System
4G03	Improper Business Practices and Personal Conflicts of Interest
4G05	Publicizing Contract Actions
4G06	Competition Requirements
4G07	Acquisition Planning
4G08	Required Sources of Supplies and Services
4G09	Contractors Qualifications
4G13	Simplified Acquisition Procedures
4G15	Contracting by Negotiation
4G16	Types of Contracts
4G17	Special Contracting Methods
4G22	Application of Labor Laws to Government Acquisitions
4G32	Contract Financing
4G33	Protests, Disputes and Appeals
4G36	Construction and Architect-Engineering Contracts
4G37	Service Contracting
4G39	Acquisition of Information Technology
4G42	Contract Administration
4G46	Quality Assurance
4G48	Value Engineering

**Procurement Notes**

FY17-001	Soliciting in Advance of Funds
FY17-002	FAPIIS
FY16-002	Unmanned Aircraft Systems (UAS)
FY16-001	FPDS Reporting
FY18-001	Construction vs Service
FY18-002	Severable or Non Severable Services

**Procedures Guidance and Instructions (PGI)**

Chapter 1	Federal Acquisition Regulation (FAR) System
Chapter 2	Definition of Words and Terms
Chapter 3	Improper Business Practices and Personal Conflicts of Interest
Chapter 4	Administrative Matters
Chapter 5	Publicizing Contract Actions
Chapter 6	Competition Requirements
Chapter 7	Acquisition Planning
Chapter 8	Required Sources of Supplies and Services
Chapter 9	Contractor Qualifications
Chapter 13	Simplified Acquisition Procedures
Chapter 15	Contracting by Negotiation
Chapter 16	Types of Contracts
Chapter 17	Special Contracting Methods
Chapter 19	Small Business Programs
Chapter 22	Application of Labor Laws to Government Acquisitions
Chapter 24	Protection of Privacy and Freedom of Information
Chapter 27	Patents, Data and Copyrights
Chapter 28	Bonds and Insurance
Chapter 32	Contract Financing
Chapter 33	Protests, Disputes and Appeals
Chapter 36	Construction and Architect-Engineer Contracts
Chapter 37	Service Contracting
Chapter 39	Acquisition of Information Technology
Chapter 42	Contract Administration and Audit Services
Chapter 43	Contract Modifications
Chapter 46	Quality Assurance
Chapter 48	Value Engineering
Chapter 52	Solicitation Provisions and Contract Clauses

**Guides**

- AQM Contracting Customer Guide
- FSM 6400 Station Quarters Policy
- GPC Program Guide (August 2016)
- Guidelines for Submitting Packages to WO AQM (January 2018)
- SRS Electrolyte Sports Drink Policy
- Unauthorized Commitment Guide

**Checklists**

- Acquisition Plan Sample
- Contract File Checklist, Construction
- Contract File Checklist, CandSvc
- Contract File Checklist, SAP
- OneNote Over SAT
- OneNote Simplified Acquisition Procedures

Source Selection Plan

**Attachment E, Farm Service Agency (FSA)**

**Notices,**

<https://www.fsa.usda.gov/FSA/notices?area=home&subject=lare&topic=not&setflag=FROMURL&getData=NONE>.

<b>Number</b>	<b>Title/Description</b>
AS-2317	LAPC Quarterly Review Guidance
AS-2321	FY2018 Year-End Procurement Requisition Submissions
AS-2275	Expired, But Still Applicable For Purchasing Appliances
AS-2285	FSA Postage Due Process
AS-2286	FFAS Printing Services
AS-2296	Postage Due Process Q & A
AS-2318	Obtaining Goods and Services with PLCE Funds
	White Paper/Decision Memo: Recommendation for Nationwide Permanent Policy to Use the GPC for Payments to Secretary of State for Uniform Commercial Code (UCC) for Marketing Assistance Loans (MALS) and Farm Storage Facility Loans (FSFL)
	AMD Interoffice Memo for Micro-Purchase Transactions – Establishes standard operating procedure for micro-purchase request package submittals
	Purchase card year-end notice

Attachment F, Food Safety and Inspection Service (FSIS)

Agency Clauses and Provisions

Reference	Provision/Clause Title	Clause Date	Archive
52.223-1; 23.406(a)	<b>BIOBASED PRODUCT CERTIFICATION</b> Prescription: Use in solicitations that require delivery or specify the use of Green Purchasing requirements in those categories of USDA-designated bio-based items.	May 14	May 12
52.223-2; 23.406(b),	<b>AFFIRMATIVE PROCUREMENT OF BIO-BASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS</b> Prescription: Use in all janitorial/custodial and operations and maintenance/maintenance and repair contracts.	Sep 13	Jul 12
9.5	<b>ORGANIZATIONAL CONFLICT OF INTEREST AND LIMITATION ON FUTURE CONTRACTING</b> Prescription: Applies to all acquisitions, including task order acquisitions of any size where the requirement may give rise to organizational conflict of interests.	Sep 08	
1.6	<b>CONTRACTING OFFICER</b> Prescription: Use in all solicitations/contracts when it is deemed necessary to identify the authority of the Contracting Officer.	Jan 12	
1.602-2	<b>CONTRACTING OFFICER REPRESENTATIVE</b> Prescription: Use in all solicitations/contracts when a COR will be appointed.	Jan 12	
48 CFR 437.110 AGAR 452.237- 74	<b>KEY PERSONNEL</b> Prescription: Applies to solicitations/contracts when key personnel are required by the contract.	Aug 08	
37	<b>UNAUTHORIZED PERFORMANCE OF SERVICES</b> Prescription: Use in solicitations/contract for services.	May 11	
Public Law 96- 511	<b>OMB CLEARANCE</b> Prescription: Applies to solicitations/contracts when there is a likelihood that information will be collected from at least ten or more members of the public.	Feb 07	
Public Law 101- 391	<b>HOTEL AND MOTEL FIRE SAFETY ACT OF 1990</b> Prescription: Use in solicitations/contracts where lodging facilities are associated with the contract effort.	Feb 07	
9.505-4	<b>RELEASE OF SENSITIVE INFORMATION</b> Prescription: Use in service contracts to document consent to release information needed by service provider to perform specified services.	Jun 13	

15.204-1(b)	<b>REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFEROR OR RESPONDENTS</b> Prescription: Use in all solicitations/contracts	Feb 07	
16.505	<b>TASK ORDER PROCEDURES</b> Prescription: Applies to all solicitations/contracts that will result in the award of an IDIQ contract.	Feb 07	
	<b>LEGAL HOLIDAYS</b> Prescription: Use in contracts for performance on-site at a USDA facility.	Dec 08	
39.2	<b>SECTION 508 COMPLIANCE ACCESSIBILITY OF ELECTRONIC AND INFORMATION TECHNOLOGY</b> Prescription: Use in solicitations/contracts that have 508 requirements.	Mar 15	Mar 10
39.2	<b>POST-AWARD ADMINISTRATION AND MONITORING OF SECTION 508 COMPLIANCE ACCESSIBILITY OF ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY</b> Prescription: Use in solicitations/contracts that have 508 requirements.	May 15	
	<b>ACCESS TO SENSITIVE INFORMATION</b> Prescription: Applies to acquisition in which a contractor has to perform specified services that may need access to sensitive information.	Feb 07	
AGAR 452.211-74	<b>PERIOD OF PERFORMANCE</b> Prescription: Use in solicitations/contracts that include option years.	Feb 07	
	<b>EVALUATION OF SUBCONTRACTING PLAN</b> Prescription: Use in solicitations when the award will be subject to approval of a small business subcontracting plan.	Feb 07	
	<b>INCORPORATION OF PROPOSAL</b> Prescription: Use in solicitations when it is anticipated that part of the proposal may be incorporated into the contract.	Feb 07	
	<b>CONFLICT OF INTEREST</b> Prescription: Use in solicitations /contracts when conflict of interest may be a concern.	Feb 07	
19.8	<b>DIRECT 8(a) CONTRACTING</b> (PROCUREMENT ADVISORY NO. 71 C, REVISION November 30, 2012)	Sep 13	May 98
	<b>DELIVERABLES/MILESTONES</b> Prescription: Insert the clause in solicitations and contracts that require milestones.	Jan 12	
	<b>INFORMATION TECHNOLOGY SYSTEMS SECURITY</b> Prescription: Insert the clause in solicitations for more complex IT contracts in which the contractor may have direct contact with FSIS IT systems.	Sep 13	

	<p><b>INFORMATION TECHNOLOGY SYSTEMS SECURITY CONTRACT REQUIREMENTS</b>                  Prescription: Insert the clause in solicitations /contracts for more complex IT contracts in which the contractor may have direct contact with FSIS IT systems.</p>	Jan 12	
39.105	<p><b>ADDITIONAL PRIVACY ACT REQUIREMENTS</b>                  Prescription: Insert the clause in solicitations/contracts when the Privacy Act applies.</p>	Jan 12	
PA 127	<p><b>COMPLIANCE WITH INTERNET PROTOCOL VERSION 6 (IPv6) IN ACQUIRING INFORMATION TECHNOLOGY</b>                  Prescription: Insert in solicitations/contracts for IT that have IPv6 requirements.</p>	Nov 16	Dec 16
	<p><b>COMMONLY ACCEPTED SECURITY CONFIGURATIONS FOR WINDOWS OPERATING SYSTEMS</b>                  Prescription: Use in all solicitations/contracts for IT requirements.</p>	Dec 16	Mar 15
	<p><b>ELECTRONIC INVOICING AND PAYMENT REQUIREMENTS-INVOICE PROCESSING PLATFORM (IPP)</b>                  Prescription: Use in all solicitations/contracts.</p>	Apr 13	
	<p><b>Rules of Behavior</b>                  Prescription: Use this document in all solicitations/contracts for IT requirements.</p>		
	<p><b>Scientific Integrity</b>                  Prescription: Use this clause in solicitations/contracts for services when contractors will be on-site and/or have access to Government Services</p>	Apr 17	

**Attachment G, Natural Resources and Conservation Service (NRCS)**

<b>Number</b>	<b>Title/Description</b>
GM 120-406, Subpart A	Establishment of NRCS Procurement Operating Procedures (NRCSPOP)
GAM 120-406, Subpart C	Use of Government Purchase Cards
NI 120-321	321 – Guidance Concerning ARRA-Funded Projects
NI 120-333	Timely Transaction Report – Within US Bank Access Online (AXOL).
NI 120-334	GPC Cardholder Criteria
NI 120-338	Green Purchasing Pilot Program (GPPP) – Increase the use of green purchasing.

**Attachment H, Procurement Operations Division**

**Acquisition Operating Procedures, <https://www.dm.usda.gov/oppm/pod/aop.htm>.**

Number	Title/Description
1	Establishment of AOP for procurement offices of the Departmental Administration and Staff Offices
2	Federal Acquisition Certification for Contracting Officer Representative (FAC-COR)
3	Acquisition Planning and Market Research
4	Ratification of an Unauthorized Commitment
5	Justifications and Approvals: Other Than Full and Open Competition
6	Unsolicited Proposals
7	Contract File Indexes and Electronic Contract Files
8	Preaward and Postaward File Review
11	Contracting and Funding Offices' Address Activity Codes used in the Federal Procurement Data System – Next Generation (FPDS-NG)
12	Invoice Payment Process for Contracts Issued through the Integrated Acquisition System
13	Delegation of Contracting Officer Representatives
14	Small Business Subcontracting Plan – Standardized format and review process for the SM Subcontracting plan.
17	Acquisition Reporting Tools – Use in reporting to upper level management.
18	Procurement Action Lead time (PALT) – Provides PALT goals.
19	Requirement Package – Guidance for basic documentation needed.
20	Authorizing Official Certification – Reservation of Funds
21	Contractor Performance Assessment Reporting System (CPARS) Reviewing Official – Process.
22	Reassignment of Requisitions, Solicitations and Contracts to Contracting Officers and Buyers
23	Quality Assurance Surveillance Plan
24	Procurement Approach – Establishes a review and approval process for planned activities of an acquisition.
25	Procurement Review Program

**Forms**

AD1205	Small Business Review Form
--------	----------------------------

**Samples**

- Contract Closeout Modification
- Compliance Matrix, Solicitation
- COR Closeout Certification
- D&F 6 Month Extension
- QASP
- Unauthorized Commitment Contractor Cease & Desist Letter

**Templates**

- 91D Addendum

Acquisition Plan  
D&F, Exercise Option  
Market Research  
Performance Work Statement  
QASP Template  
SAP Summary Worksheet  
Statement of Objectives  
Statement of Work  
Template D&F Inclusion of Options  
Verification, Primary COR Experience

**Attachment J, Rural Development (RD)**

**Procurement Operations Procedures (POPs),** <http://teamrd.usda.gov/rd/daom/pas/pmd.html>.

<b>Number</b>	<b>Title/Description</b>
1	Establishing of Rural Developments POPs
1.6	Ratifications of Unauthorized Commitments
4	Advisory and Assistance Services
4.1	Contract File Content Checklists
4.1(A)	Procurement Reviews
5	Termination of Contracts
6.3	Justification for Other than Full and Open Competition
7.1	Acquisition Plans
8.4	Federal Supply Schedule Procedures – Limited Source JOFOC
10	Contracting for Training Events and Conferences
15.3	Source Selection and Source Selection Chart
15.6	Unsolicited Proposals Plans
24	Agency and Contracting Officer Protests and Claims Procedures
28	Cooperative Agreement Review Board
36.6	Architect-Engineer (A&E) Services
37	Service Contracts for the Use of Private Sector Temporaries
42	Contract Administration Plans
70-1	Measurement of Negotiated Savings

**Guides**

- Acquisition Evaluation Guidelines
- Acquisition Guideline for USDA Mandatory Sources for Office Supplies
- BPA Acquisition Guideline
- BPA Acquisition Guide Quick Reference Table
- Evaluation Criteria Illustrations

**Samples**

- Change of Name Modification
- Closeout Completion Statement
- Closeout CPARS Evaluation Letter
- Closeout Modification
- Closeout Property Report
- Construction Contract
- Construction Prenegotiation and Negotiation Memorandums
- Construction Purchase Order
- Contract Closeout Guidance
- Contract Justifications for Contract Types and Options
- Contractor notification Letter and Release of Claims
- Cost and Price Analysis, Exercise of Option Period
- FAR Part 15.406-3 Blank Price Negotiation Memorandum

- Green Procurement Requirements
- Market Research Survey
- Memorandum of Prenegotiation Objectives
- Novation Agreement and Change of Name Letters
- Price Analyses
- Price Negotiation Memorandum
- Simplified Technical Evaluation Plan – Open Market
- Simplified Technical Evaluation Plan – GSA/FSS
- Source Selection Plan – Legal Support Services
- Vendor Communication Plan

**Forms**

- Contract Review Coversheet Checklist
- COR Designation Letter
- Determination of Prospective Contractor Responsibility
- JOFOC
- Modification/Task Order Checklist
- Statement of Work Template
- Supporting Documentation for Negotiated Savings

## Warrant or Waiver Request

Use this document to justify the need for a warrant or request a waiver from one or more requirements from the Qualification Standards for GS-1102's. Upload this form in FAITAS (for a warrant) or forward via your mission area ACMD to the USDA ACM (for waiver/personnel actions) and include pertinent backup documentation.

Name of Nominee:

Request *[Describe the current request for consideration and the salient qualifications of the nominee. If a waiver, provide rationale for need]*

WAIVER REQUEST:

Gap Analysis *[Of the current certification/qualification requirements, list those that are not currently achieved. Explain how long completion will take, and the actions that are planned to facilitate completion of the remaining requirements.]*

WARRANT REQUEST:	
<u>Existing Warrant</u> <i>[List the current warrant level and maximum \$ authority that your employee currently administers. Also, note the date said warrant was issued.]</i>	<u>Requested Warrant</u> <i>[List the requested warrant level and requested maximum \$ authority for which your employee may award/ administer contracting actions.]</i>
Current warrant level _____	Requested warrant level _____
Maximum \$ authority _____	Requested \$ authority _____
Date Signed _____	
<u>Quantity of Warrants</u> <i>[Describe how many warrants exist in your organization that are equal to, or higher than, the requested warrant authority.]</i>	
<u>Criticality of Warrant</u> <i>[Describe the mission-related urgency of approving the request as well as the mission-related consequences forecasted if the request is disapproved.]</i>	
<u>Spending Trends</u> <i>[Highlight previous fiscal year spending trends for your contracting activity. Include the total \$ amount spent, average \$ amount per action, and total number of actions.]</i>	

ALL REQUESTS:

*Other Information [Identify any other relevant information that may assist in determining if approving the warrant/waiver request is in USDA's best interest.]*

PREPARER:

APPROVER 1 TITLE:

APPROVER 1 SIGNATURE

APPROVER 2 TITLE:

APPROVER 2 SIGNATURE

# NOMINATION OF CONTRACTING OFFICER'S REPRESENTATIVE (COR)

MEMORANDUM

FOR: \_\_\_\_\_

DATE: \_\_\_\_\_

**SUBJECT: Nomination of Contracting Officer's Representative (COR)**

1. Reference Procurement Package for the acquisition of
2. The requirement is:
3. A procurement package for this acquisition will be \_\_\_/ has been \_\_\_ forwarded to your office. The requirements of the Performance Work Statement (PWS) included in the procurement package are such that the appointment of a Contracting Officer's Representative (COR) is required.
4. By nominating, I certify that the *nominee* meets following qualifications:

	Is a Federal Employee.
	The nominee has discussed potential Conflicts of Interests and the Standards of Ethical Conduct with an Ethics Advisor in USDA's Office of Ethics with regard to this particular assignment (Office of Ethics E-mail: <a href="mailto:DAEO.Ethics@oe.usda.gov">DAEO.Ethics@oe.usda.gov</a> .)
	Based upon the discussion with an advisor in the USDA Office of Ethics regarding the COR's anticipated duties, may be required to complete and file a Confidential Financial Disclosure Report (OGE Form 450).
	Has current or previous COR experience.
	I will ensure that contract surveillance duties will be/are reflected in the nominee's annual performance standards.
	Has the appropriate technical skills to oversee this requirement.
	Has knowledge, understanding and familiarity with government contracting processes, concepts and clauses.
	I will provide sufficient time and resources to accomplish the duties, if the nominee is currently managing other workload commitments.
	I am the supervisor of the nominee <i>or</i> I am the Senior Executive Service member in the nominee's chain of command if this is an IT or professional services requirement.

Nominee: Nominee

e-mail:

Other:

Certifying Official:

Title:

Signature:

**Justification for Other than Full and Open Competition**  
**United States Department of Agriculture**  
**Federal Acquisition Regulation (FAR) Part 6.3**

**1. Identification of the agency and the contracting activity.**

**2. The nature and/or description of the action being approved.**

Describe the type of action being proposed, e.g., negotiated sole source contract, contract modification, etc. Include the contractor's name and identify the type of contract contemplated, e.g., firm fixed-price, time and materials, etc. If an existing contract is being modified, include the contractor's name, contract number, and modification number. *For example: The USDA proposes to enter into a contract on a basis other than full and open competition, negotiate a sole source, firm fixed-price contract with XYZ Company.*

**3. A description of the supplies or services required to meet the agency's needs (including the estimated value).**

Provide a concise description of the supplies or services required and include the estimated value. If the contract includes option periods, include the estimated value for the base period and each option period and the total estimated value of the base and all option periods.

**4. The statutory authority permitting other than full and open competition.**

Choose appropriate statutory authority from drop down list below.

**5. A statement demonstrating the unique qualifications of the proposed contractor or the nature of the action requiring the use of the authority.**

If 6.302-1 is the proposed authority, describe the unique capabilities or qualifications of the proposed contractor, or why the particular brand name product, or features of the product can only satisfy the specialized nature of the Government's requirement, and why no other contractor or product/service can meet the Government's need. List other similar products (if applicable) and explain why the products lack the particular feature, do not meet, or cannot be modified to satisfy the Government's requirement, e.g., limited data rights, proprietary data or processes, etc.

If 6.302-2 is the proposed authority, explain the nature of the urgency and the extent of serious harm or injury to the Government if the award is delayed.

If 6.302-3 is the proposed authority, explain how the use of the proposed source is needed to maintain: a) A facility, producer, manufacturer in case of national emergency or achieve industrial mobilization; b) Engineering, research or development by an educational or nonprofit organization, federally funded center, etc.; and c) Services of an expert or neutral person for litigation or disputes involving a trial, hearing, court proceeding, etc.

If 6.302-4 is the proposed authority, attach a copy of the agreement between the United States and Foreign organization requiring one specific contractor for the acquisition.

If 6.302-5 is the proposed authority, list the statute authorizing or requiring that the acquisition be made from a specified source or through another Agency, e.g., Federal Prison Industries (UNICOR – 18 U.S.C. 4124); Qualified nonprofit agencies for the blind or other severely disabled (Committee for Purchase from People Who are Blind or Severely Disabled – 41 U.S.C. chapter 85); sole source awards under the 8(a) program (15 U.S.C. 637) greater than \$22 million; sole source awards under the HUBZone Act of 1997 (15 U.S.C. 657a); sole source awards under the Veterans Benefits Act of 2003 (15 U.S.C. 657f); or sole source awards under the WOSB Program (15 U.S.C. 637(m)).

If 6.302-6 is the proposed authority, explain the need for secrecy when disclosure of the action would compromise national security.

If 6.302-7 is the proposed authority, attach a copy of the Agency Head’s determination explaining why competing this acquisition is not in the public interest.

**6. A description of efforts made to ensure offers are solicited from as many potential sources as is practicable.**

Describe efforts used to ensure offers were/will be solicited from as many sources as practicable. Include whether a Federal Business Opportunities (FedBizOps) announcement (FAR 5.2) was made and what response, if any, was received. Include the exception under FAR 5.202 if not synopsisized.

**7. A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.**

Provide information as to how the anticipated cost to the Government will be determined fair and reasonable.

**8. A description of the market research conducted and the results or a statement of the reason Market Research was not conducted.**

Describe market research conducted and the results or the reason why no market research was conducted. Include responses received from FedBizOps announcement if used. *Note: FAR Part 10.001 requires agencies to conduct market research appropriate to the circumstances: (a) before developing new requirements documents for an agency acquisition; (b) before soliciting offers for acquisitions with an estimated value in excess of the Simplified Acquisition Threshold (SAT); (c) before soliciting offers for acquisitions that could lead to a bundled contract; (d) before awarding a task or delivery order under an indefinite-delivery/indefinite-quantity (IDIQ) contract for a noncommercial item in excess of the SAT; and (e) on an ongoing basis, take advantage of commercially available market research methods in order to effectively identify the capabilities of small businesses and new entrants into the market.*

**9. Any other facts supporting the use of other than full and open competition.**

Include information such as: a) Explanation of why technical data packages, specifications, engineering descriptions, statements of work or purchase descriptions suitable for full and open competition have not been developed or are not available; b) when follow-on action for continued development or production of highly specialized equipment is cited as the basis for other than full and open competition (6.302-1), include the estimated cost to the Government that would be duplicated, and how the estimate was derived; or c) when unusual and compelling urgency is cited as the basis for other than full and open competition (6.302-2), include the estimated cost, or other

rationale for the extent and nature of the harm to the Government if normal procedures and timeframes were followed.

**10. A listing of the sources, if any, that expressed a written interest in the acquisition.**

List sources, if any, that expressed an interest in the acquisition.

**11. A statement of actions, if any, the agency may take to remove or overcome any barriers to competition if subsequent acquisitions are anticipated.**

State actions that may or can be taken to remove any barriers to competition if subsequent acquisitions are anticipated.

## Certifications & Approvals

Supporting data that form the basis for and included in this justification are certified accurate and complete.

---

Insert Name of Program or Technical Personnel  
Insert Title of Program/Technical Personnel

The information contained in this Justification for Other Than Full and Open Competition is certified accurate and complete to the best of my knowledge and belief.

---

Insert Name of Contracting Officer  
Contracting Officer

## Additional Reviews & Approvals

*Signatures are required at each threshold up to the total estimated dollar value of the acquisition*

**Advocate for competition for the procuring activity (if over \$700,000, but not exceeding \$13.5 million).** I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as advocate for competition for the procuring activity, I hereby approve this justification.

---

Insert Name of the Mission Area Competition Advocate  
Mission Area Advocate for Competition

**Head of the Procuring Activity (if over \$13.5 million, but not exceeding \$68 million).** I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as the Head of the Procuring Activity, I hereby approve this justification.

---

Insert Name of the Head of the Procuring Activity  
Head of the Procuring Activity  
United States Department of Agriculture

**Senior Procurement Executive of the Agency (if over \$68 million).** I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, as the Senior Procurement Executive, I hereby approve this justification.

---

Insert Name of Senior Procurement Executive  
Senior Procurement Executive  
United States Department of Agriculture

**Notes and Guidance.** Delete these notes prior to finalizing document for signature

*Acquisitions for commercial items/services with a value exceeding \$7 million, and acquisitions for non-commercial items/services with a value exceeding the Simplified Acquisition Threshold (SAT) are subject to the competition requirements of FAR Part 6.*

**Program personnel** are advised to work with contracting personnel early on in order to promote and provide for full and open competition to the maximum extent practicable. In circumstances permitting other than full and open competition, program personnel shall provide necessary information to contracting personnel to support and document the circumstances limiting competition through the use of this form. Contracting without providing for full and open competition or full and open competition after exclusion of sources is a violation of statute, unless permitted by one of the exceptions permitted in FAR 6.302.

**Advance planning.** Contracting without providing for full and open competition shall not be justified on the basis of (1) a lack of advance planning by the requiring activity or (2) concerns related to the amount of funds available to the agency or activity for the acquisition of supplies or services.

**Brand Name.** Items peculiar to one manufacturer can be a particular brand name, product, or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product or feature is essential to the Government's requirements and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet the Agency's needs. See below for posting requirements.

**Posting.** Contracting Officers shall make justifications (excluding brand name) publicly available within 14 days after contract award in accordance with the procedures at FAR 6.305(d),(e), and (f). In the case of unusual and compelling urgency, justifications shall be made publicly available within 30 days after contract award in accordance with the procedures at FAR 6.305(b), (d), (e), and (f). Brand name justifications shall be posted with the solicitation in accordance with FAR 6.305(c) and 5.102(a)(6).

**Screening.** Before posting this Justification, in accordance with FAR 6.305(e) and 24.202, the Contracting Officer is responsible to redact any information that is exempt from disclosure under Freedom of Information Act or information proprietary to the contractor.

**Sole Source 8(a) over \$22 million.** As a minimum, each justification for a sole source 8(a) contract over \$22 million shall include the information required by FAR 6.303(d)(1) through (5).

**Signatures.** After review and completion by the Program Office and Contracting Officer, the Word document shall be converted to an Adobe PDF file and routed for digital electronic. Signature blocks shall include dates.

**Limited Sources Justification  
United States Department of Agriculture  
FAR 8.405 Federal Supply Schedules  
Multiple Award Schedule Program**

**1. Identification of the agency and the contracting activity.**

**2. The nature and/or description of the action being approved.**

Describe the type of action being proposed – e.g., brand name/limited source/sole source Federal Supply Schedule (FSS) order or blanket purchase agreement (BPA) for supplies/services. Also, identify the contemplated order type– such as a firm fixed-price, time and materials, etc., and the name of the proposed contractor(s). *Example: The USDA proposes to issue a brand name Federal Supply Schedule (FSS) order on a firm fixed-price basis with XYZ Corporation.*

**3. A description of the supplies or services required to meet the agency’s needs (including the estimated value).**

Provide a concise description of the supplies or services required and include the estimated value. If the order includes option periods, include the estimated value for the base and each option period and the total estimated value of the base and all option periods.

**4. The authority and supporting rationale.**

Choose the authority below that justifies restricting consideration of Schedule Contractors. Provide the additional detail for the applicable authority as noted below:

If 8.405-6(a)(1)(i)(A) is the authority, explain the nature of the urgency and the extent of injury or harm to the Government if the award is delayed.

If 8.405-6(a)(1)(i)(B) is the authority, explain the contractor's unique qualifications or specialized experience to provide the supplies or services that are not available elsewhere on the schedules.

If 8.405-6(a)(1)(i)(C) is the authority, explain why only the original source can provide the necessary supplies or services, such as substantial duplication of cost to the Government that is not expected to be recovered through competition, or unacceptable delays in fulfilling the Government's need.

If 8.405-6(b) is the authority, provide names of other companies’ similar products and explain why they lack the particular feature(s) or cannot be modified to meet the Government’s need. Note that an item peculiar to one manufacturer can be a particular brand name, product or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer.

**5. A determination by the ordering activity Contracting Officer (CO) that the order represents the best value consistent with FAR 8.404(d).**

When ordering services that require a statement of work, the ordering activity contracting officer needs to determine, after considering the level of effort and the mix of skills available for the tasks needed, that the proposed order or BPA represents a reasonable total price and will be the best value for the Government, price and other factors considered.

**6. A description of the market research conducted among schedule holders and the results or a statement of the reason market research was not conducted.**

Describe results of market research conducted amongst schedule holders or a statement as to why market research was not conducted. *Note: FAR Part 10.001 requires agencies to conduct market research appropriate to the circumstances: (a) before developing new requirements documents for an acquisition by the agency; (b) before soliciting offers for acquisitions with an estimated value in excess of the Simplified Acquisition Threshold (SAT) (\$150K); (c) before soliciting offers for acquisitions that could lead to a bundled contract; and (d) on an ongoing basis, take advantage of commercially available market research methods in order to effectively identify the capabilities of small businesses and new entrants into the market.*

**7. Any facts supporting the justification.**

Include any other supporting facts. For example, why specifications have not been developed or are not available; if a follow-on order, provide estimates of cost that would be duplicated if competed. If an urgency exists-explain the extent of harm if immediate action is not taken.

**8. A statement of actions the agency may take to remove or overcome any barriers to competition if subsequent acquisitions are anticipated.**

Describe actions that may or can be taken to remove any barriers to competition if subsequent acquisition/orders are anticipated, including challenges to restrictive data markings, data rights, preparation of a performance-based work statement, etc.

## Certifications & Approval

Supporting data which form the basis for and included in this justification are certified accurate and complete.

---

Insert Name of Program or Technical Personnel

Insert Title of Program/Technical Personnel

The information contained in this Limited Sources Justification is certified accurate and complete to the best of my knowledge and belief.

---

Insert Name of Contracting Officer

Contracting Officer

## Additional Reviews & Approvals

*Signatures are required at each threshold below up to the total estimated dollar value of the acquisition*

**Advocate for competition for the procuring activity (if over \$700,000, but not exceeding \$13.5 million).** I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as advocate for competition for the procuring activity, I hereby approve this justification.

---

Insert Name of the Mission Area Competition Advocate

Mission Area Advocate for Competition

**Head of the Procuring Activity (if over \$13.5 million, but not exceeding \$68 million).** I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as Head of the Procuring Activity, I hereby approve this justification.

---

Insert Name of the Head of the Procuring Activity

Head of the Procuring Activity

**Senior Procurement Executive of the Agency (if over \$68 million).** I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, as the Senior Procurement Executive, I hereby approve this justification.

---

Insert Name of Senior Procurement Executive  
Senior Procurement Executive  
United States Department of Agriculture

**Notes and Guidance.** Delete these notes prior to finalizing document for signature.

Pursuant to FAR 8.405-6, orders/BPAs under Federal Supply Schedule Contracts are exempt from the competition requirements of FAR Part 6; however, ordering activities may restrict consideration of Schedule Contractors. Circumstances justifying limiting the sources include:

- a) An urgent and compelling need exists and following the procedures would result in unacceptable delays;
- b) Only one source is capable of providing the supplies or services required because they are unique or highly specialized; or
- c) In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order, provide the original order was place in accordance with applicable Federal Supply Schedule procedures (e.g. competed).

**Brand Name.** Items peculiar to one manufacturer can be a particular brand name, product, or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product or feature is essential to the Government's requirements and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet the Agency's needs. See below for posting of brand name requirements.

**Program personnel** are advised to work with contracting personnel early on in order to promote and provide for full and open competition amongst schedule holders to the maximum extent practicable. In circumstances permitting limited sources, program personnel shall provide necessary information to contracting personnel to support and document the circumstances limiting competition, including use of brand name specifications, through the use of this form.

**Posting.** Contracting Officers shall make justifications publicly available (excluding brand name) within 14 days after award, in accordance with FAR 8.405-6(a)(2) and FAR 5.301. In the case of unusual and compelling urgency, justifications shall be made publicly available within 30 days after contract award in accordance with FAR 8.405-6(a)(2)(ii). Brand name justifications shall be posted with the solicitation to GSA's e-Buy in accordance with FAR 8.405-6(b)(3)(B).

**Screening.** Before posting this Justification, in accordance with FAR 8.406-6 and 24.2, the Contracting Officer is responsible to redact any information that is exempt from disclosure under Freedom of Information Act or information proprietary to the contractor.

**Signatures.** After review and completion by the Program Office and Contracting Officer, the Word document shall be converted to an Adobe PDF file, and then routed for electronic signatures. Signature blocks shall include dates.

**Limited-Sources Justification**  
**United States Department of Agriculture**  
**FAR 8.405 Federal Supply Schedules**  
**Multiple Award Schedule Program**

**1. Identification of the agency and the contracting activity.**

**2. Description of supplies or services required to meet the agency's needs.**

Provide a concise description of the supplies or services required and include the estimated value. If the order will include option periods, include the estimated value for the base period and each option period as well as the total estimated value for the base and all option periods.

**3. The circumstances and rationale for limiting competition.**

Choose the authority below that justifies restricting consideration of Schedule Contractors. Provide the additional detail for the applicable authority as noted below:

If 8.405-6(a)(1)(i)(A) is the authority, explain the nature of the urgency and the extent of injury or harm to the Government if the award is delayed.

If 8.405-6(a)(1)(i)(B) is the authority, explain the contractor's unique qualifications or specialized experience to provide the supplies or services that are not available elsewhere on the schedules.

If 8.405-6(a)(1)(i)(C) is the authority, explain why only the original source can provide the necessary supplies or services, such as substantial duplication of cost to the Government that is not expected to be recovered through competition, or unacceptable delays in fulfilling the Government's need.

If 8.405-6(b) is the authority, provide names of other companies' similar products and explain why they lack the particular feature(s) or cannot be modified to meet the Government's need. Note that an item peculiar to one manufacturer can be a particular brand name, product or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer.

**4. A description of the market research conducted among schedule holders and the results or a statement of the reason market research was not conducted.**

Describe results of market research conducted amongst schedule holders or a statement as to why market research was not conducted. *Note: FAR Part 10.001 requires agencies to conduct market research appropriate to the circumstances: (a) before developing new requirements documents for an acquisition by the agency; (b) before soliciting offers for acquisitions with an estimated value less than the Simplified Acquisition Threshold when adequate information is not available and the circumstances justify the cost; and (c) on an ongoing basis, take advantage of commercially available market research methods in order to effectively identify the capabilities of small businesses and new entrants into the market.*

**5. Recommended source(s).**

List proposed source or sources, and include any sources, that expressed an interest in the acquisition.

**Certifications & Approval**

Supporting data which form the basis for and included in this justification are certified accurate and complete.

---

Insert Name of Program or Technical Personnel  
Insert Title of Program/Technical Personnel

The information contained in this Limited Sources Justification is certified accurate and complete to the best of my knowledge and belief.

---

Insert Name of Contracting Officer  
Contracting Officer

**Notes and Guidance.** Delete these Notes prior to finalizing document for signature.

Pursuant to FAR 8.405-6, Orders/BPAs under Federal Supply Schedule Contracts are exempt from the competition requirements of FAR Part 6; however, ordering activities may restrict consideration of Schedule Contractors. Circumstances justifying limiting the sources include:

- a) An urgent and compelling need exists and following the procedures would result in unacceptable delays;
- b) Only one source is capable of providing the supplies or services required because they are unique or highly specialized; or
- c) In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order, provide the original order was place in accordance with applicable Federal Supply Schedule procedures (e.g. competed).

**Brand Name.** Items peculiar to one manufacturer can be a particular brand name, product, or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product or feature is essential to the Government's requirements and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet the Agency's needs. See below for posting of brand name requirements.

**Program personnel** are advised to work with contracting personnel early on in order to promote and provide for full and open competition amongst schedule holders to the maximum extent practicable. In circumstances that permit restricting the consideration of Schedule Contractors, program personnel shall provide necessary information to contracting personnel to support and document the circumstances limiting competition, including use of brand name specifications, through the use of this form.

**Posting.** For proposed Orders/BPAs with an estimated value exceeding \$25,000 that restrict competition to items peculiar to one manufacturer, i.e., **Brand Name**, this form shall be posted along with the Request for Quotation (RFQ) to GSA's e-Buy. This form is not required to be posted with the solicitation when restricting consideration due to urgency, unique source, or logical follow-on as described in the first paragraph above.

**Screening.** Before posting this Justification, in accordance with FAR 8.406-6 and 24.2, the Contracting Officer is responsible to redact any information that is exempt from disclosure under Freedom of Information Act or information proprietary to the contractor.

**Signatures.** After review and completion by the Program Office and Contracting Officer, the Word document shall be converted to an Adobe PDF file, and then electronically signed. Signature blocks shall include dates.



## Service Contract Labor Standards Exemption Documentation

\* Revised November 20, 2018

Conditions exist to procure services exceeding \$2,500, that are exempt from the Service Contract Labor Standards are exempt and compliance with a Wage Determination is not required. Consistent with **FAR 22.1003-4(d)(2)<sup>1</sup>**, the Buyer affirms the vendor was selected based on other factors in addition to price (i.e., service availability, past performance, etc.) or sole source; and, the Vendor certifies that exemption "Conditions" exist by signing and dating this form and returning one (1) copy to the Buyer. **Convenience checks are not authorized.**

**Conditions.** The exemption for the services applies if **all** the following conditions are met:

- The services are offered and sold regularly to non-Governmental customers, and are provided by the vendor to the general public in substantial quantities in the course of normal business operations.
- The services are furnished at prices that are, or are based on, established catalog or market prices. As defined at 29 CFR 4.123(e)(2)(ii)(C)-
  - (A) An established catalog price is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and
  - (B) An established market price is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the vendor.
- Each service employee who will perform the services will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) on this transaction.
- The vendor will use the same compensation (wage and fringe benefits) plan for all service employees performing work under this order as the vendor uses for these employees and equivalent employees servicing commercial customers.

**By signing below, the buyer affirms vendor was selected as described in FAR 22.1003-4(d)(2):**

Buyer Print Name	Buyer Signature	Date

**By signing below, the vendor certifies that conditions will be met:**

Vendor Print Name	Vendor Signature	Date

<sup>1</sup> For the full text of **FAR 22.1003-4 Administrative limitations, variations, tolerances, and exemptions (specifically (d)(1)(i)-Exemption: Automobile or other vehicle maintenance services)**, this reference may be accessed electronically at the following web link: **Federal Acquisition Regulations** <https://www.acquisition.gov/browsefar>

## Request to Ratify an Unauthorized Commitment

This action is the result of an unauthorized commitment as defined in the Federal Acquisition Regulation (FAR) 1.602-3.

### Employee who made the Unauthorized Commitment

Print Name	Title	Office	Email	Phone No.
------------	-------	--------	-------	-----------

- 1. Nature of Action:** *(Explain who, how and when the events that led to the unauthorized commitment occurred, including the conversation(s) with the vendor, and describe the supplies/services rendered.)*
  
- 2. Name of Vendor:** *(List the name, address, and DUNS number for the vendor that provided the supplies/services and confirm active registration in SAM.)*
  
- 3. Estimated Amount:** *(List the dollar amount of the supplies/services.)  
(Explain how the parties settled on the amount.)*
  
- 4. Competition Effort:** *(Explain how the vendor was selected and provide a list of other vendors that were considered to provide the supplies/services.)*
  
- 5. Contracting Process:** *(Explain why the contracting process requiring an approved requisition be sent to the contracting office and a valid contract to be issued by the Contracting Officer prior to obtaining the supplies/services was not followed.)*

Control #: \_\_\_\_\_

6. **Date Accepted:** *(List the date the supplies/services were accepted.)* \_\_\_\_\_

List the official that accepted the supplies/services:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

7. **Benefits:** *(Explain benefit(s) received (FAR 1.602-3(c)(1)) from the supplies/services received.)*

8. **Funds Availability:** *(Explain data used to verify that funds were available at the time of the unauthorized commitment and that funds are available if the action is ratified (FAR 1.602-3(c)(6)).*

9. **Preventive Actions:** *(Explain in detail actions taken to prevent recurrence of unauthorized commitments as well as disciplinary action taken. If this is a repeat offense, address what actions taken.)*

10. **Other Supporting Facts:** *(Provide other pertinent facts.)*

**REVIEW AND APPROVAL**➤ **Fund/Budget Official**

I certify that funds were available at the time of the unauthorized commitment and that funds are currently available to ratify the unauthorized commitment.

\_\_\_\_\_  
*Signature*\_\_\_\_\_  
*Print Name*\_\_\_\_\_  
*Title*\_\_\_\_\_  
*Office*\_\_\_\_\_  
*Date*➤ **Employee who made the Unauthorized Commitment**

By signing this document I confirm that the facts and circumstances provided above are accurate and complete.

\_\_\_\_\_  
*Signature*\_\_\_\_\_  
*Print Name*\_\_\_\_\_  
*Title*\_\_\_\_\_  
*Office*\_\_\_\_\_  
*Date*➤ **Immediate Supervisor of Employee who made the Unauthorized Commitment**

To the best of my knowledge, the facts and circumstances of the information above is believed to be accurate and complete. This is the \_\_\_ (**1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, etc.**) unauthorized commitment initiated by the individual; and I have had \_\_\_ (**0, 1, 2, etc.**) unauthorized commitments previously initiated by other staff in my office. I have taken the corrective actions (**employee/staff training, internal controls, etc. provide details of what, when, who**) below to preclude unauthorized commitments from recurring within my office:

\_\_\_\_\_  
*Signature*\_\_\_\_\_  
*Print Name*\_\_\_\_\_  
*Title*\_\_\_\_\_  
*Office*\_\_\_\_\_  
*Date*➤ **Employee's Second and Third Level Supervisor (as applicable)**

Based on the facts and circumstances, I determined the information above to be accurate and complete.

2<sup>nd</sup> line Supervisor: Concur \_\_\_ Do Not Concur \_\_\_

\_\_\_\_\_  
*Signature*\_\_\_\_\_  
*Print Name*\_\_\_\_\_  
*Title*\_\_\_\_\_  
*Office*\_\_\_\_\_  
*Date*

3<sup>rd</sup> Line Supervisor: Concur \_\_\_ Do Not Concur \_\_\_

\_\_\_\_\_  
*Signature*\_\_\_\_\_  
*Print Name*\_\_\_\_\_  
*Title*\_\_\_\_\_  
*Office*\_\_\_\_\_  
*Date*➤ **Senior Executive Service member**

Concur \_\_\_ Do Not Concur \_\_\_

Control #: \_\_\_\_\_

Attachment 1

Additionally, I propose the following plan of actions to prevent reoccurring unauthorized commitments within my organization: *(Give explanation)*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Office*

\_\_\_\_\_  
*Date*

**UAC -- CONTRACTING OFFICER’S DETERMINATION AND FINDINGS**

1. Date the Contracting Officer (CO) became aware of the unauthorized commitment action:

\_\_\_\_\_  
***Month / Day / Year***

2. Describe the action to immediately inform the Vendor to discontinue performance:

3. Statement that the price is fair and reasonable (provide explanation/basis).

4. Funds were available at the time of the unauthorized commitment and are available to pay for the ratified action.

Yes \_\_\_ No \_\_\_      Accounting Code: \_\_\_\_\_

5. The resultant contract would otherwise have been proper if made by an appropriate contracting officer.

Yes \_\_\_ No \_\_\_

6. Confirm the Government has obtained or will obtain a benefit resulting from performance of the unauthorized commitment.

Yes \_\_\_ No \_\_\_

**Determination:**

After review of the facts and circumstances that led to the unauthorized commitment, I have determined the circumstances leading up to this action were:

Satisfactorily explained? Yes \_\_\_ No \_\_\_

Procedures to prevent reoccurrence were in place? Yes \_\_\_ No \_\_\_

Resulting contract would have been proper? Yes \_\_\_ No \_\_\_

No conflicts of interest or laws were violated and that the vendor is not debarred or ineligible for award as shown for award in System for Award Management? Yes \_\_\_ No \_\_\_ Date Verified in SAM \_\_\_\_\_

Check one:

\_\_\_\_\_ I recommend ratification.

\_\_\_\_\_ Unauthorized commitment cannot be ratified because *{insert rationale}*; however, the government did receive and accept goods and services. Payment \_\_\_ was \_\_\_ was not made by government purchase card prior to the ratification request. If payment is due, follow mission area procedures. No further elevation is required.

Control #: \_\_\_\_\_

\_\_\_\_\_ I do not recommend ratification.

**Comments** (\*If unauthorized commitment cannot be ratified, but payment is due, use this space to further document findings as appropriate):

\_\_\_\_\_  
*Contracting Officer Signature*      *Print Name*      *Date*

**REVIEW AND RECOMMEND**

**NOTE: No one should recommend approval if the action was not "otherwise proper".**

**Contracting Supervisor:**

Recommend for approval for ratification: Yes \_\_\_ No \_\_\_

Comments:

\_\_\_\_\_  
*Signature*      *Print Name*      *Title*      *Date*

**Chief of the Contracting Office (if applicable):**

Recommend ratification: Yes \_\_\_ No \_\_\_

Comments:

\_\_\_\_\_  
*Signature*      *Print Name*      *Title*      *Date*

**RATIFYING OFFICIAL DECISION TO RATIFY:**

*(MASCO)*

\_\_\_ Approved:

\_\_\_ Disapproved:

\_\_\_ Approved subject to the listed conditions: \_\_\_\_\_

\_\_\_\_\_  
*Signature*      *Print Name*      *Title*      *Date*